**Table B-1 - Standard Forms for the Public Mobile Services**

| Purpose of Filing | Form Number | Title of Form |
|---|---|---|
| • application for new or modified station<br>• major amendment to pending application<br>• application for partial assignment of authorization | 401 | Application for Public Mobile Services Radio Station Authorization |
| • application for renewal of authorization | 405 | Application for Renewal of Station License |
| • application for airborne mobile authorization | 409 | Application for Airborne Mobile Radiotelephone Authorization |
| • qualification of new common carrier | 430 | Common Carrier and Satellite Radio Licensee Qualification Report |
| • notification of completion of construction<br>• notification of minor modification of station | 489 | Notification of Status or Minor Modification of Public Mobile Services Station |
| • application for assignment of authorization<br>• application for approval of transfer of control | 490 | Application for Assignment or Transfer of Control of Public Mobile Services Station |

(e) Paper original required. Except for initial applications in the Cellular Radiotelephone Service, the paper originals of applications, notifications, amendments, reports, correspondence, and pleadings must be submitted at the same time as the microfiche required by paragraph (d) of this section. Each paper original must be stamped "ORIGINAL" on the top page. In addition to the paper original, paper copies of pleadings must be submitted as required by § 1.51 of this chapter.

(f) Correspondence. Correspondence concerning a submitted application must clearly identify the name of the filer, nature of the filing, the Public Mobile service involved, the call sign of the relevant existing station, if any, and the file number of the relevant pending application. Correspondence may be sent directly to Mobile Services Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554.

(g) Magnetic disks. To assist the Commission in maintaining an accurate technical licensing database, applicants are encouraged to submit the technical and administrative data contained in applications and notifications on magnetic disks. Applicants may also submit, in lieu of the microfiche required by paragraph (d) of this section, entire applications and notifications on magnetic disks, by including graphics files containing the images of the signed paper originals.

(1) Each application must be submitted on a separate labeled standard 3½" magnetic disk, formatted to be readable by high-density floppy drives operating under MS-DOS (3.X or later versions). A copy of each disk must also be submitted (2 identical disks per application).

(2) Each technical and administrative data item should be written to a file as an ASCII string, preceded by the appropriate mnemonic, and terminated by carriage return (H0D).

(3) Images should be contained in files conforming to one of the following standard graphics file formats: TIF, CGM.

(4) A bulletin listing the appropriate mnemonics and providing other details for filing Public Mobile Services applications on magnetic disks is available from the Consumer Assistance and Small Business Division, Office of Public Affairs, Federal Communications Commission, Washington, DC 20554.

**§ 22.106 Filing fees; place.**

Applications, amendments, notifications and other filings must be submitted to the Commission at the appropriate address, with the appropriate filing fee. The fee amounts and addresses are listed in Part 1, Subpart G of this chapter (§ 1.1105 in particular), and in the publication "Common Carrier Services Fee Filing Guide" which is available from the Consumer Assistance and Small Business Division, Office of Public Affairs, Federal Communications Commission, Washington, DC 20554.

**§ 22.107 General application requirements.**

In general, applications for authorizations or approval of assignments of authorizations in the Public Mobile Services must:

(a) demonstrate the applicant's qualifications to hold an authorization in the Public Mobile services;

(b) state how a grant would serve the public interest, convenience, and necessity;

(c) contain all information required by the Commission's rules or application forms;

(d) propose operation of a facility in compliance with all rules governing the Public Mobile service; and,

(e) be amended as necessary to remain substantially accurate and complete in all significant respects, in accordance with the provisions of § 1.65 of this chapter.

**§ 22.108 Parties to applications.**

Each application for an authorization or for approval of an

assignment of authorization in the Public Mobile Services must disclose fully the real party or parties in interest to the application. Such disclosure must include:

(a) a list of the applicant's subsidiaries, if any. For the purposes of this section, a subsidiary is any business for which the applicant or any officer, director, stockholder or key manager of the applicant owns 5% or more of the stock, warrants, options or debt securities. This list must include a description of each subsidiary's principal business and relationship to the applicant.

(b) a list of the applicant's affiliates, if any. For the purposes of this section, an affiliate is:

(1) any business that holds a 5% or more interest in the applicant; or,

(2) any business in which a 5% or more interest is held by a business that also holds a 5% or more interest in the applicant.

