Before the
Federal Communications Commission
WASHINGTON, D.C. 20554

	)	
	)	File Nos. 0007838020, 0007838021,
In the Matter of	)	0007838022, 0007838023, 0007838024,
	)	0007838025, 0007838026, 0007838027,
State of Wisconsin	)	0007838028, 0007838029, 0007838030,
	)	0007838031, 0007838032, 0007838033,
	)	0007838034, 0007838035, 0007838036,
	)	0007838037, 0007838038, 0007838039,
	)	0007838040, 0007838041, 0007838042,
	)	0007838043, 0007838044
	)	

ORDER AND PROPOSED ORDER OF MODIFICATION

Adopted: November 13, 2018 **Released: November 13, 2018**

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this Order, the Mobility Division (Division) of the Wireless Telecommunications Bureau (Bureau) addresses a Petition for Reconsideration filed by the State of Wisconsin (Wisconsin or the State). Wisconsin asks that the Division reconsider our denial of its request to extend the deadline for filing its construction notifications for twenty-five Part 22 Paging (paging) licenses operating as a part of Wisconsin's statewide, interoperable public safety communications network.[1] Wisconsin asks that the Division either grant an extension of time in which to file construction notifications, accept its earlier 2016 construction notifications, or allow the State to file a petition for waiver of its construction requirements.[2] For the reasons stated below, the Division denies the Petition for Reconsideration, affirming our earlier finding that Wisconsin makes no showing that an extension is warranted and did not satisfy the construction requirement for the licenses at issue.

2. Based on our review of the record, however, we find on our own motion that the public interest supports a partial waiver of the construction requirements for fourteen of the twenty-five licenses at issue, as well as of relevant technical rules to the extent necessary to permit continued operation of the frequencies that were in use as of July 3, 2017. We also find that the public interest supports a limited grant of special temporary authority to operate while the State brings the system into compliance with our rules. In light of these waivers, we propose to modify the geographic license area for the fourteen licenses that are the subject of the partial waiver. The technical waivers are conditioned on Wisconsin obtaining consent of relevant other licensees. We conclude that such relief is in the public interest given the unique factual circumstances involved and that the conditions will promote use of spectrum for important public safety functions, while protecting against harmful interference to adjacent licensees.

[1] Petition for Reconsideration (filed Feb. 6, 2018) (Petition for Reconsideration) (regarding call signs WQMS406, WQMS407, WQMS408, WQMS409, WQMS410, WQMS412, WQMS413, WQMS417, WQMS418, WQMS420, WQMS421, WQMS422, WQMS423, WQMS424, WQMS425, WQMS442, WQMS445, WQMS448, WQMS450, WQMS453, WQMS454, WQMS455, WQMS456, WQMS457, and WQMS458). The deadline for filing construction notifications is found at Section 22.503(k) of the Commission's rules.

[2] *Id.* at 3.

I. BACKGROUND

3. *Construction Requirements.* Section 22.503(k) of the Commission's rules requires a Part 22 paging licensee to construct and operate sufficient facilities to cover one-third of the population in its paging geographic area no later than three years after the initial grant of its license, and cover two-thirds of the population within the final five-year deadline.[3] A licensee may notify the Commission at the three-year deadline that it elects the alternative of providing "substantial service" in the paging geographic area by the five-year construction deadline for the license.[4] Section 22.503(k)(3) defines "substantial service" as service that is "sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal."[5] If a licensee fails to make the required showing, the license automatically terminates as of the construction deadline.[6] Licensees must file separate notifications showing they have met the construction requirements for each license.[7]

4. *Canadian Coordination Requirements*. The Commission is bound by international agreement to coordinate with the Canadian government when a U.S. applicant proposes to operate stations north of "Line A" using frequencies in the 30-174 MHz band.[8] Line A is an imaginary line within the U.S. approximately paralleling the U.S.-Canadian border.[9] Licensees may not include a transmitter site located north of Line A for the purpose of meeting their construction obligations until Canada has approved the proposed site.[10]

5. *Procedural History.* In 2010, the Commission held Auction 87 for licenses in the lower and upper paging bands.[11] The twenty-five licenses at issue here transmit on Part 22 VHF paging channels and were granted to the State of Wisconsin on November 3, 2010, creating a three-year construction deadline of November 3, 2013 and a five-year deadline of November 3, 2015.[12]

6. At the three-year interim construction deadline, Wisconsin filed a timely notification asserting that it had already met the two-thirds population coverage requirement for all twenty-five licenses.[13] In

[3] 47 CFR § 22.503(k).

[4] *Id.* § 22.503(k)(1).

[5] *Id.* § 22.503(k)(3).

[6] *Id.* § 22.503(k).

[7] Guidance on Compliance with Construction Requirements for Auction 95 Paging & Radiotelephone Serv. Licenses, *Public Notice*, 31 FCC Rcd. 11664, 11665 (WTB 2016) (*Auction 95 Guidance Public Notice*), *citing* ATT: Jeff Sohn, *Letter*, 27 FCC Rcd 5864, 5865 (WTB 2012), Cingular Interactive, L.P., Showing of Substantial Service Pursuant to Section 90.665(c), File No. 0000226552, *Order*, 16 FCC Rcd 19200, 19203 (WTB 2001).

[8] *See* 47 CFR § 1.928 (Commission rules on frequency coordination with Canada) and 47 CFR § 90.7 (definition of Line A).

[9] 47 CFR §§ 1.928(e), 90.7.

[10] *Auction 95 Guidance Public Notice*, 31 FCC Rcd at 11665.

[11] *See Wireless Telecommunications Bureau Grants Lower & Upper Paging Bands Licenses*, Public Notice, 25 FCC Rcd 15324 (2010).

[12] *Id.*

[13] Letter from Division of State Patrol, Bureau of Public Security and Communications, Wisconsin Department of Transportation to Federal Communications Commission, File No. 0005987269 (Oct. 28, 2013).

December 2013, however, Wisconsin separately filed amendments under each call sign, instead electing to demonstrate "substantial service" by the five-year deadline.[14]

7. Wisconsin failed to make the final construction filings by the deadline of November 3, 2015, causing the licenses to automatically move into termination pending status. On January 8, 2016, Wisconsin filed a petition for reconsideration of the public notice placing the licenses in termination pending status.[15] Staff notified Wisconsin on March 15, 2016, that the petition did not provide information demonstrating that Wisconsin had met its substantial service obligation, and allowed the State an additional sixty days to supplement the petition with the required showings. On May 14, 2016, Wisconsin filed supplemental information purporting to show substantial service, though none of the call signs showed coverages greater than 10 percent of the population. In addition, one site was above Line A but had not completed international coordination.[16]

8. On July 25, 2016, the Division notified Wisconsin that its filings did not show substantial service sufficient to meet the construction requirement, and granted on our own motion a waiver and extension of the deadline to July 3, 2017 (the extended construction deadline), similar to relief given to certain other paging licensees.[17] The extension letter explained that the additional time was to allow Wisconsin to either meet the substantial service requirements for the entire market area, or to file applications partitioning the license, cancelling the unused license area, and filing a construction notification demonstrating substantial service for the retained license area.[18]

9. On June 30, 2017, Wisconsin filed a request seeking an extension of the deadline to December 31, 2017, citing state budget issues, loss of sites, and other factors, and asserting that "the State is not seeking an extension to complete construction but is simply asking for additional time to report the construction." The filing stated that the State would be filing construction notifications on a rolling basis between July and December 2017, but no such notifications were actually filed.[19]

10. On January 5, 2018, the Division denied Wisconsin's extension request, finding that Wisconsin made no showing that a waiver or extension was warranted, that it had to date not filed any construction notifications despite its commitment to do so in its waiver requests, and that there had been no effort during the six months since the filing of the extension requests to file any of the required construction notifications.[20] The licenses were placed in termination pending status on January 10, 2018.

11. *State of Wisconsin's Petition for Reconsideration*. On February 6, 2018, Wisconsin filed the Petition for Reconsideration under consideration here, claiming that the termination of the licenses will cause a hardship to thousands of public safety users and adversely affect the statewide public safety trunked radio system.[21] Wisconsin states that the loss of spectrum "would diminish capacity by at least

[14] *See, e.g.*, Letter from Carl Guse, WISCOM System Manager Wisconsin State Patrol, WISCOM Network Operations Center, to Federal Communications Commission, File No. 0005987269 (Dec. 11, 2013).

[15] Petition for Reconsideration (filed Jan. 8, 2016).

[16] Petition for Reconsideration – Additional Information (filed May 14, 2016). The State has since completed Canadian coordination for the site. *See* ULS File No. 0008285129 (Call Sign WQMS407).

[17] Letter from Keith Harper, Associate Chief, Mobility Division, Wireless Telecommunications Bureau to James Westover, Statewide Frequency Coordinator, State of Wisconsin (July 25, 2016).

[18] *Id*. at 2.

[19] State of Wisconsin – Request for Extension of Build-Out Notification, File No. 0007838029 (June 30, 2017).

[20] Letter from Roger Noel, Chief, Mobility Division, Wireless Telecommunications Bureau to James Westover, Statewide Frequency Coordinator, State of Wisconsin (Jan. 5, 2018).

[21] Petition for Reconsideration at 2.

