

Appendix E

Report to the NCC Interoperability Subcommittee
From the Rules/Policies Workgroup (#3)
**Policy Recommendation for Administrative Oversight
Of Interoperability Channels**
Document #IO-0036E-20000224

Discussion:

There are two approaches to authorizing frequency usage.

1. License from the Federal Communications Commission (FCC).
2. Sharing Agreement from a licensee.

Unless subscriber radios (vehicular or hand-held) are required on the license when operating on the interoperability channels, this discussion only applies to fixed stations (station classes FB, FB2, FBT, & FB2T). Additionally, mobile/vehicular repeater (station class MO3) will be included for required licensing given MO3 operation is similar to fixed station configurations.

Foremost, the licensing process through the FCC must be respected. On that common denominator, all variations of proper authority to operate will be based. These two approaches will be addressed in sequence.

It is important in these deliberations to understand that most large scale interoperability events, in particular large scale disasters that cause mutual aid plans to be activated, are governed by state statute (e.g. Mutual Aid Pacts) in most states. In fact, most wide area mutual aid operations are managed and controlled by state-level organizations. Indeed, under normal circumstances, even Federal assistance will not be provided until it is requested by the governor of an impacted state. Therefore, it is desirable to have administrative oversight reside at the state level.

With the possibility that states may entirely contain multiple regions (California, for example), or where regions include multiple states (in the Northeast, for example), administration of the plan uniformly across the state by the multiple regions will be difficult. With requirements for such activities varying from state to state, it may be inappropriate for a multi-state Regional Planning Committee to uniformly apply some interoperability requirement across multiple states. It is thus recommended that interoperability administration take place at the state level, unless a state refuses to take such responsibility, in which event the Regional Planning Committee(s) must act.

It is, furthermore, imperative that all levels of government (Federal, state, and local – including special districts and specialized public safety users) participate in the development and administration of the interoperability channels, including both the technical and operational parameters.

1. FCC license

The Regional Planning Committees (RPCs) are expected to proctor the implementation and use of the General Use channels, so should they be expected to carry out the interoperability channel implementation and use as dictated by the National Coordination Committee in the event that a state does not desire to perform this function.

Whether implemented by a state or RPC, an appropriate *Memorandum of Understanding* (MOU) for the interoperability channels can be the mechanism to ensure proper conduct by both the committee and licensees. The proposed MOU will provide the minimum criteria to establish an understanding of compliance. It is recommended the FCC not grant a license for interoperability channels unless the applicant has signed the respective state/RPC MOU.

Discussion was presented on what body or organization(s) would develop and administer the MOU (i.e., a user subcommittee). The State of Montana's "Mutual Aid and Common Frequencies" manual (second edition, 1994) identifies various public safety associations and agencies which would serve on a council to provide oversight. However, state, county, or local authority should not be usurped by the requirements established by the NCC. Requiring a state to license the interoperability channels in order to ensure proper implementation and use may create additional unwanted duties of the state which may lead to some method of cost reimbursement. In some Regions, the state may establish a statewide license for interoperability channels; while, in other Regions, county or local jurisdictions will collectively establish regional or statewide coverage. The state or RPC(s) will be expected to administer the MOUs of their respective areas for each applicant for interoperability channels. As difficult as some RPCs have in meeting regularly, any new committee or subcommittee may have the same or more difficulty. It is important that these committees meet regularly and represent all services. Furthermore, the states and RPCs should encourage all services to attend. Meeting locations should be rotated to each service's regular meetings (i.e., in conjunction with APCO, AASHTO, IMSA/IAFC, FCCA chapters, Chiefs of Police, Sheriffs Association, Fire Chiefs, EMS, or other representative meetings).

The FCC does not currently require separate licensing for subscriber units (mobile and portables) on the five interoperability frequency pairs in the national plan spectrum (821-824 and 866- 869 MHz). During the discourse of developing these recommendations, the topic of abuse of existing National Plan interoperability frequencies arose. By not requiring specific licensing or authority to operate on those frequencies there is no direct penalty for violating the intended use of these frequencies. Therefore, licensing the interoperability channels for mobile and portable operation is recommended.