(c) a list of the names, addresses, citizenship and principal business of any person holding 5% or more of each class of stock, warrants, options or debt securities of the applicant, indicating the amount and percentage held, and providing the name, address, citizenship and principal place of business of any person, if other than the holder, for whose benefit such interest is held. If any such persons are related by blood or marriage, the relationship must be disclosed.

**§ 22.109 State certification.**

Pending applications may be dismissed without prejudice by the Commission if state certification required to construct or operate the proposed facilities has been denied and the state appeal process has been exhausted. Such applications will not be retained in a pending status while the applicant pursues subsequent state applications; furthermore, such applications must not be resubmitted to the Commission until the required state certification has been obtained. Applicants shall promptly and fully advise the Commission of any adverse action taken with regard to state certification for facilities proposed in pending applications. Also, see § 22.142 in regard to extension of construction period pending state certification.

**§ 22.115 Content of applications.**

Applications must contain all information requested on the standard form and any additional information required by the rules in this part.

(a) The following requirements are common to all Public Mobile Services:

(1) Site availability. At the time of filing, applicants must have obtained reasonable assurance that all antenna sites specified in their applications are available for the proposed use.

(2) Antenna structure drawing. Applications proposing a new antenna structure or a change in the overall height of an existing antenna structure must contain a vertical profile drawing of the antenna structure. (Applications proposing to use an existing structure, without changing the overall height of the structure, need not contain a drawing.) The drawing must be labeled to show the overall structure height including appurtenances, the height of the tip(s) of the proposed antenna(s), the height of any supporting building (or other man-made structure other than an antenna tower), and the ground elevation. Heights must be given in meters above ground level (AGL) and meters above mean sea level (AMSL). The ground elevation must be given in meters AMSL.

(3) FAA notification. Before construction of new antenna structures or increases in the height of existing structures is authorized by the Commission, an FAA determination of No Hazard to Air Navigation may be required. To apply for this determination, applicants must notify the FAA of the planned construction. Criteria used to determine whether FAA notification is required for a particular antenna structure are contained in Part 17, Subpart B of this chapter. Applications proposing a new antenna structure or an increase in the height of an existing antenna structure must state whether FAA notification is required. If available, a copy of the FAA determination should be included in the application. If FAA notification is required, but the FAA determination is not available at the time the application is filed, the application must include the following information in regard to the FAA notification: the name of the person that submitted the notification, the date the notification was submitted, and the location of the FAA office to which the notification was submitted.

(4) Antenna locations. Applications for stations at fixed locations must describe each transmitting antenna site by its geographical coordinates and also by its street address, or by reference to a nearby landmark. Geographical coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude.

NOTE: The FAA has announced that effective October 15, 1992, it will use geographic coordinates based on the 1983 North American Datum (NAD83). Until further notice, however, the FCC will continue to use geographical coordinates based the 1927 North American Datum (NAD27).

(5) Environmental concerns. Each applicant is required to indicate at the time its application is filed whether or not a Commission grant of the application may have a significant environmental effect, as defined by § 1.1307. If answered affirmatively, an Environmental Assessment, required by § 1.1311, must be filed with the application and Commission environmental review must be completed prior to construction.

(b) Reference to material on file. Questions on application forms that call for specific technical data, or can be answered "yes" or "no" or other short answer, must be answered on the form. Otherwise, if documents, exhibits, or other lengthy showings already on file with the Commission contain information required in an application, the application may incorporate such information by reference, provided that:

(1) the referenced information comprises more than one 8½" by 11" page and is current and accurate in all significant respects; and,

(2) the reference states specifically where the referenced information can actually be found, including:

(i) the station call sign or application file number, if the reference is to station files or previously filed applications;

(ii) the title of the proceeding, the docket number, and any legal citations, if the reference is to a docketed proceeding.

(c) Service specific requirements. Applications for authorization

in the Cellular Radiotelephone Service must contain the information required by § 22.929. Applications for authorization in the Paging and Radiotelephone Service must contain the information required by § 22.529. Applications for authorization in the Rural Radiotelephone Service must contain the information required by § 22.709. Applications for authorization in the Offshore Radio Service must contain the information required by § 22.1037. Applications for authorization in the Air-Ground Radiotelephone Service must contain the information required by § 22.849 or § 22.875, as appropriate.

**§ 22.119 Requests for rule waivers.**

The Commission may waive the requirements of rules in this part on its own motion or upon written request.

(a) Requests for waiver of rules must contain a complete explanation as to why the waiver is desired. The Commission may grant a request for waiver if it is shown that:

(1) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(2) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or that the applicant has no reasonable alternative.