25%."[22] Wisconsin also claims that it did not know it should make the construction notification filings without "further prompting" from the Commission.[23] The State also appears to argue that the Part 22 rules should no longer apply, as the spectrum "has become available to new and emerging uses" like public safety radio systems.[24] The State now seeks either a new extension timeframe; acceptance of the previous construction notification filings from 2016 and 2017; or the opportunity to file a request for waiver of the construction requirements.[25]

II. DISCUSSION

A. Waiver of Construction and Technical Rules

12. Section 1.925 of the rules states that the Commission may grant a waiver when either the underlying purpose of the rule at issue would not be served or would be frustrated by application to the instant case, and a grant would be in the public interest, or where, "in view of unique or unusual factual circumstances," application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.[26] In addition, Section 1.3 allows the Commission to waive any provision of its rules on its own motion for good cause.[27]

13. *Construction Requirements and Request for Extension of Time*. Based on the information before us, we deny Wisconsin's Petition for Reconsideration. The State's final construction deadline was July 3, 2017, at which time the State was required to demonstrate substantial service on an individual basis for each license.[28]

14. With respect to ten of its twenty-five licenses, call signs WQMS420, WQMS442, WQMS445, WQMS450, WQMS453, WQMS454, WQMS455, WQMS456, WQMS457, and WQMS458, we find that Wisconsin has made no showing that indicates these licenses are in operation and note that the licenses automatically cancelled on July 3, 2017.

15. For an eleventh call sign, WQMS448, the record reflects that Wisconsin is using the frequency for mobile-to-mobile communications "as needed"[29] and that it is not paired with any base frequency and is thus violating Section 22.531 of our rules. Section 22.531 provides that certain unpaired, high VHF channels for paging operation are allocated only for use as base transmitters.[30] In addition to making mobile-only use of the base frequency, the State has not completed any base station construction for this frequency.[31] Operating the license as a mobile-only frequency without any base station construction does not comply with the construction requirement, and WQMS448 therefore terminated as of July 3, 2017.

---

[22] Petition for Reconsideration at 2.

[23] Petition for Reconsideration at 3.

[24] Petition for Reconsideration at 2.

[25] Petition for Reconsideration at 3.

[26] 47 CFR § 1.925(b)(3)(i)-(ii).

[27] 47 CFR § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown."); *see also Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[28] *See supra* n. 9.

[29] Letter from Maj. Timothy Huibregtse, Director, Wisconsin State Patrol, Bureau of Support Services, to Keith D. Harper, Associate Chief, Mobility Division, Wireless Telecommunications Bureau (July 16, 2018), at 1.

[30] 47 CFR § 22.531.

[31] *See* Letter from Maj. Timothy Huibregtse, Director, Wisconsin State Patrol, Bureau of Support Services, to Keith D. Harper, Associate Chief, Mobility Division, Wireless Telecommunications Bureau (July 16, 2018).

16. Further, Wisconsin's submissions for the licenses that were in operation as of July 3, 2017, indicate that the State's service coverages are quite low, and no individual market reaches a level that would be considered substantial or above mediocre. Wisconsin's actual construction with respect to its Part 22 paging licenses is low by any measure, as it appears to concede in its Petition for Reconsideration.[32] For example, for eleven licenses, the record shows that the State has constructed only a single Part 22 base station in the applicable market. Viewing Wisconsin's operations from a population coverage standpoint, the markets in operation range from coverages of zero or close to zero percent, to coverages for the rest of the markets of not more than fifteen percent.

17. We recognize that Wisconsin relies on these frequencies as part of its statewide public safety system, but the use of the licenses in a larger system does not relieve the State of its obligation to meet the construction requirement for each license individually. The State additionally has the obligation to petition for all necessary waivers where, as here, its actual use of the frequencies does not comport with our rules. In any event, and even if Wisconsin had showed much greater service coverage, Wisconsin is operating the licenses in violation of a Part 22 rule and has been operating one license without required coordination with Canada, and thus the operations in violation of our rules cannot be counted towards its construction obligations.

18. We note that since the original deadline in 2015, Wisconsin has been given multiple opportunities and reminders to comply with its construction obligations. The Division has previously granted extensions of time and given the State opportunities to provide supplemental information, and none of the information Wisconsin has provided supports a finding of completion of any additional construction. By Wisconsin's own statements, it has no plans for additional construction, and believes its current showings are sufficient to demonstrate compliance.[33] None of its filings indicate that granting a further extension of the deadline would result in the State's being able to meet its construction requirement. Thus, we conclude that providing additional time as requested in the Petition for Reconsideration would not be in the public interest.

19. While we conclude that providing Wisconsin more time to meet its construction obligations is not warranted, we find on our own motion that the unique circumstances present here justify granting limited relief to Wisconsin. We therefore grant a conditional waiver of Section 22.503(k) to the extent necessary to allow the State to keep the portions of the license areas where it was operating as of the extended construction deadline of July 3, 2017.[34] Without such a waiver, failure to meet the Commission's construction requirements results in automatic termination of the entire license.

20. We recognize that it would be contrary to the public interest for Wisconsin to build a statewide system that was incapable of interoperating throughout the state. Given the nature of Wisconsin's use of the Part 22 licenses, automatic termination of the licenses wholesale would necessarily limit the statewide operation and interoperability between all levels of government that we have found in other instances to be

[32] *See* Petition for Reconsideration at 3 (stating "we are using the spectrum to provide substantial service to the population in the affected Economic Areas even though perhaps it doesn't appear so based on the old Part 22 build-out requirements.")

[33] *See* ULS File Nos. 0007838020, 0007838021, 0007838022, 0007838023, 0007838024, 0007838025, 0007838026, 0007838027, 0007838028, 0007838029, 000783 8030, 0007838031, 0007838032, 0007838033, 0007838034, 00078380235, 0007838036, 0007838037, 0007838038, 0007838039, 0007838040, 0007838041, 0007838042, 0007838043, and 0007838044 (filed June 30, 2017) (stating "[t]he State is not seeking an extension to complete construction but is simply asking for additional time to report the construction . . . .")

[34] 47 CFR § 22.503(k).

in the public interest.[35] We thus conclude that the public interest supports granting a waiver to permit the State to retain its operations as of the extended construction deadline with regard to the fourteen licenses it has shown to be in operation, rather than terminating the licenses in their entirety.

21. Although Wisconsin has not established a level of construction and service that would constitute substantial service for any of the fourteen licenses, we agree that it is currently operating in portions of a given market area for each of those licenses as part of its statewide public safety system. This waiver maintains the functionality of the network in total, while ultimately requiring return of spectrum not in use by Wisconsin to the Commission's inventory.

22. *Technical Waivers and Special Temporary Authority to Continue Operations*. Wisconsin is operating its Part 22 paging licenses within a public safety system made up of primarily Part 90 and other non-Part 22 licenses, and this operation has resulted in inconsistencies between the operation of the Part 22 licenses and our technical rules. Our review of the information Wisconsin has provided reveals that the State requires additional rule waivers.[36] While we are permitting Wisconsin to retain areas in which it was operating as of the extended construction deadline, its operation of these licenses would remain out of compliance with our rules, and we therefore grant limited waivers of certain technical rules to enable continued use of the licenses.

23. To bring Wisconsin's operations into compliance with the rules, we grant waivers on our own motion for the technical rules discussed below, as well as special temporary authority (STA) for these stations to continue operating for an interim period of six months while the State comes into compliance with the conditions set out in this section.[37] Each of these waivers is specifically conditioned on the concurrence of licensees who would potentially be affected by Wisconsin's operation of its network at the waived technical parameters in order to ensure protection from harmful interference for other licensees. The following waivers, as conditioned, will bring its operations into compliance with the rules while maintaining the network's functionality and minimizing the risk of harmful interference.

- *Section 22.561*. Section 22.561 provides that for the frequencies identified in the rule, the bandwidth is 20 kHz, designated by their center frequencies in megahertz.[38] These licenses have center frequencies in the 152 through 159 MHz frequency band. We understand that Wisconsin may be operating WQMS406, WQMS407, WQMS408, WQMS409, WQMS410, WQMS412, WQMS413, WQMS417, WQMS418, WQMS 421, WQMS422, WQMS423, WQMS424, and WQMS425 such that the bandwidth exceeds the limits in Section 22.561.[39] We grant a waiver of this rule to the extent these licenses are operating outside of the prescribed bandwidth, as conditioned below.

---

[35] *See*, *e.g.*, *State of Maine – MS CommNet Project*, Order and Proposed Order of Modification, DA 18-1077 (WTB Oct. 22, 2018) (finding continued operation and interoperability of statewide public safety network is in the public interest); *State of Maine – MSCommNet Project, Request for Waiver of Sections 90.35(b)(2)(ii) and 90.187(d) of the Commission's Rules,* Order, 29 FCC Rcd 7398 (PSHSB 2014) (finding waivers to assist completion of a statewide public safety radio communications network were in the public interest because the network would facilitate interoperability between federal, state and local public safety officials.)

[36] We note that Wisconsin was obligated to identify and seek the rule waivers necessary to enable it to incorporate its paging licenses into its system. Licensees may not determine for themselves the Commission rules with which they must comply. Accordingly, our decision herein is without prejudice to further Commission inquiry into this matter and referral for enforcement action, if warranted.

[37] See 47 U.S.C. §§ 154(i), 214(a), 303(r); *see also In re GTE Corp*., 16 FCC Rcd 15957, 15960 (2001).

[38] 47 CFR § 22.561.

