



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 32 (NORTH DAKOTA) 700 MHZ REGIONAL PLAN

WT Docket No. 02-378

Introduction. On May 16, 2019, the Region 32 (North Dakota)¹ 700 MHz Regional Planning Committee (RPC) (Region 32) submitted a proposed 700 MHz Public Safety Plan (Plan) for General Use spectrum² in the 769-775/799-805 MHz band for review and approval.³ For the reasons discussed below, we approve the Region 32 700 MHz Plan.

Background. In 1998, the Commission established a structure to allow 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.⁴ Each of the fifty-five (55) RPCs is required to submit its plan for the General Use spectrum.⁵ The Commission's role in relation to the RPCs is limited to (1) defining regional boundaries; (2) requiring fair and open RPC 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.⁶

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.⁷ The Commission adopted a plan for the 700 MHz

¹ The Region 32 (North Dakota) 700 MHz regional planning area includes the entire state of North Dakota consisting of 53 counties, and 4 Native American tribes.

² The General Use spectrum is administered by RPCs and is licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

³ Letters from Michael Lynk, Director, Division of State Radio Communications, North Dakota Department of Emergency Services, to John A. Evanoff, Public Safety and Homeland Security Bureau, FCC, WT Docket No. 02-378 (filed Dec. 14, 2017, Dec. 17, 2018 and May 16, 2019) (Region 32 Cover Letter) and Region 32 Public Safety 700 MHz Radio Communications Plan (dated December 6, 2017, amended October 26, 2018, December 14, 2018, and May 16, 2019) (Region 32 Plan).

⁴ *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*); Second Memorandum Opinion and Order, 15 FCC Rcd 16844 (2000). *See also* 47 CFR § 90.527.

⁵ 47 CFR § 90.527.

⁶ *First Report and Order*, 14 FCC Rcd at 195 para. 87.

⁷ *Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety*

(continued....)

band to establish a nationwide, interoperable public safety broadband communications network for the benefit of state and local public safety users. The Commission designated the lower half of the 700 MHz public safety band for broadband communications (763-768/793-798 MHz) and consolidated existing narrowband allocations in the upper half of the public safety 700 MHz band (769-775/799-805 MHz).

Plan Requirements. Each committee is required to submit its plan for the assignment of licenses for General Use spectrum.⁸ Each regional plan must contain certain elements⁹ and must be coordinated with adjacent regions.¹⁰ RPCs are expected to ensure that their committees are representative of all public safety entities in their regions by providing adequate notice of all meetings, opportunity for comment, and reasonable consideration of views expressed. Plans must include an explanation of how all eligible entities within the region were given such notice.¹¹ Plans should list the steps undertaken to encourage and accommodate all eligible entities to participate in the planning process, such as holding meetings in various parts of the region. In addition, a regional plan should describe outreach efforts made to tribal governments.¹²

Regional plans may differ in their approaches to spectrum planning and management. In particular, some plans may make specific assignments to eligible public safety entities, while others may establish an allotment pool approach based on political boundaries such as counties. However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the Commission's regional plan requirements.¹³ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁴

Review of the Region 32 700 MHz Plan. The Region 32 plan incorporates the following common elements as required by Section 90.527(a)¹⁵ of the Commission's rules:

- 47 CFR § 90.527(a)(1). Region 32 identifies the Plan as the regional plan for the defined region with the names, business addresses, business telephone numbers, and organizational affiliations of the chairpersons and all members of the planning committee.¹⁶

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Communications Requirements Through the Year 2010, Second Report and Order, 22 FCC Rcd 15289 (2007) (Second Report and Order).

⁸ 47 CFR §§ 90.527, 90.531.

⁹ 47 CFR § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 para. 84.

¹⁰ 47 CFR § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 paras. 77-89.

¹¹ *First Report and Order*, 14 FCC Rcd at 193-94 para. 84. The Commission directed RPCs to promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 para. 86.

¹² *Id.* at 193-94 para. 84.

¹³ 47 CFR § 90.527.