Enforcement and citations authority still remains with the FCC. While states and RPCs may monitor interoperability channels licensed, they have been given no enforcement or citation authority. A state, county, or local agency may pass laws/ordinances for enforcement and citation authority. However, it is not a constant the NCC can rely on nationwide. So the common denominator is the FCC. Thus, it is imperative the FCC rely heavily on the states and RPCs for proper use of interoperability channels. This should not diminish any reliance the FCC

places on the certified frequency coordinators to do the same for these or any other channels. If an agency violates the MOU, the first level of resolution would be the parties involved, next the user subcommittee (State Interoperability Executive Committee or RPC), and finally the FCC.

A licensee may be a state, county or local agency operating on a statewide, county, citywide, or specified area of operation. Often times, the area of operation correlates with the reliable capture area of the fixed station equipment. However, FBT, FB2T, and MO3 can be totally disassociated with a licensee's other fixed station equipment. In order to ensure required authority to operate FBT, FB2T, and MO3 stations, the MOU should include a section specifically addressing these station classes.

Contention for an interoperability channel can arise within the same priority. To resolve this, the channel should go to the organization with the wider span of control/authority. This shall be determined by the Incident Command System (ICS¹) in place for the operation or by the levels of authority/government identified in the contention. The MOU must, as a binding condition, address levels of priorities and contention resolution. This is emphasized further as trunking is permitted as a secondary use on interoperability channels labeled for such use. Hence, the MOU must include a section specific to trunked operation as a secondary use of specific interoperability channels before the option to trunk them will be permitted.

2. Sharing Agreement

Interoperability channels are coordinated among requesters via the Interoperability Calling Channel(s). Such use will be dynamically established real-time as each request occurs via the proper interoperability calling channel; it will likewise terminate upon release of the assigned interoperability TAC channel(s), thus creating a "virtual sharing agreement". Use of "virtual sharing agreements" would be restricted to licensees eligible for use of the interoperability channels and those non-licensees, NGOs and federal agencies who have executed written sharing agreements in their home jurisdictions. The attached *Sharing Agreement* template is designed to support such use by non-licensees, NGOs and federal agencies. Legally, fixed stations (FB and FB2 station classes particularly) are licensed prior to implementation and operation. Therefore, fixed operation is not applicable to a sharing agreement and would be subject to Item 1 above.

Recommendation #1

State Interoperability Executive Committees shall be formed to administer the State Interoperability Plan in each state and territory. These committees shall include an equal number of representatives each providing regional representation from state, county/parish (where applicable), and local governments, with additional representation from special districts as appropriate. Such committees may represent all disciplines, in which case emergency medical, fire, forestry, general government, law enforcement, and transportation agencies from each level of government shall be represented equally. Alternatively, Committees may represent a single discipline in which case it is only necessary to have membership from the different levels of government previously

¹ Incident Command Systems can vary from state to state, even if only by practice of its models.

described. Committees with law enforcement oversight shall invite representation from the U.S. Department of Justice and the U.S. Department of Treasury. Committees with fire oversight shall invite representation from the U.S. Department of Agriculture and the U.S. Department of the Interior. Committees with transportation oversight shall invite representation from the U.S. Department of Transportation. Committees with Emergency Management oversight shall invite representation from the Federal Emergency Management Agency.

Recommendation #2

It is the specific recommendation of this subcommittee that the FCC require licensing of the subscriber units on interoperability channels in the NCC spectrum.

Recommendation #3

The RPC shall have oversight of the technical parameters of the infrastructure for the interoperability channels within their region.

The RPC shall task the state or states within their region to develop operational plans based upon the ICS for use of the interoperability channels. In the event that the state will not accept this responsibility, the RPC shall develop such plans.

The RPC shall request the individual states to hold licenses for all infrastructure and subscriber units within their state. In the event that a state declines to do so, the RPC shall request other eligible agencies, beginning with the highest level of government, to accept this responsibility.

Recommendation #4

Recommended templates for a *Memorandum of Understanding for Operating the 700 MHz Interoperability Channels* and a *Sharing Agreement* are attached. The MOU shall be typed on appropriate committee letterhead and the Sharing Agreement on agency letterhead.