[39] We understand that Wisconsin uses channel "offsets," an intentional slight shift of a broadcast channel with an alternate center frequency that resides within the authorized channel block. The offset causes Wisconsin to exceed the bandwidth edge, which could cause spectrally adjacent channel interference.

- *Conditions*. We find it necessary to condition the relief granted in order to meet the expectations of neighboring licensees that their operations will be free from harmful interference. Failure to comply with these conditions will result in automatic termination of the technical waiver with respect to the license at issue. The technical rule waivers are conditioned on the State of Wisconsin obtaining concurrence of geographic or spectral neighbors that would potentially be affected. Wisconsin's coordination with neighboring geographic or spectral licensees shall be conducted consistent with the process in Sections 22.503(h) and (i) of our rules that seek to protect adjacent geographic and co-channel licensees from harmful interference.[40]

  Specifically, our waiver of Section 22.561 for WQMS406, WQMS407, WQMS408, WQMS409, WQMS410, WQMS412, WQMS413, WQMS417, WQMS418, WQMS421, WQMS422, WQMS423, WQMS424, and WQMS425 has the potential to affect adjacent licensees and is conditioned on the concurrence of those licensees.

  - In seeking concurrence, Wisconsin must provide these licensees with any technical information requested for testing purposes, in order to ensure no harmful interference will exist.
  - Within six months of the effective date of this Order, the State of Wisconsin must submit copies of concurrences in ULS under the applicable license.
  - In the event the State of Wisconsin cannot comply with the conditions of the technical waivers, it may choose to forgo the waiver and implement an alternative operational solution that complies with Part 22 rules, or to cease operations from the applicable site(s). If Wisconsin cannot comply with the conditions, then within six months of the effective date of this Order, the State shall notify the Division that it has implemented an alternative solution that complies with the rules or has ceased operations. Any licenses that do not comply with the Part 22 rules or with the waiver conditions by the end of this six-month timeframe will automatically terminate.

B. Order of Proposed Modification

24. Section 316(a)(1) authorizes the Commission to modify a station license if, in our judgment, "such action will promote the public interest, convenience, and necessity, or the provisions of this chapter [*i.e.*, the Communications Act] or of any treaty ratified by the United States will be more fully complied with."[41] The authority to modify licenses under Section 316(a)(1) is well established and courts have recognized the Commission's "broad power" to do so, explaining that the Commission "need only find that the proposed modification serves the public interest, convenience and necessity."[42]

25. We find that a proposed modification of the fourteen Part 22 Paging licenses here will promote the public interest, convenience, and necessity. Given the role the licenses play in a public safety network that supports over a dozen governmental agencies, we also find that the proposed modification is consistent with our fundamental obligation to promote safety of life and property through the use of wire and radio communications.[43] In view of the foregoing and pursuant to Section 316(a)(1) of the Act, we propose to modify the geographic authorizations as described below, subject to Wisconsin satisfying the

[40] 47 CFR § 22.503(h), (i).

[41] 47 U.S.C. § 316(a)(1).

[42] *California Metro Mobile Communications v. FCC,* 365 F.3d 38, 45 (D.C. Cir. 2004); *see also* Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Services in the Upper and Lower L-Band, *Report and Order,* IB Docket 96-132, FCC 02-24, 17 FCC Rcd 2704, 2714, ¶ 25 (2002) (citing *Rainbow Broadcasting Co. v. FCC*, 949 F.2d 405 (D.C. Cir. 1991)) ("the Commission is afforded significant latitude when it exercises its Section 316 authority") (subsequent history omitted).

[43] 47 U.S.C. § 151.

conditions of the construction and technical waivers above. If Wisconsin does not comply with all conditions, we propose to modify the licenses solely to the extent the State is able to provide alternative operational solutions that comply with Part 22 rules, as described above in the conditions and within the six-month timeframe.

26. *Modified License Area.* For each license subject to the waiver,[44] we propose that Wisconsin retain the areas in which it is using its Part 22 Paging frequencies, with the modified boundaries of the license determined by the formula in the Part 22 rules.[45] The remainder of the licensed market areas will be terminated and revert to the Commission.

27. Section 22.567(d) of our rules describes the formula to be used in determining a VHF channel transmitter's interfering contour (the area beyond which signals from the transmitter are deemed not to be causing interference to another transmitter). Using the technical parameters of Wisconsin's operations as they are today, we have calculated an interfering contour with Section 22.567(d) and propose a modified license boundary for each license at issue based on the interfering contour. These modified license boundaries are shown in the attached Appendix.

28. The interfering contour as calculated above will define the modified license boundary for each call sign, except where that contour would reach beyond the geographic market boundary. In those cases, the modified license area will end at the market boundary.

29. While we propose to allow Wisconsin to retain the areas in which they are providing service, we are also mindful of the expectations of, and effect of Wisconsin's operations on, other licensees. We note that there may be instances where Wisconsin is making mobile use of a Part 22 license in conjunction with a non-Part 22 base station. In these instances, the expectation of neighboring licensees to be free from harmful interference is based on the assumption that the operation of the mobile channel is in compliance with Part 22 paging rules. We therefore determined the proposed license area based on the Part 22 rules, rather than any technical parameters that would have been applicable to a non-Part 22 base station.

30. In addition to proposing to limit the modified license areas to the market boundary, the proposed license areas in the Appendix were calculated using Wisconsin's current technical parameters. As discussed above, these parameters require us to waive certain technical rules that have the potential to affect other licensees. Per the conditions of the technical waivers, Wisconsin is required to notify the Division within six months of the effective date of this Order that it has obtained the required concurrences or forgone the waiver, and therefore either implemented an alternative solution that complies with our current rules or ceased operation.

31. *Protest Rights and Procedures*. Section 316(a)(1) of the Act provides that no proposed order of modification shall become final until the license holder has been provided at least 30 days to protest the proposed order.[46] We will thus provide Wisconsin with 30 days from the release date of this Proposed Order of Modification to file a protest. Section 316(a)(2) and (3) of the Act also provide that any other licensee or permittee who believes its license or permit would be modified by the proposed action may also protest the proposed action before its effective date and that any protest is subject to the requirements

[44] Call signs WQMS406, WQMS407, WQMS408, WQMS409, WQMS410, WQMS412, WQMS413, WQMS417, WQMS418, WQMS421, WQMS422, WQMS423, WQMS424, and WQMS425.

[45] 47 CFR § 22.567(d).

[46] 47 U.S.C. § 316(a)(1).

of Section 309 for petitions to deny.[47] Section 309(d) in turn provides that a petition to deny must show that the party has standing and that the Commission's action would be contrary to the public interest.[48]

III. ORDERING CLAUSES

32. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.106 of the Commission's rules, 47 CFR § 1.106, the State of Wisconsin's Petition for Reconsideration regarding the requirements of Section 22.503(k) of the Commission's rules, 47 CFR § 22.503(k), is DENIED.

33. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 1.3 and 1.925 of the Commission's rules, 47 CFR §§ 1.3, 1.925, waiver of Sections 22.503(k) and 22.561 of the Commission's rules, 47 CFR §§ 22.503(k), 22.561, is CONDITIONALLY GRANTED TO THE EXTENT PROVIDED ABOVE.

34. IT IS FURTHER ORDERED that, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), the Proposed Order of Modification is ADOPTED.

35. IT IS FURTHER PROPOSED that, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), the call signs listed in the Appendix and licensed to the State of Wisconsin BE MODIFIED consistent with Section II.B. and the Appendix of this Order and Proposed Order of Modification.

36. IT IS FURTHER ORDERED that, pursuant to Section 316(a)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 316(a)(1), the Wireless Telecommunications Bureau SHALL SEND this Order and Proposed Order of Modification by certified mail, return receipt requested, to the State of Wisconsin.

37. These actions are taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

[47] 47 U.S.C. § 316(a)(3).

[48] 47 U.S.C. § 309(d). *See also* 47 CFR § 1.939 (petitions to deny).

APPENDIX

Call Signs

WQMS406, WQMS407, WQMS408, WQMS409, WQMS410, WQMS412, WQMS413, WQMS417, WQMS418, WQMS421, WQMS422, WQMS423, WQMS424, WQMS425.