(b) Denial of a rule waiver request associated with an application renders that application defective unless it contains an alternative proposal that fully complies with the rules, in which event the application is processed using the alternative proposal as if the waiver had not been requested. Applications rendered defective may be dismissed without prejudice.

**§ 22.120 Application processing; initial procedures.**

This section contains rules governing the initial processing of applications for authority to operate a station in the Public Mobile Services.

(a) File numbers. Applications received by the Commission are assigned file numbers. Assignment of a file number to an application is for administrative convenience and does not constitute a determination that the application is acceptable for filing. Assignment of a file number does not preclude the subsequent return or dismissal of an application.

(b) Received date. The Commission records the date on which each application is received. This date is used to determine compliance with applicable cut-off dates or filing windows and for other purposes.

(c) Initial review for completeness (prescreening). Each application is reviewed for completeness. The purpose of this initial review is to identify applications that are defective in an obvious way (e.g. not signed, missing pages, improper or missing fee payment). Applications found to be defective in this review are deemed unacceptable for filing and returned to the applicant with a brief statement indicating the nature of the defect(s) found. Applications for which no obvious defects are discovered in the initial review are deemed tentatively acceptable for filing.

(d) Public notice; tentative acceptance for filing. The Commission periodically issues Public Notices that list applications that are tentatively acceptable for filing. The listing of an application on a Public Notice as tentatively acceptable for filing serves to provide notice to the public that the application has been filed; it does not preclude dismissal of the application if it is subsequently found to be defective.

**§ 22.121 Repetitious, inconsistent or conflicting applications.**

Repetitious, inconsistent or conflicting applications are not accepted for filing by the Commission. Unless the Commission in a particular case determines otherwise, such applications are not returned to the applicant.

(a) While an application is pending, any subsequent inconsistent or conflicting application submitted by, on behalf of, or for the benefit of the same applicant, its successor or assignee will not be accepted for filing.

(b) If an applicant has been afforded an opportunity for a hearing with respect to an application for a new station or an enlargement of service area, and the Commission has, after hearing or default, denied the application or dismissed it with prejudice, the Commission will not consider a like application for service of the same type to the same area by that applicant, or by its successor or assignee, or on behalf of or for the benefit of the parties in interest to the original application, until one year after the effective date of the Commission's action on the original application.

(c) If an appeal has been taken from the action of the Commission denying a particular application, a like application for service of the same type to the same area, in whole or in part, filed by that applicant or by its successor or assignee, or on behalf or for the benefit of the parties in interest to the original application, will not be considered until the final disposition of such appeal.

(d) If an authorization is automatically terminated because of failure to commence service to the public (see § 22.144), the Commission will not consider an application for another authorization to operate a station on the same channel (or, in the case of a 931 MHz paging station, the same frequency range) in the same geographical area by that party, or by its successor or assignee, or on behalf of or for the benefit of the parties in interest to the terminated authorization, until one year after the date the authorization terminated.

**§ 22.122 Amendment of applications.**

Pending applications may be amended as a matter of right if they have not been designated for hearing or listed in a Public Notice for a random selection process, except as provided in paragraphs (b) and (c) of this section.

(a) If a petition to deny or other formal objection has been filed, and/or if the Commission has issued a Public Notice stating that the application appears to be mutually exclusive with another application (or applications), a copy of any amendment (or other filing) must be served on the petitioner and/or on any such mutually exclusive applicant (or applicants).

(b) Amendments to applications that resolve mutual exclusivity may be filed at any time, subject to the requirements of § 22.129.

(c) Amendments to applications designated for hearing may be allowed by the presiding officer and amendments to applications selected in a random selection process may be allowed by the

Commission for good cause shown. In such instances, a written petition demonstrating good cause must be submitted and served upon the parties of record.

**§ 22.123 Classification of filings as major or minor.**

Applications and amendments to applications are classified as major or minor. Categories of major and minor filings are listed in § 309 of the Communications Act of 1934, as amended (47 U.S.C. 309). In general, a major filing is a request for a Commission action that has the potential to affect parties other than the applicant. Filings are minor if they are not classified as major.

(a) Ownership or control change. Filings are major if they specify a substantial change in beneficial ownership or control (de jure or de facto), unless such change is involuntary or if the filing merely amends an application to reflect a change in ownership or control that has already been approved by the Commission.

(b) Developmental. Applications are major if they request a developmental authorization or a regular authorization for facilities operating under a developmental authorization.