¹⁴ The NCC was a federal advisory committee established by the Commission in 1999 to address and advise the Commission on operational and technical parameters for use of the 700 MHz public safety band. In addition, the NCC was tasked with providing voluntary assistance in the development of coordinated regional plans and developed a *Regional Planning Guidebook*. Following the sunset of the NCC's charter on July 25, 2003, the National Public Safety Telecommunications Council (NPSTC) agreed to continue to provide assistance to regional planners.

¹⁵ 47 CFR § 90.527(a).

¹⁶ Region 32 Plan at 5, Appendix B.

- 47 CFR § 90.527(a)(2). The Plan includes a summary of the major elements of the plan and an explanation of how all eligible entities within the region were given an opportunity to participate in the planning process and to have their positions heard and considered fairly.¹⁷ In that connection, Region 32 encouraged the participation of all Part 90 licensees and others with an interest in the development of a Plan for 700 MHz.
- 47 CFR § 90.527(a)(3). The Plan includes a general description of how the spectrum would be allotted among the various eligible users within the region with an explanation of how the requirements of all eligible entities within the region were considered and, to the degree possible, met.¹⁸ Region 32 will employ the CAPRAD¹⁹ pre-coordination database as the initial basis of channel allotments for geographical areas within Region 32 for an initial three year period. The Region 32 Plan pre-allocates the consolidated narrowband General Use spectrum by county.²⁰
- 47 CFR § 90.527(a)(4). The Plan includes an explanation as to how needs were assigned priorities in areas where not all eligible entities could receive licenses.²¹ For example, Region 32 establishes procedures for application review, technical review of applications, and management of channel assignments.²²
- 47 CFR § 90.527(a)(5). The Plan includes an explanation of how the plan had been coordinated with adjacent regions.²³ Region 32 coordinated the Plan with all three adjacent regions to Region 32 including: Region 22 (Minnesota), Region 25 (Montana); and Region 38 (South Dakota).²⁴
- 47 CFR § 90.527(a)(6). The Plan includes a detailed description of how the plan put the spectrum to the best possible use by requiring system design with minimum coverage areas, by assigning frequencies so that maximum frequency reuse and offset channel use may be made, by using trunking, and by requiring small entities with minimal requirements to join together in using a single system where possible.²⁵ In that connection, the Plan includes guidelines for interference protection; coverage area and protected service areas; spectrum efficiency standards; handling orphaned channels and system implementation.²⁶
- 47 CFR § 90.527(a)(7). The Plan includes a detailed description of the future planning process, including, but not limited to, amendment process, meeting announcements, data base maintenance, and dispute resolution. Region 32 includes procedures for future application windows, review of the Plan's effectiveness, potential Plan modification and inter-regional disputes.²⁷
- 47 CFR § 90.527(a)(8). The Plan includes a certification by the regional planning chairperson that all planning committee meetings, including subcommittee or executive

¹⁷ *Id.* at Sections 1 and 5, Appendix E.

¹⁸ *Id.* at Section 6.

¹⁹ CAPRAD refers to the Computer Assisted Pre-coordination Resource and Database.

²⁰ *Id.* at Appendix G.

²¹ *Id.* at Sections 6.3, 6.4.

²² *Id.* at Section 6.4.

²³ *Id.* at Section 6.5.

²⁴ Concurrence Letters attached to Plan.

²⁵ Plan at Sections 7 and 10.

²⁶ *Id.*

²⁷ *Id.* at Section 12, Appendix J – Inter-Regional Coordination Procedures and Resolution of Disputes.

committee meetings, were open to the public. Specifically, the Region 32 Chair certifies that meetings were open to the public and includes meeting minutes.²⁸

On August 12, 2019, the Bureau released a *Public Notice* seeking comment on the Region 32 Plan.²⁹ We received no comments. Based on our review of the Plan, we conclude that it complies with FCC rules and policies. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.102(b) of the Commission's rules, 47 CFR § 1.102(b), the Region 32 (North Dakota) 700 MHz Plan is APPROVED.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

Action by the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau.

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²⁸ *Id.* at Section 13 and Appendix E.

²⁹ *Public Safety and Homeland Security Bureau Seeks Comments on Region 32 (North Dakota) 700 MHz Regional Plan*, Public Notice, 34 FCC Rcd 7066 (PSHSB 2019).