Proposed Modified License Areas

As noted in the Proposed Order of Modification, the proposed modified license areas consist of areas where the State of Wisconsin (Wisconsin) was operating as of July 3, 2017. The proposed modified boundaries of each license area will be defined by the interference contour of its base transmitter(s) as calculated pursuant to Section 22.567(d). The following maps depicting the proposed modified license areas of each call sign were derived using technical information such as location(s) of the base transmitter(s) being used for the call sign, effective radiated power (ERP), antenna height, and height above average terrain (HAAT) data provided by Wisconsin.[49] The tables below depict the base transmitter information provided by Wisconsin,[50] as well as distances from the base transmitter to the interfering contour along the eight radials that were calculated using Wisconsin's technical data.[51]

Contour Information for Calls Signs subject to Section 22.567(d)

Base transmitter information provided by State of Wisconsin – 22.567(d)

Call Sign	Location	Latitude	Longitude	Elevation (m)	Antenna Height (m)	ERP (W)	HAAT (m)
WQMS406	Wittenberg	44° 49' 09.8" N	89° 03' 22.6" W	371.0	85.3	90	119.0
	West Kewanee	44° 28' 40.6" N	87° 34' 45.8" W	227.9	97.5	124	110.0
WQMS407	Marinette	45° 05' 14.0" N	87° 54' 45.8" W	224.8	91.4	104	110.9
	Florence	45° 53' 35.9" N	88° 17' 48.2" W	451.0	67	125	114.6
WQMS408	Lakewood	45° 24' 15.7" N	88° 21' 11.7" W	420.0	88.3	100	150.9
WQMS409	Fence	45° 44' 07.2" N	88° 25' 38.4" W	476.0	120.4	95	156.8
	Pembine	45° 36' 57.5" N	87° 59' 47.9" W	296.0	85.3	100	82.6
WQMS410	Ellison Bay	45° 14' 19.6" N	87° 05' 27.6" W	237.4	103.6	100	158.6
WQMS412	Bonduel	44° 43' 04.5" N	88° 25' 12.2" W	286.8	97.5	100	126.1
WQMS413	Scandinavia	44° 28' 08.2" N	89° 10' 05.4" W	352.5	85.3	165	134.2
WQMS417	Milton	42° 46' 25.2" N	89° 00' 21.8" W	285.2	85.3	125	105.1
WQMS418	Kieler	42° 36' 04.5" N	90° 33' 16.9" W	305.7	82.3	107	126.0
WQMS421	Pipestone	45° 51' 05.8" N	91° 12' 14".2 W	494.2	48.7	125	131.8
WQMS422	Squirrel Hill	45° 49' 32.5" N	89° 53' 37.9" W	504.0	87.4	105	108.7
WQMS423	Neillsville	44° 39' 13.9" N	90° 40' 32.0" W	364.2	85.3	102.8	113.0
WQMS424	Squirrel Hill	45° 49' 32.5" N	89° 53' 37.9" W	504.0	87.4	105	108.7
WQMS425	Cary Mound	44° 31' 30.8" N	90° 12' 58.9" W	385.6	82.3	110	125.1

[49] The technical information used was provided in Wisconsin's Petition for Reconsideration, filed with each license on January 8, 2016, and alternative showings provided via email to Commission staff on July 16, 2018.

[50] Latitude/Longitude coordinates, elevation and HAAT information were updated by Commission staff after technical review of information provided by State of Wisconsin.

[51] The output power and HAAT data provided by Wisconsin were averaged values; the individual radial power and HAAT values were derived using these averaged values.

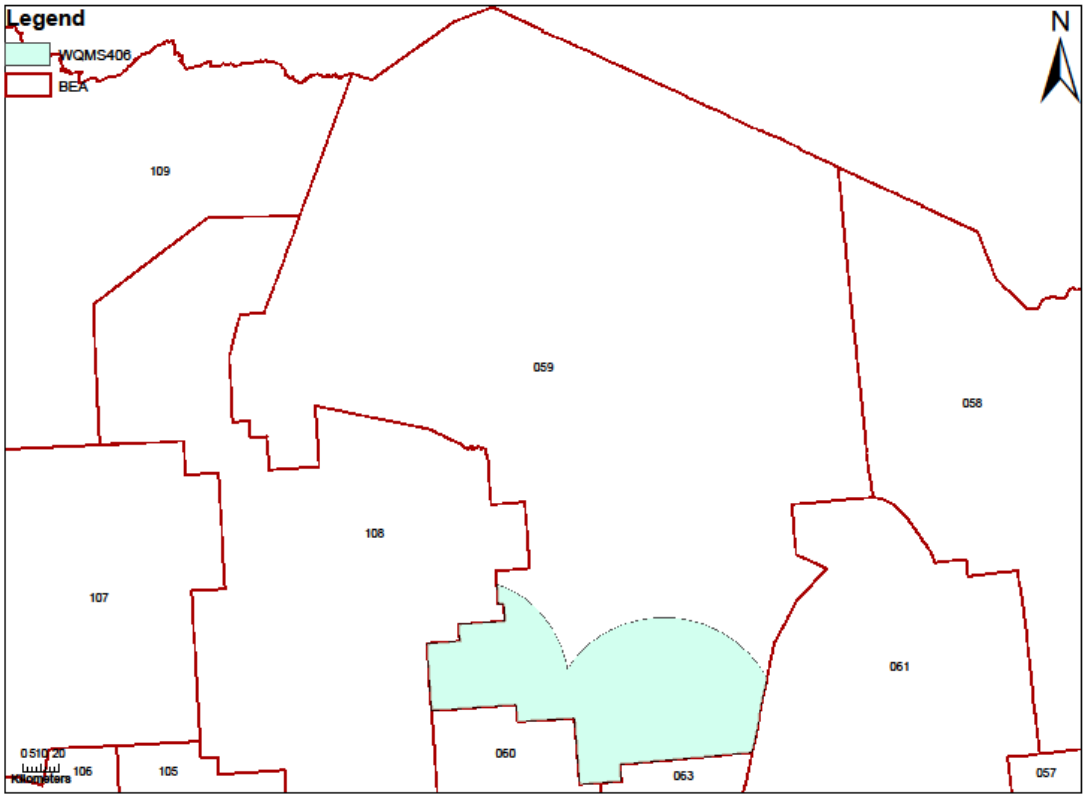
Transmitter Radial Values – per Section 22.567(d)				
Location	**Azimuth**	**HAAT (m)**	**ERP (W)**	**Distance (km)**
Wittenberg	0	90.2	90	59.4
	45	121.6	90	63.8
	90	148.2	90	66.9
	135	156.7	90	73.9
	180	142.3	90	66.3
	225	111.9	90	62.6
	270	95.9	90	60.3
	315	85.7	90	58.7
West Kewanee	0	104.9	124	65.5
	45	121.2	124	67.8
	90	142.3	124	70.4
	135	137.1	124	69.8
	180	101.3	124	64.9
	225	93	124	63.6
	270	76	124	60.6
	315	100.1	124	64.7
Marinette	0	110.5	104	64.1
	45	107.2	104	63.7
	90	115.6	104	64.8
	135	121.3	104	65.6
	180	106.8	104	63.6
	225	109.3	104	64.0
	270	100.8	104	62.7
	315	104.7	104	63.3
Florence	0	112.1	125	66.6
	45	123.4	125	68.2
	90	137.8	125	70.0
	135	150.6	125	76.7
	180	108.7	125	66.1
	225	99.6	125	64.8
	270	95.6	125	64.1
	315	104.7	125	65.5
Lakewood	0	121.5	100	65.1
	45	159.4	100	75.3
	90	196.1	100	79.0
	135	209.1	100	80.1
	180	194.8	100	78.8
	225	139.1	100	67.3
	270	81.9	100	59.2
	315	101.1	100	62.3
Fence	0	166.1	95	75.5
	45	173	95	76.2

Transmitter Radial Values – per Section 22.567(d)				
Location	**Azimuth**	**HAAT (m)**	**ERP (W)**	**Distance (km)**
	90	169.8	95	75.8
	135	164.6	95	75.3
	180	149.9	95	67.8
	225	138	95	66.5
	270	144.4	95	67.2
	315	144.4	95	67.2
Pembine	0	64.7	100	56.0
	45	98.2	100	61.9
	90	115.4	100	64.3
	135	113.1	100	64.0
	180	96.1	100	61.5
	225	73	100	57.6
	270	47.7	100	52.0
	315	42.1	100	50.5
Ellison Bay	0	164	100	75.8
	45	155.7	100	74.9
	90	160.7	100	75.4
	135	160.4	100	75.4
	180	154	100	74.7
	225	150.2	100	74.3
	270	164	100	75.8
	315	164	100	75.8
Bonduel	0	123.4	100	65.4
	45	122.3	100	65.2
	90	139.1	100	67.3
	135	114.7	100	64.2
	180	127.8	100	65.9
	225	135	100	66.8
	270	125.3	100	65.6
	315	124.4	100	65.5
Scandinavia	0	130.1	165	72.8
	45	149	165	75.2
	90	169.8	165	81.9
	135	163.2	165	81.2
	180	148.6	165	75.2
	225	115.4	165	70.7
	270	111.4	165	70.1
	315	96.7	165	67.8
Milton	0	121.2	125	67.9
	45	113.1	125	66.8
	90	95.8	125	64.2
	135	91.3	125	63.4

