



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REGION 35 (OREGON) 700 MHZ REGIONAL PLAN AMENDMENT

WT Docket No. 02-378

**Comments Due: December 15, 2016**

*Introduction.* On October 27, 2015, the Region 35 (Oregon)<sup>1</sup> 700 MHz Regional Planning Committee (RPC) submitted a proposed modification (Plan Amendment) to amend its 700 MHz Public Safety Plan<sup>2</sup> for General Use spectrum in the 769-775/799-805 MHz band.<sup>3</sup> For the reasons discussed below, we seek comment on the Region 35 700 MHz Plan Amendment.

*Background.* In 1998, the Commission established a structure to allow regional planning RPCs optimal flexibility to meet state and local needs, encourage innovative use of the spectrum, and accommodate new and as yet unanticipated developments in technology and equipment.<sup>4</sup> The Commission's rules require each of the fifty-five RPCs to submit its plan for the General Use spectrum.<sup>5</sup> The Commission's role in relation to the RPCs is limited to (1) defining the regional boundaries; (2) requiring fair and open procedures, *i.e.*, requiring notice, opportunity for comment, and reasonable consideration; (3) specifying the elements that all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.<sup>6</sup>

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<sup>1</sup> The Region 35 (Oregon) 700 MHz regional planning area consists of the entire state of Oregon.

<sup>2</sup> See Letter from John Harstock, Chair, Region 35 (Oregon) 700 MHz Regional Planning Committee, to John Evanoff, Public Safety and Homeland Security Bureau, Federal Communications Commission, WT Docket No. 02-378 (filed Oct. 27, 2015) (Cover Letter) and accompanying Plan Amendment.

<sup>3</sup> The General Use spectrum is administered by RPCs and is licensed by the Commission for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

<sup>4</sup> See 47 CFR § 90.527; see also *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, First Report and Order and Third Notice of Proposed Rulemaking, 14 FCC Rcd 152 (1998) (*First Report and Order*); *Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, Second Memorandum Opinion and Order, 15 FCC Rcd 16844 (2000).

<sup>5</sup> See 47 CFR § 90.527. Each RPC must incorporate certain common elements into its 700 MHz plan. A list of 700 MHz RPCs and region activities is available at <http://www.fcc.gov/pshs/public-safety-spectrum/700-MHz/>.

<sup>6</sup> *First Report and Order*, 14 FCC Rcd at 195 para. 87.

On October 17, 2014, the Commission adopted a *Report and Order* revising the rules governing the 700 MHz public safety narrowband channels.<sup>7</sup> Specifically, the Commission released the narrowband reserve channels (twenty four 12.5 kHz channels) for General Use under the administration of the RPCs for the benefit of state and local public safety users.<sup>8</sup>

In the T-Band markets,<sup>9</sup> the Commission released the reserve channels for General Use under RPC administration with priority access given to T-Band incumbents within 128 km of the city center coordinates as specified in Sections 90.303 and 90.305<sup>10</sup> of the Commission's rules. Priority access is also afforded any T-band incumbent that received a waiver of the 128 km distance requirement.<sup>11</sup> Outside the T-Band markets the Commission authorized the RPCs to assign (1) up to eight 12.5 kHz former reserve channels for deployable trunked systems and (2) sixteen 12.5 kHz channels for General Use, including vehicular mobile repeaters (MO3).<sup>12</sup> Thus, the Commission stated, "RPCs have the flexibility to designate a mixture of General Use and temporary (deployable trunked infrastructure) channels in their Regional Plans."<sup>13</sup>

On January 9, 2015, the Public Safety and Homeland Security Bureau (PSHSB) provided guidance on licensing the former reserve channels.<sup>14</sup> On April 23, 2015 the PSHSB approved the channels recommended by the National Public Safety Telecommunications Council (NPSTC) and the National Regional Planning Council (NRPC) for deployable trunked systems.<sup>15</sup> Regional plan amendments were due by October 30, 2015.<sup>16</sup>

*Region 35 Major Amendments.* The Region 35 Plan Amendment changes the plan to incorporate the new general use channels, *i.e.*, the former reserve channels.<sup>17</sup> The Region 35 Plan Amendment allocates all of the former reserve channels to General Use to supplement existing allotments.<sup>18</sup> In that

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<sup>7</sup> *Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands*, Report and Order, 29 FCC Rcd 13283 (2014) (*Report and Order*).

<sup>8</sup> *Id.* at 13297 para. 39. 47 CFR § 90.531(b)(2).

<sup>9</sup> Boston, Massachusetts; Chicago, Illinois; Dallas/Fort Worth, Texas; Houston, Texas; Los Angeles, California; Miami, Florida; New York, New York/N.E. New Jersey; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; San Francisco/Oakland, California; Washington, District of Columbia/Maryland/Virginia (the Affected T-Band Markets). See 47 C.F.R. § 90.303. There are no T-Band public safety incumbents in Cleveland, Ohio, or Detroit, Michigan. *Id.*

<sup>10</sup> 47 CFR §§ 90.303, 90.305.

<sup>11</sup> *Report and Order*, 29 FCC Rcd at 13298-99 paras. 43-45.

<sup>12</sup> *Id.* at 13299 para. 46, 13301 para. 51.