State Interoperability Executive Committee or RPC Letterhead

Minimum Criteria Required in the MOU

TO: (signer of application and title)
 (agency name)

FROM: (name), Chairman

DATE: (mm/dd/yyyy)

SUBJECT: Memorandum of Understanding for Operating the 700 MHz Interoperability Channels

This memorandum of understanding (hereafter referred to as MOU) shall be attached to the application when submitting it to the Federal Communications Commission. By virtue of signing and submitting the application and this MOU, (agency name) (hereafter referred to as APPLICANT) affirms its willingness to comply with the proper operation of the Interoperability (interoperability) channels as dictated by the Region Planning Committee (here after referred to as RPC) as approved by the Federal Communications Commission (hereafter referred to as FCC) and by the conditions of this MOU.

The APPLICANT shall abide by the conditions of this MOU which are as follows:

- To operate by all applicable State, County, and City laws/ordinances.
- To utilize “plain language” for all transmissions.
- To monitor the Calling Channel(s) and coordinate the use of the Tactical Channels.
- To identify inappropriate use and mitigate the same from occurring in the future.
- To limit secondary Trunked operation to the interoperability channels specifically approved on the application and limited to channels listed below.
- To relinquish secondary Trunked operation of approved interoperability channels to requests for primary conventional access with same or higher priority.
- To mitigate contention for channels by exercising the Priority Levels identified in this MOU.

The preceding conditions are the primary, though not complete, requirements for operating in the interoperability channels. Refer to the Region Plan for the complete requirements list.

Priority Levels:

1. Disaster or extreme emergency operation for mutual aid and interagency communications;
2. Emergency or urgent operation involving imminent danger to life or property;
3. Special event control, generally of a preplanned nature (including Task Force operations)
4. Single agency secondary communications.

To resolve contention within the same priority, the channel should go to the organization with the wider span of control/authority. This shall be determined by the State

Interoperability Executive Committee or RPC for the operation or by the levels of authority/government identified in the contention.

For clarification purposes and an aid to operate as authorized, any fixed base or mobile relay stations identified on the license for temporary locations (FCC station class FBT or FB2T, respectively) shall remain within the licensed area of operation. Similarly, vehicular/mobile repeater stations (FCC station class MO3) shall remain within the licensed area of operation. Federal agencies are permitted access to interoperability channels only as authorized by 47 CFR 2.102 (c) & 2.103 and Part 7.12 of the NTIA Manual.

Any violation of this MOU, the Region Plan, or FCC Rule shall be addressed immediately. The first level of resolution shall be between the parties involved, next the State Interoperability Executive Committee or RPC, and finally the FCC.

Secondary Trunked Channels

GTAC5 - Channel 55 & 56	GTAC35 - Channel 535 & 536
GTAC7 - Channel 135 & 136	GTAC37 - Channel 615 & 616
GTAC9 - Channel 215 & 216	GTAC39 - Channel 695 & 696
GTAC11 - Channel 295 & 296	GTAC41 - Channel 775 & 776
GTAC13 - Channel 375 & 376	GTAC43 - Channel 855 & 856

_____ (typed or printed name of authorized signer)
_____ (authorized signer identified above and consistent with application)
_____ (date)
_____ (agency name)
_____ (agency address)
_____ (agency address)
_____ (agency address)
_____ (signer's phone)
_____ (signer's email address, if available)

(Agency letterhead of Licensee)

TO: (recipient person and title)
(recipient agency)

FROM: (authorizing person and title)
(authorizing agency)

DATE: (mm/dd/yyyy)

SUBJECT: Sharing Agreement

_____ (grantor) authorizes _____ (grantee) to operate _____ (quantity) mobile (vehicular or hand-held) radios. Such operation shall be per the following parameters.

Call Sign	Frequency(ies)	Max. Power	Channel Description
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Use additional attachments as necessary for more frequencies/channels)

This written agreement applies to operations in cooperation and coordination with activities of the licensee per Region (#) Plan, FCC Rules 47 CFR Parts 2.102(c), 2.103 and 90.421 and Part 7.12 of the NTIA Manual. Furthermore, grantor reserves the right to effectively eliminate the possibility of unauthorized operation, which ultimately could result in terminating this written agreement.

(typed or printed name of authorized signer)

(authorized signer identified above)

(date)

(agency name)

(agency address)

(agency address)

(agency address)

(signer's phone)

(signer's email address, if available)