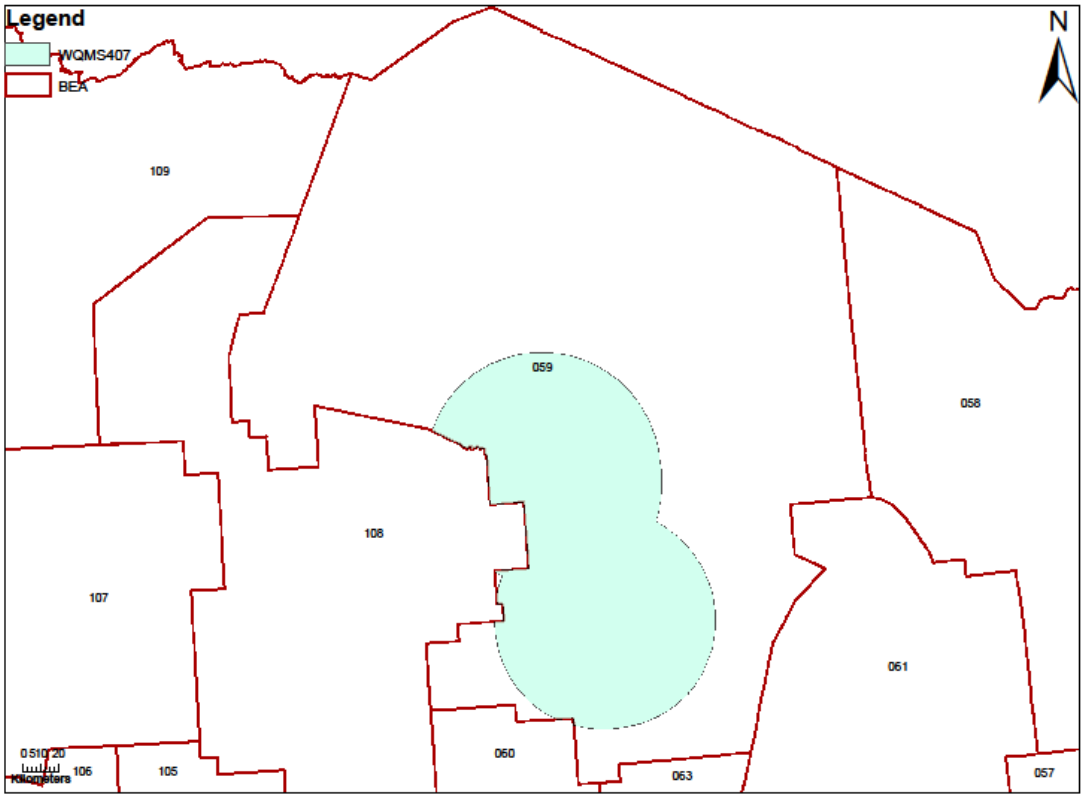
Transmitter Radial Values – per Section 22.567(d)				
Location	**Azimuth**	**HAAT (m)**	**ERP (W)**	**Distance (km)**
	180	109.3	125	66.2
	225	95.2	125	64.1
	270	101.4	125	65.0
	315	111.4	125	66.5
Kieler	0	136.3	107	67.8
	45	97.4	107	62.5
	90	93.7	107	62.0
	135	114.3	107	65.0
	180	121.3	107	65.9
	225	159.3	107	76.0
	270	141.7	107	68.4
	315	138.9	107	68.1
Pipestone	0	138.3	125	70.1
	45	122.6	125	68.1
	90	123.3	125	68.2
	135	136	125	69.8
	180	147.1	125	71.1
	225	134.4	125	69.6
	270	111.4	125	66.5
	315	133.5	125	69.5
Squirrel Hill	0	110	105	64.2
	45	106.4	105	63.7
	90	109.1	105	64.0
	135	112.9	105	64.6
	180	121.5	105	65.7
	225	107	105	63.7
	270	102.6	105	63.1
	315	108.8	105	64.0
Neillsville	0	101	102.8	62.6
	45	92.9	102.8	61.4
	90	96.6	102.8	61.9
	135	121	102.8	65.4
	180	130.2	102.8	66.5
	225	125	102.8	65.9
	270	117.6	102.8	64.9
	315	117.4	102.8	64.9
Cary Mound	0	95.1	110	62.5
	45	103.1	110	63.7
	90	114.3	110	65.3
	135	144.9	110	69.2
	180	150.2	110	75.3
	225	149.1	110	69.6

Transmitter Radial Values – per Section 22.567(d)				
Location	**Azimuth**	**HAAT (m)**	**ERP (W)**	**Distance (km)**
	270	132.7	110	67.7
	315	99.5	110	63.2

