

used in combination as 12.5 kHz or 25 kHz channels, respectively. The lower (in frequency) channel for two channel combinations must be an odd (*i.e.*, 1, 3, 5 \* \* \*) numbered channel. The lowest (in frequency) channel for four channel combinations must be a channel whose number is equal to  $1 + (4xn)$ , where  $n =$  any integer between 0 and 479, inclusive (*e.g.*, channel number 1, 5, \* \* \* 1917). Channel combinations are designated by the lowest and highest channel numbers separated by a hyphen, *e.g.*, “1–2” for a two channel combination and “1–4” for a four channel combination.

(2) [Reserved]

(e) *Channel pairing.* In general, channels must be planned and assigned in base/mobile pairs that are separated by 30 MHz. However, until December 31, 2006, channels other than those listed in paragraphs (b)(1) and (c)(1), may be planned and assigned in base/mobile pairs having a different separation, where necessary because 30 MHz base/mobile pairing is precluded by the presence of one or more co-channel or adjacent channel TV/DTV broadcast stations.

(f) *Internal guard band.* The internal guard band (768–769/798–799 MHz) is reserved.

(g) *Broadband.* The 758–768 MHz and 788–798 MHz bands are allocated for broadband communications.

[63 FR 58651, Nov. 2, 1998, as amended at 65 FR 66654, Nov. 7, 2000; 66 FR 10635, 10636, Feb. 16, 2001; 67 FR 61005, Sept. 27, 2002; 67 FR 76700, Dec. 13, 2002; 72 FR 48860, Aug. 24, 2007; 77 FR 62463, Oct. 15, 2012; 79 FR 71325, Dec. 2, 2014]

**§ 90.532 Licensing of the 758–769 MHz and 788–799 MHz Bands; State opt-out election and alternative plans.**

(a) *First Responder Network Authority license and renewal.* Pursuant to Section 6201 of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 (2012), a nationwide license for use of the 758–769 MHz and 788–799 MHz bands shall be issued to the First Responder Network Authority for a initial license term of ten years from the date of the initial issuance of the license. Prior to expiration of the term of such initial license, the First Responder Network Author-

ity shall submit to the Commission an application for the renewal of such license. Such renewal application shall demonstrate that, during the preceding license term, the First Responder Network Authority has met the duties and obligations set forth under the foregoing Act. A renewal license shall be for a term not to exceed ten years.

(b) *State election to opt out of the First Responder Network Authority Nationwide Network.* No later than 90 days after receipt of notice from the First Responder Network Authority under section 6302(e)(1) of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 (Spectrum Act), any State Governor or the Governor’s designee shall file with the Commission a notification of the Governor’s election to opt out and conduct its own deployment of a State radio access network pursuant to section 6302(e)(2)(B) of the Middle Class Tax Relief and Job Creation Act of 2012. This notification shall be sent to a dedicated email address specified by the Commission or via certified mail to the Secretary’s office. At the conclusion of the opt-out notification period, the Public Safety and Homeland Security Bureau shall issue one or more Public Notices denoting which states have elected to opt out. In addition:

(1) Such notification shall also certify that the State has notified the First Responder Network Authority and the National Telecommunications and Information Administration of its election.

(2) If such notice is filed by the Governor’s designee, it shall include memorialization of the Governor’s delegation of authority in writing with the notice.

(c) *Petitions for leave to intervene.* Entities other than the First Responder Network Authority, the National Telecommunications and Information Administration, and the relevant state may petition the Commission for leave to intervene. Such a petition must be made within 30 days of the Public Notice issued in conformance with paragraph (b) of this section. The petition must note the specific plan on which the filer wishes to comment and clearly detail the filer’s interest in the proceeding. This includes an explanation

of the filer's interest in the outcome of the particular state's application, as well as an explanation of how the filer's interests are not otherwise represented by the state, FirstNet, or NTIA, or how its participation would otherwise aid the Commission in a full evaluation of the facts.

(d) *Filing of alternative state plans by states electing to opt out.* No later than 240 days after filing notice of a State's election with the Commission under paragraph (b) of this section, the State Governor or the Governor's designee shall file an alternative plan with the Commission for the construction, maintenance, operation, and improvements of the State radio access network. Alternative plans may be sent to a dedicated email address specified by the Commission or via certified mail to the Office of the Secretary.

(e) *Contents of alternative state plans.* An alternative state plan shall include:

(1) An interoperability showing, demonstrating:

(i) Compliance with the minimum technical interoperability requirements developed under section 6203 of the Middle Class Tax Relief and Job Creation Act of 2012; and

(ii) Interoperability with the nationwide public safety broadband network.

(2) Certifications by the State Governor or the Governor's designee, attesting:

(i) Adherence to FirstNet network policies identified by FirstNet as relating to technical interoperability; and

(ii) Completion of the state's request for proposal within 180 days of receipt of notice of the State Plan furnished by the First Responder Network Authority. Such certification may only be made if the state has:

(A) Issued a request for proposal for the state's Radio Access Network;

(B) Received bids for such network; and

(C) Selected a vendor(s).

(f) *Commenting on alternative state plans.* Within 10 business days of the submission of an alternative state plan the Public Safety and Homeland Security Bureau shall determine whether the plan is acceptable for filing under the criteria set forth under paragraphs (d) and (e) of this section. The Bureau shall issue a Public Notice identifying

each plan that has been accepted for filing and initiating an abbreviated comment cycle.

(1) The First Responder Network Authority, the National Telecommunications and Information Administration, and any entity granted party status under paragraph (c) of this section may file comments within 15 days of the issuance of the Public Notice set forth in this paragraph (f).

(2) The relevant state may file reply comments within 30 days of the issuance of the Public Notice set forth in this paragraph (f).

(3) States can file the plans, and those granted party status to each proceeding may file comments on the plan, in the specified state docket via a dedicated email address specified by the Commission or via certified mail to the Office of the Secretary.

[77 FR 62463, Oct. 15, 2012, as amended at 82 FR 46691, Oct. 6, 2017]

#### **§ 90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.**

This section applies to each license to operate one or more public safety transmitters in the 758–775 MHz and 788–805 MHz bands, at a location or locations North of Line A (see § 90.7) or within 120 kilometers (75 miles) of the U.S.-Mexico border, until such time as agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, become effective governing border area non-broadcast use of these bands. Public safety licenses are granted subject to the following conditions:

(a) Public safety transmitters operating in the 758–775 MHz and 788–805 MHz bands must conform to the limitations on interference to Canadian television stations contained in agreement(s) between the United States and Canada for use of television channels in the border area.

(b) Public safety facilities must accept any interference that may be caused by operations of UHF television broadcast transmitters in Canada and Mexico.

(c) Conditions may be added during the term of the license, if required by the terms of international agreements