(c) Renewal. Applications for renewal of authorizations are major.

(d) Environmental. Filings are major if they request authorization for a facility that would have a significant environmental effect, as defined by § 1.1301 et seq. of this chapter.

(e) Channel usage. Filings are major if they would affect channel usage as follows:

(1) Paging and Radiotelephone, Rural Radiotelephone. In the Paging and Radiotelephone and Rural Radiotelephone services, filings are major if they:

(i) request an authorization that would:

(A) establish for the filer a new service area or fixed transmission path on the requested channel;

(B) extend the service area of an existing station to include area not served by station(s) authorized to the filer on a requested channel;

(C) extend the interfering contours of an existing station beyond the composite interfering contours of station(s) authorized to the filer on a requested channel;

(D) increase the effective radiated power or antenna height above average terrain in any azimuth from an existing fixed transmitter authorized to the filer; or,

(E) relocate an existing fixed transmitter.

(ii) amend a pending application to:

(A) change a requested channel;

(B) extend the service area of a station on a requested channel to include area that would not have been served by that station as previously proposed in the application;

(C) extend the interfering contours of a station on a requested channel beyond the composite interfering contours of that station as previously proposed in the application;

(D) increase the proposed effective radiated power or antenna height above average terrain in any azimuth of a fixed transmitter;

(E) change the location of a fixed transmitter from that previously proposed in the application; or,

(E) change the technical proposal substantially from that which was coordinated with other users pursuant to § 22.150.

(2) Cellular Radiotelephone. In the Cellular Radiotelephone Service, filings are major if they:

(i) request an authorization that would:

(A) establish for the filer a new cellular geographic service area (CGSA);

(B) expand the CGSA of an existing cellular system to include area outside of the cellular market area.

(ii) amend a pending application by making a substantial change in the technical proposal that would:

(A) change the requested channel block;

(B) modify the CGSA of the proposed cellular system to include area that was not included in the CGSA as previously proposed in the application.

(3) Air-ground Radiotelephone. In the Air-ground Radiotelephone Service, filings are major if they:

(i) request an authorization for a new General Aviation ground station or to relocate an existing General Aviation ground station;

(ii) request the first authorization for a new Commercial Aviation ground station at a location other than those listed in § 22.859;

(iii) request authorization to add a channel to or change a channel of an existing General Aviation ground station; or,

(iv) amend a pending application to change the requested channel or channel block.

(4) Offshore Radiotelephone. In the Offshore Radiotelephone Service, filings are major if they:

(i) request an authorization for a new offshore central or subscriber station;

(ii) request authorization to add a channel to or change a channel of an existing offshore central or subscriber station; or,

(iii) amend a pending application to change the technical proposal substantially from that which was coordinated with other users prior to filing.

(f) Clerical errors. Notwithstanding other provisions of this section, amendments that correct typographical, transcription or similar clerical errors that are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or exacerbate channel usage conflicts are

classified as minor.

**§ 22.124 Notification processing.**

This section contains rules governing the processing of notifications in the Public Mobile Services.

(a) File numbers. Notifications received by the Commission are assigned file numbers. Assignment of a file number to a notification is for administrative convenience and does not constitute a determination that the notified action has been examined and not rejected by the Commission. Assignment of a file number does not preclude the return of a notification subsequently found to be unacceptable.

(b) Unacceptable notifications. A notification is unacceptable if:

(1) it is unsigned or incomplete with respect to required answers to questions, informational showings, or other matters of a formal character;

(2) it notifies of an action that does not comply with one or more of the Commission's rules;

(3) it notifies of an action for which an application for authorization is required;

(4) it is submitted without the required microfiche; or,

(5) it is untimely filed.

(c) Review. After a file number is assigned, each notification is reviewed. The purpose of this review is to identify notifications that are unacceptable (e.g. not signed, missing pages, improper or missing fee payment). Notifications found to be unacceptable are returned to the licensee with a brief statement describing the deficiency. The Commission may also direct the licensee to return the station to compliance with its previous license terms. Acceptable notifications are added to the appropriate station files.