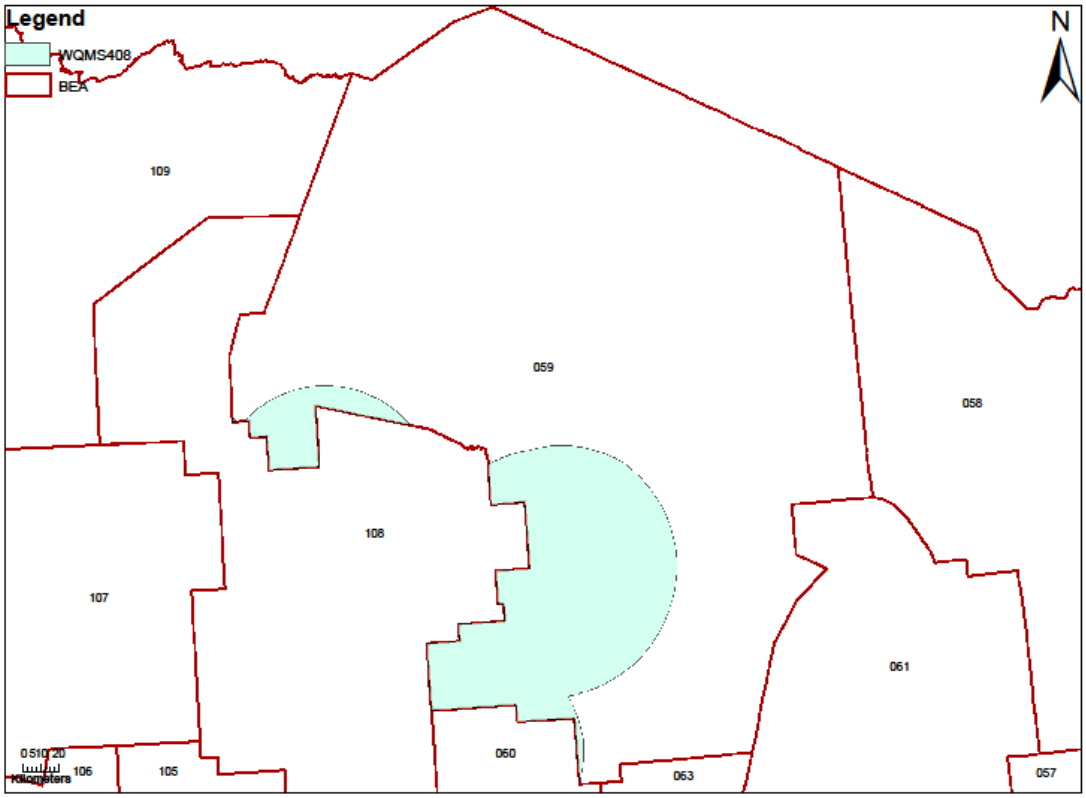
WQMS406 New Market Area



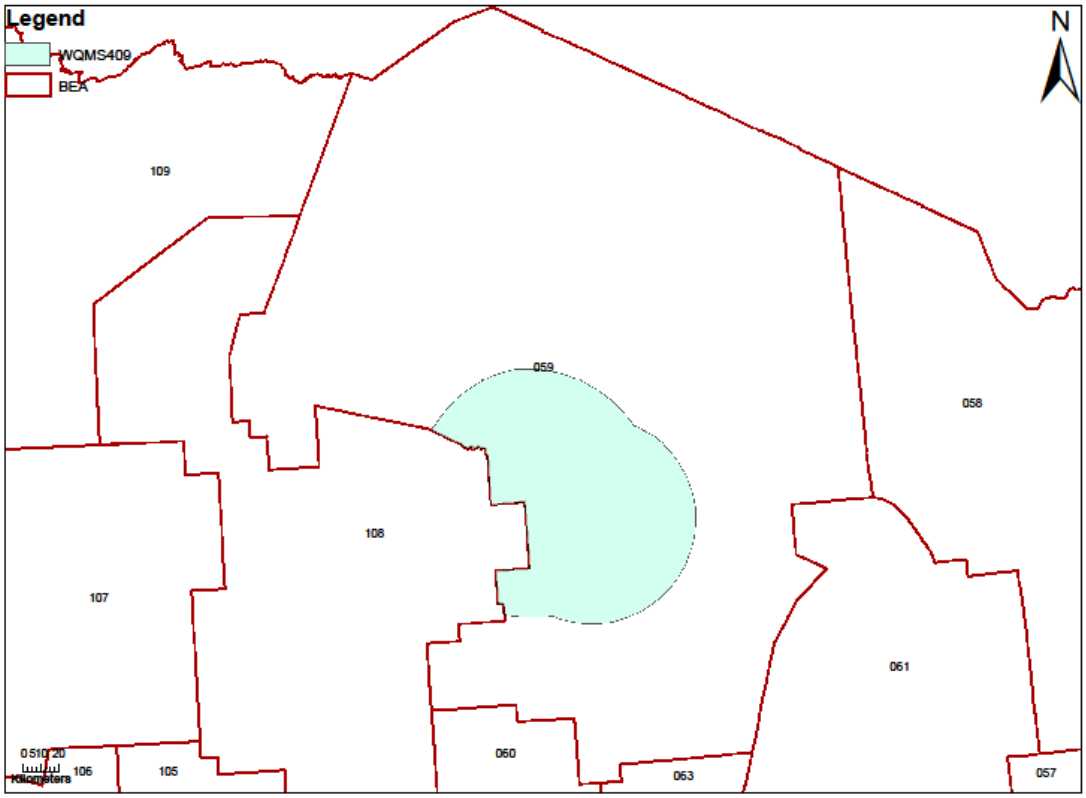
WQMS407 New Market Area



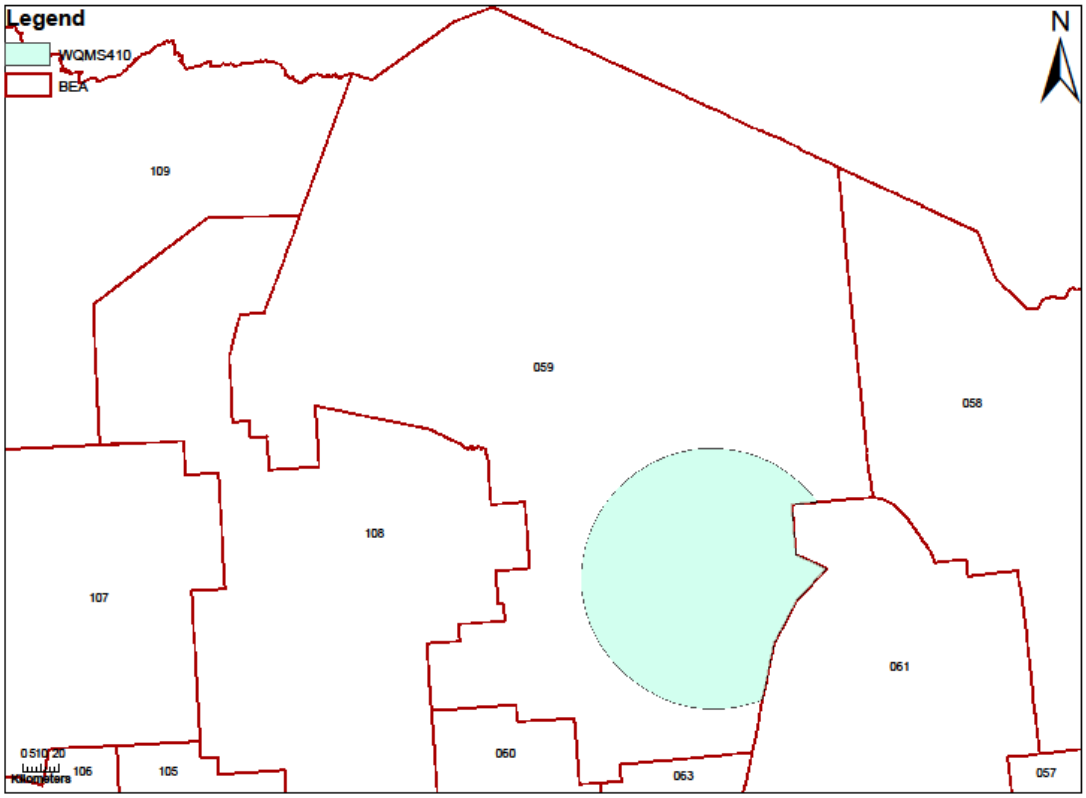
WQMS408 New Market Area



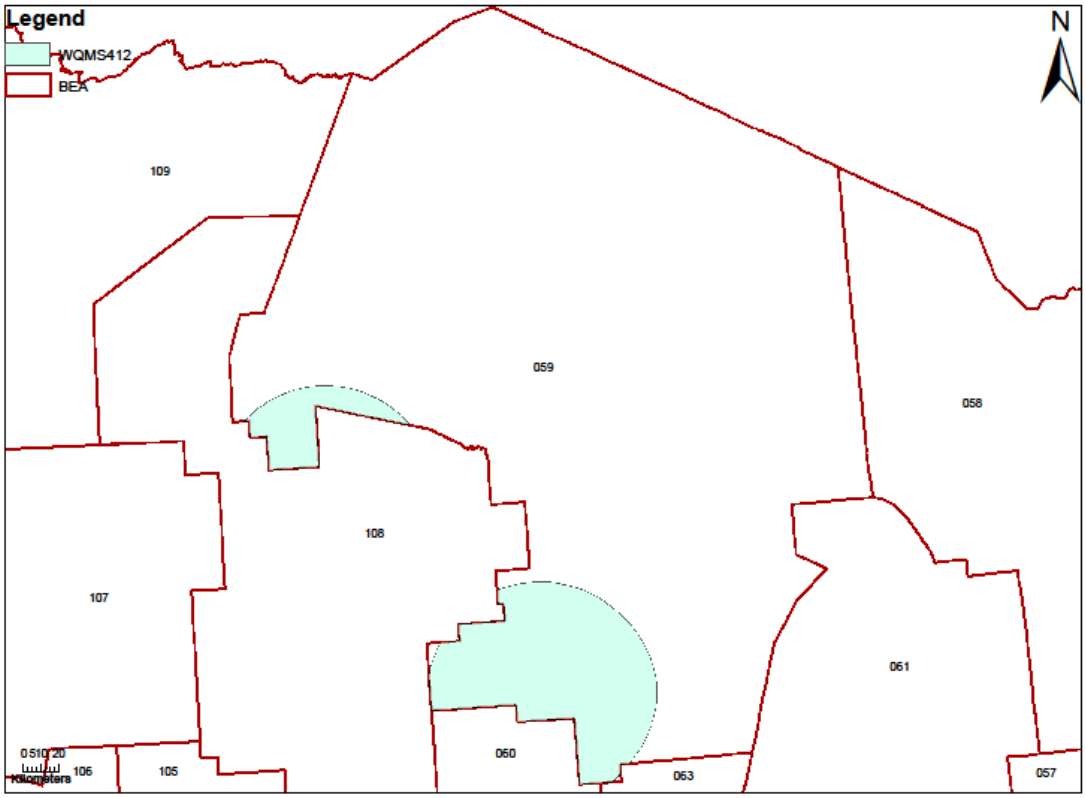
WQMS409 New Market Area