<sup>13</sup> *Id.* at footnote 126.

<sup>14</sup> *Public Safety and Homeland Security Bureau Provides Guidance for Licensing Channels in the Former 700 MHz Narrowband Reserve Spectrum*, Public Notice, 30 FCC Rcd 124 (PSHSB 2015).

<sup>15</sup> *Public Safety and Homeland Security Bureau Approves Recommended Nationwide Channels for Deployable Trunked Systems in the 700 MHz Narrowband Public Safety Band*, Public Notice, 30 FCC Rcd 3723 (PSHSB 2015).

<sup>16</sup> *Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands*, *et al*, Order, 30 FCC 3699 (PSHSB 2015).

<sup>17</sup> Plan Amendment at Section 4.6.1

<sup>18</sup> *Id.*

connection, the Region 35 Plan Amendment proposes to require that use of the former reserve channels shall be for Project 25 (P25)-Time Division Multiple Access simulcast system use.<sup>19</sup> The Region 35 Plan Amendment proposes to place a “moratorium” on the use of the former reserve channels until the “Intra-Region and Inter-Region coordination is complete and approved by the Region 35 Committee and adjacent Region Committees.”<sup>20</sup>

The Region 35 Plan Amendment also identifies the eight air-ground channels<sup>21</sup> and acknowledges that the air-ground channels will be administered by the State of Oregon.<sup>22</sup> The Region 35 Plan also amends the (1) application and filing deadlines;<sup>23</sup> (2) loading requirements;<sup>24</sup> and (3) the process for appealing decisions of the RPC.<sup>25</sup> Region 35 also amends its by-laws.

All four regions adjacent to Region 35 – Region 6 (Northern California), Region 12 (Idaho) Region 27 (Nevada) and Region 43 (Washington) – reviewed the Region 35 Plan Amendment and provided letters of concurrence.<sup>26</sup> We have reviewed the Region 35 Plan Amendment and tentatively accept the Plan Amendment.<sup>27</sup>

*Request for Comments on the Region 35 Plan Amendment.* Prior to taking further action on the Plan Amendment, by this *Public Notice* we solicit comments on the Region 35 Plan Amendment. If no party raises an objection during the comment period, and the plan otherwise conforms to the Commission’s rules, the Region 35 Plan Amendment will be deemed approved without further action by the PSHSB.<sup>28</sup>

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<sup>19</sup> *Id.* Region 35 notes that P25-Phase 2 refers to P25 requirements and standards for a digital Common Air Interface (CAI), TDMA based, which provides one voice channel per 6.25 kHz channel spectrum efficiency. We note that although the Commission eliminated the narrowbanding mandate to transition to 6.25 kHz, the Commission did not preclude voluntary migration to 6.25 kHz technology and “encourage[d] RPCs in areas where channel capacity is at a premium to investigate the benefits of 6.25 kilohertz efficiency.” *See Report and Order*, 29 FCC Rcd at 13289-40 ¶ 11.

<sup>20</sup> Plan Amendment at 16. We note that we have approved the Region 6 and Region 12 Plan Amendments and we have tentatively accepted the Region 43 (Washington) 700 MHz Plan Amendment. Region 27 (Nevada) however has not yet submitted a plan amendment.

<sup>21</sup> 47 CFR 90.531(b)(7).

<sup>22</sup> Plan Amendment at Section 4.6.2 (noting that the State of Oregon will administer and manage the air-ground channels.).

<sup>23</sup> *Id.* at Section 8.7.

<sup>24</sup> *Id.* at Section 9.2.

<sup>25</sup> *Id.* at Sections 13.5.3 and 13.5.4.

<sup>26</sup> Letters of Concurrence attached to Plan Amendment.

<sup>27</sup> The Region 35 Plan Amendment also includes “minor” amendments. Specifically, the Plan Amendment updates leadership and contact information. *See* Plan Amendment at 2.1. Under the Commission’s rules, “minor” amendments are not subject to comment. 47 CFR § 90.527(b)(2).

<sup>28</sup> *See* 47 CFR § 90.527(b); *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands*, Seventh Report and Order, Notice of Proposed Rulemaking, 28 FCC Rcd 4783, 4804 para. 66 (2013).

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on the plan amendment on or before **December 15, 2016**. All comments should reference the subject plan amendment and **WT Docket No. 02-378**. Parties may file comments and reply comments by using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- **For ECFS Filers:** In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an email to [ecfs@fcc.gov](mailto:ecfs@fcc.gov) and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing.

Commenters may send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). Commenters must address all filings to: Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, commenters must submit all hand-delivered or messenger-delivered paper filings for the Commission's Secretary to FCC Headquarters at 445 12<sup>th</sup> Street, SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Avenue, NE is permanently closed.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- **People with Disabilities:** To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

Commenters must address all filings to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554.

The Plan Amendment is available through ECFS at [ecfs@fcc.gov](mailto:ecfs@fcc.gov). Region 35 Plan Amendment documents in **WT Docket No. 02-378** are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554.

For further information regarding this matter, contact John A. Evanoff, Attorney-Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau at (202) 418-0848 or [John.Evanoff@fcc.gov](mailto:John.Evanoff@fcc.gov).

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