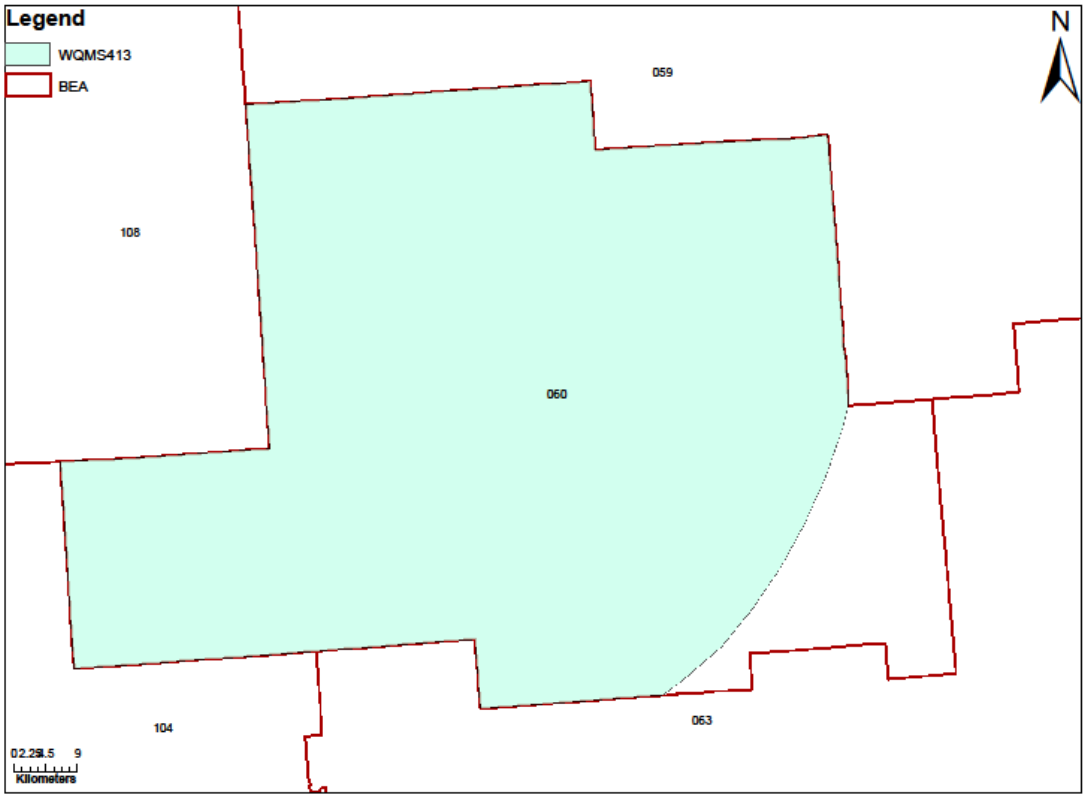
WQMS410 New Market Area



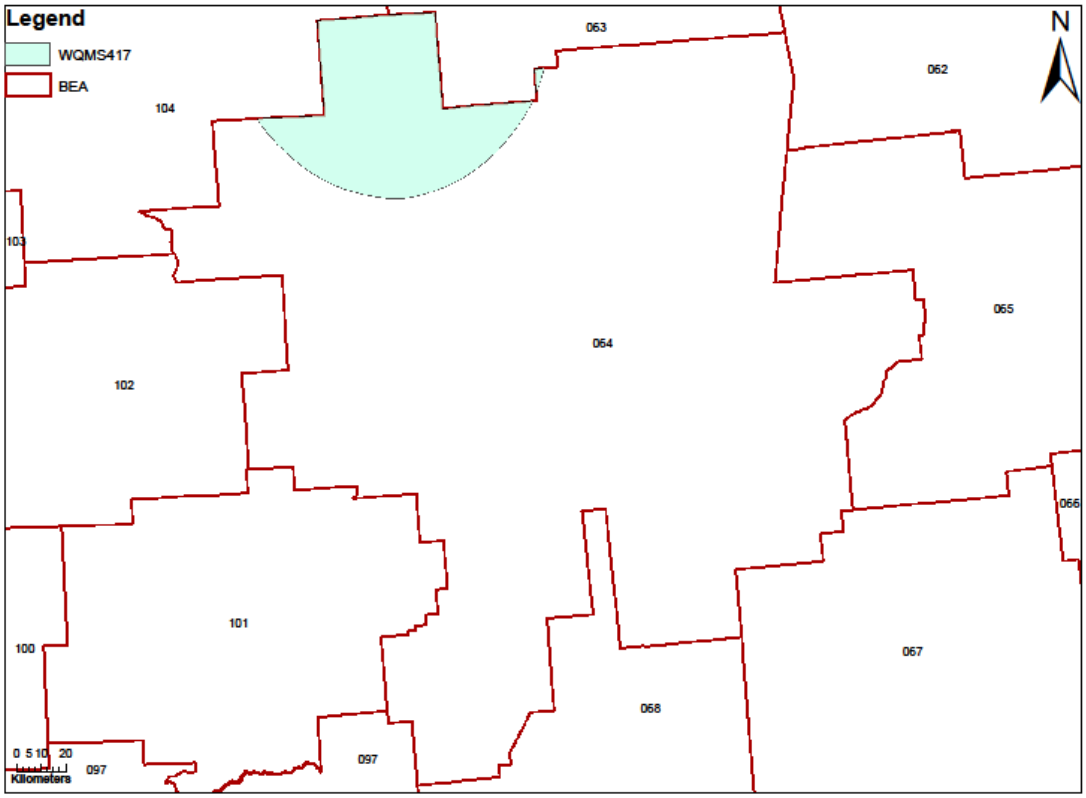
WQMS412 New Market Area



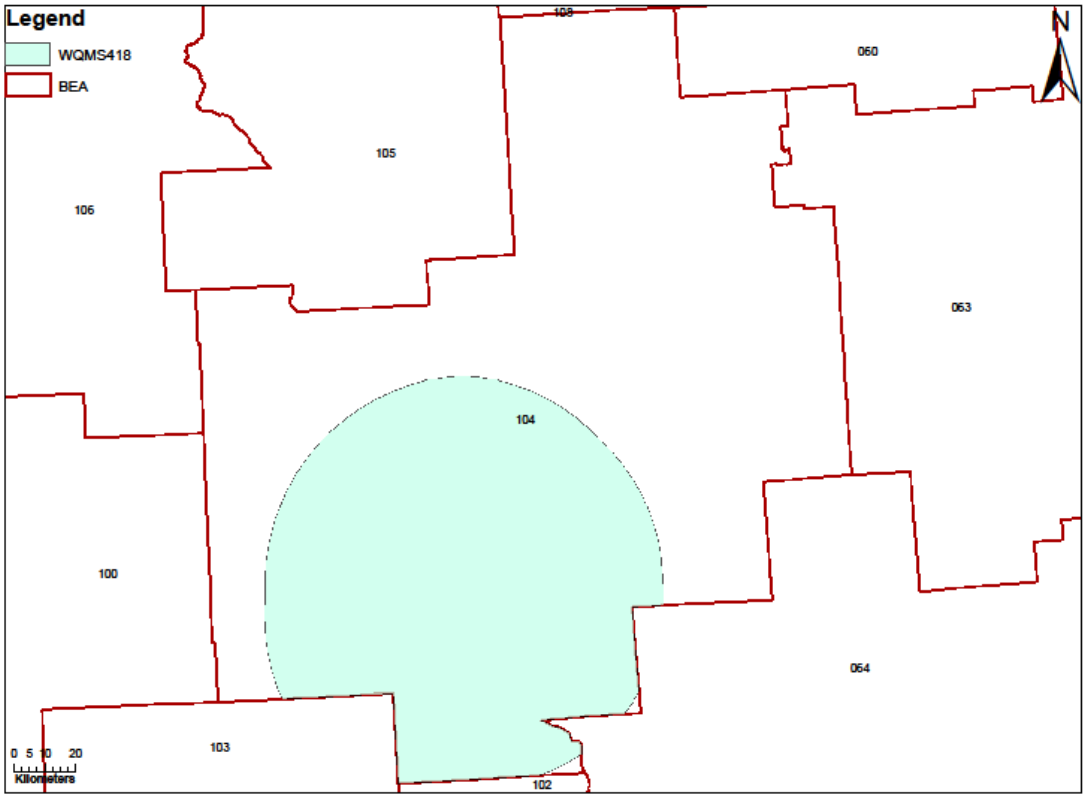
WQMS413 New Market Area



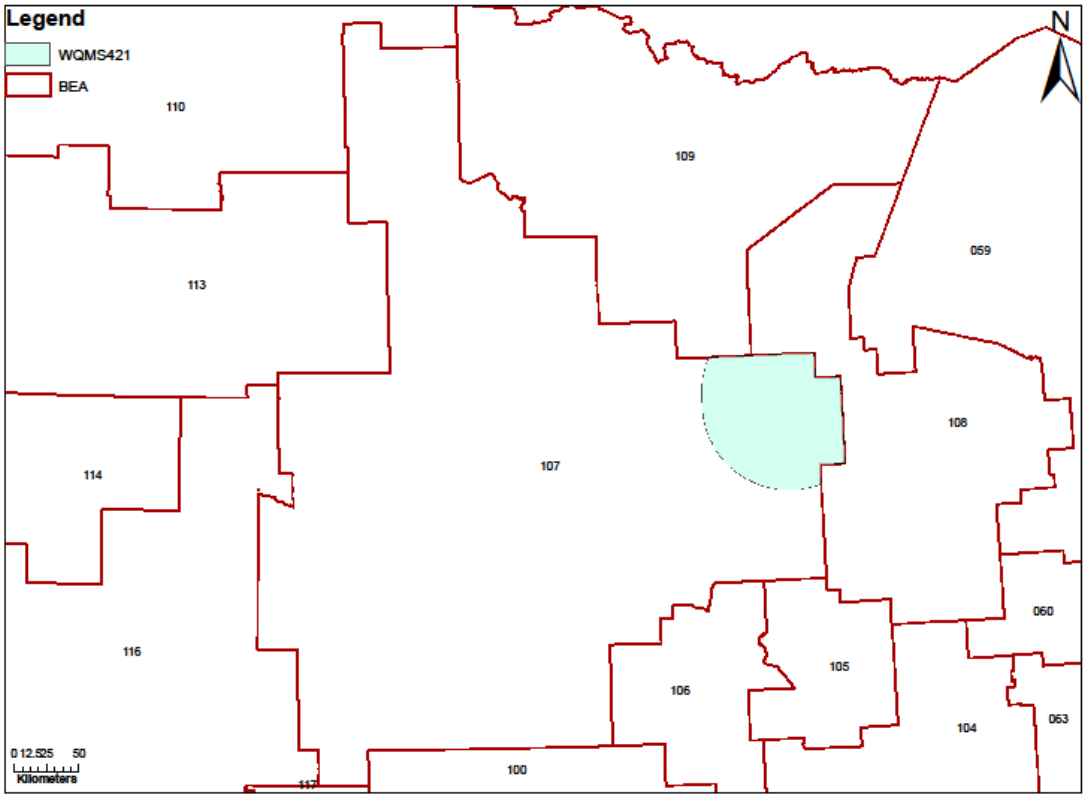
WQMS417 New Market Area



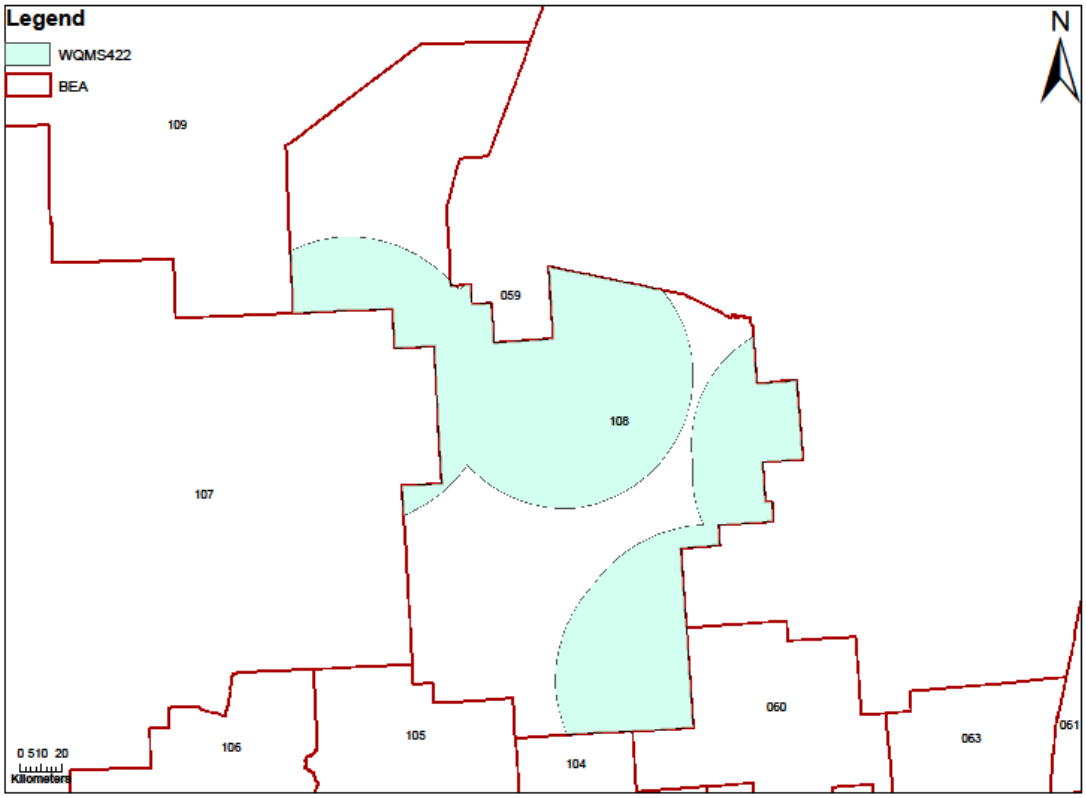
WQMS418 New Market Area



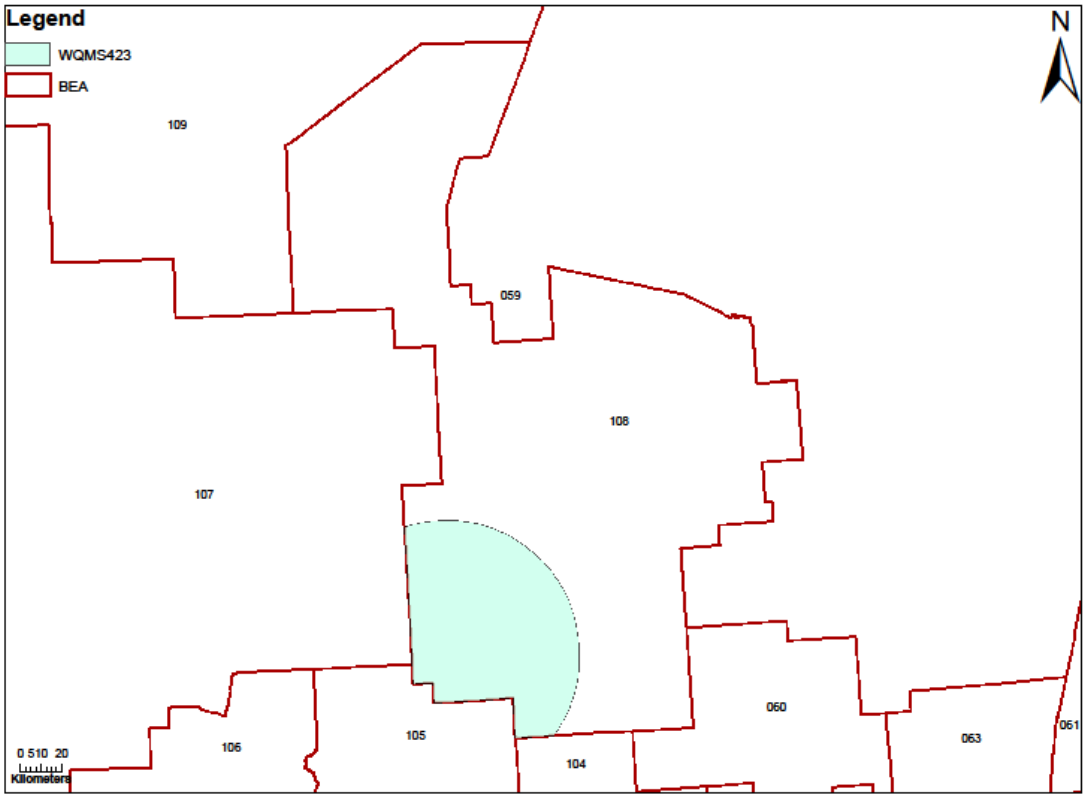
WQMS421 New Market Area



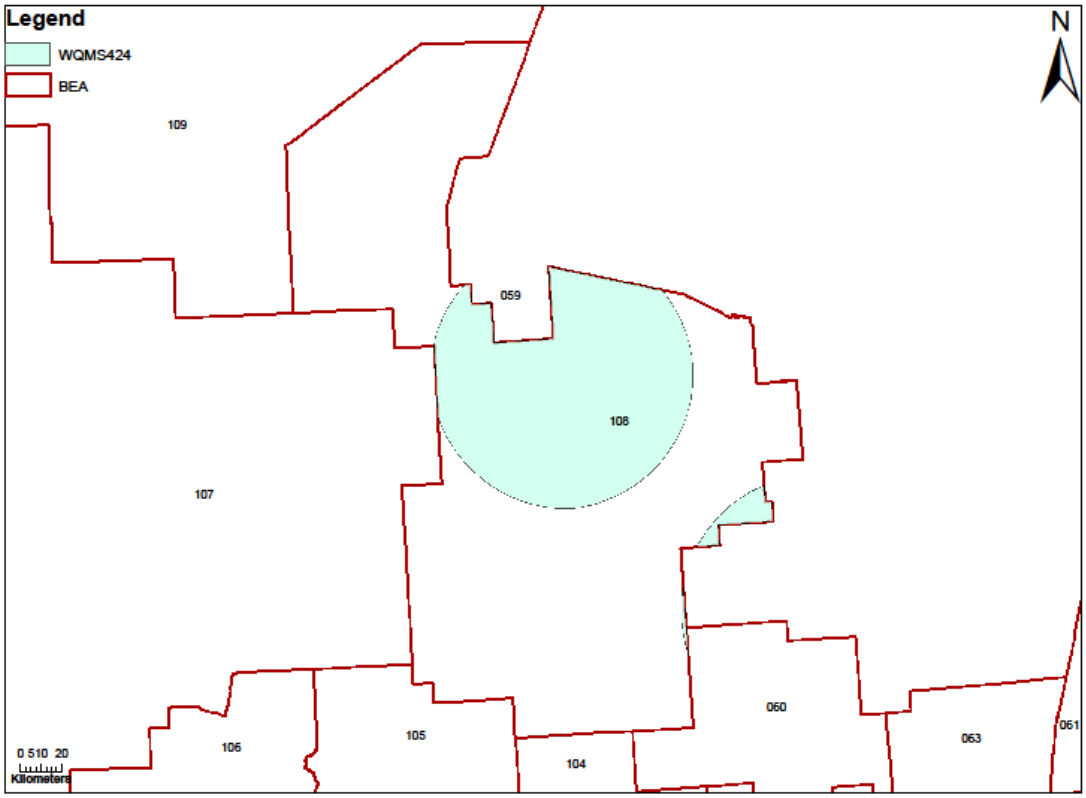
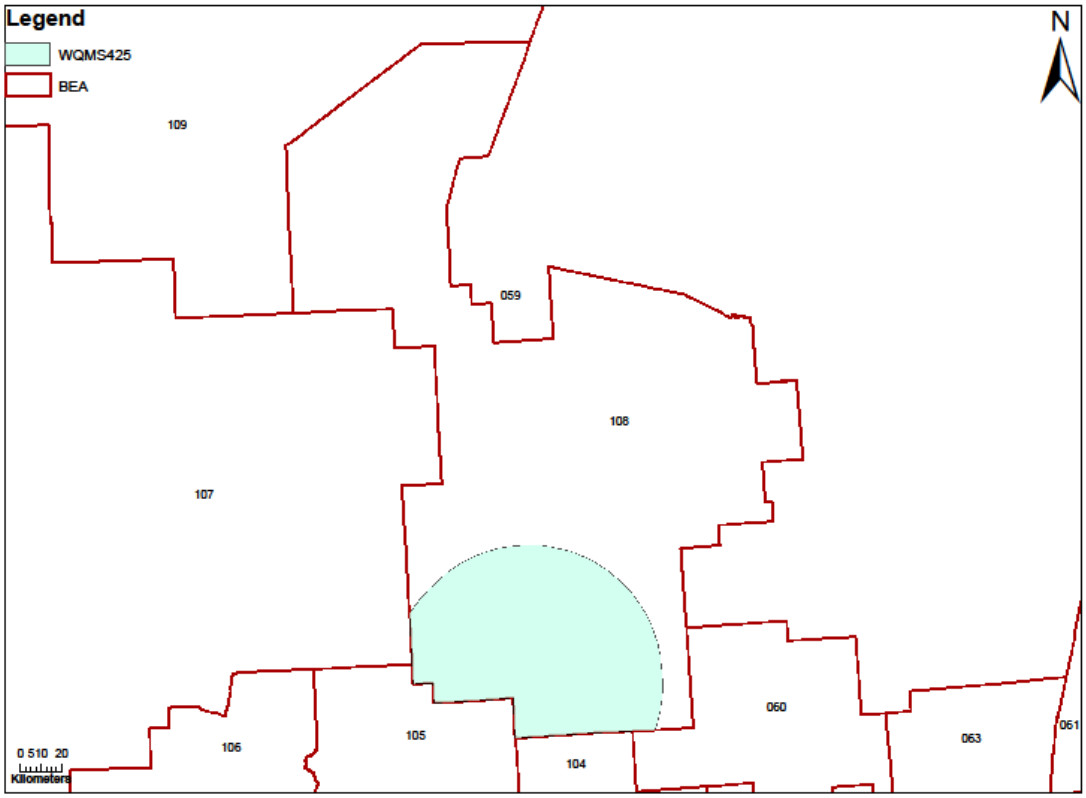
WQMS422 New Market Area



WQMS423 New Market Area



WQMS424 New Market Area



WQMS425 New Market Area