**§ 22.125 Application for special temporary authorizations.**

In circumstances requiring immediate or temporary use of Public Mobile Services stations, carriers may request special temporary authority (STA) to operate new or modified equipment. Such requests may be submitted as informal applications (see § 22.105) and must contain complete details about the proposed operation and the circumstances that fully justify and necessitate the grant of STA. Such requests should be filed in time to be received by the Commission at least 10 days prior to the date of proposed operation or, where an extension is sought, 10 days prior to the expiration date of the existing STA. A request received less than 10 days prior to the desired date of operation may be given expedited consideration only if compelling reasons are given, in writing, for the delay in submitting the request. Otherwise, such late-filed requests are considered in turn, but action might not be taken prior to the desired date of operation. Requests for STAs must be accompanied by the proper filing fee.

(a) Grant without Public Notice. STAs may be granted without being listed in a Public Notice, or prior to 30 days after such listing, if:

(1) the STA is to be valid for 30 days or less and the applicant does not plan to file an application for regular authorization of the subject operation;

(2) the STA is to be valid for 60 days or less, pending the filing of an application for regular authorization of the subject operation;

(3) the STA is to allow interim operation to facilitate completion of authorized construction or to provide substantially the same service as previously authorized; or

(4) the STA is made upon a finding that there are extraordinary circumstances requiring operation in the public interest and that delay in the institution of such service would seriously prejudice the public interest.

(b) Limit on STA term. The Commission may grant STAs valid for a period not to exceed 180 days under the provisions of § 309(f) of the Communications Act of 1934, as amended, (47 U.S.C. 309(f)) if extraordinary circumstances so require, and pending the filing of an application for regular operation. The Commission may grant extensions of STAs for a period of 180 days, but the applicant must show that extraordinary circumstances warrant such an extension.

**§ 22.127 Public notices.**

Periodically, the Commission issues Public Notices listing major filings and other information of public significance. Categories of Public Notice listings are as follows:

(a) Accepted for filing. Tentative acceptance for filing of applications and major amendments thereto.

(b) Actions. Commission and staff actions on pending applications previously listed as accepted for filing.

(c) Informative listings. Information that the Commission, in its discretion, believes to be of public significance. Such listings do not create any rights to file oppositions or other pleadings.

**§ 22.128 Dismissal of applications.**

The Commission may dismiss any application for authorization or assignment of authorization in the Public Mobile Services, upon request by the applicant, or for failure to prosecute, or if the application is found to be defective. Such dismissal may be "without prejudice," meaning that the Commission may accept from the applicant another application for the same purpose at any later time, or "with prejudice," meaning that the Commission will not accept from the applicant another application for the same purpose for a period of one year. Unless otherwise provided in this part, a dismissed application will not be returned to the applicant.

(a) Dismissal at request of applicant. Any applicant may request that its application be returned or dismissed. A request for the return of an application after it has been listed on Public Notice as tentatively accepted for filing is considered to be a request for dismissal of that application without prejudice.

(1) Upon receipt of an applicant's request for dismissal of its application with prejudice, the Commission will dismiss that application with prejudice.

(2) Upon receipt of an applicant's request for dismissal of its application without prejudice, the Commission will dismiss that application without prejudice, unless it has been designated for comparative hearing or selected in a random selection process. An applicant's request for dismissal of its application without prejudice after that application has been designated for comparative hearing

or selected in a random selection process will be granted only for good cause shown. In such event, a written petition demonstrating good cause and complying with § 22.129 must be submitted to the Commission and served upon all parties of record.

(b) Dismissal for failure to prosecute. The Commission may dismiss applications for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Such dismissal will generally be without prejudice if the failure to prosecute or respond occurred prior to designation of the application for comparative hearing or prior to selection of the application in the random selection process, but may be with prejudice in cases of non-compliance with § 22.129. Dismissal will generally be with prejudice if the failure to prosecute or respond occurred after designation of the application for comparative hearing or after selection of the application in the random selection process.

(c) Dismissal as defective. The Commission may dismiss without prejudice applications that it finds to be defective. Applications for authorization or assignment of authorization are defective if:

(1) they are unsigned or incomplete with respect to required answers to questions, informational showings, or other matters of a formal character;

(2) they request an authorization that would not comply with one or more of the Commission's rules and do not contain a request for waiver of these rule(s), or in the event that the Commission denies such a waiver request, do not contain an alternative proposal that fully complies with the rules;

(3) state certification for the requested facility has been denied;

(4) they are not selected in a random selection process and the selected application is granted; or,

(5) reasonable efforts have been made to coordinate the proposed facility with foreign administrations under applicable international agreements, and an unfavorable response (harmful interference anticipated) has been received.

(d) Dismissal as untimely. The Commission may dismiss without prejudice applications that are prematurely or late filed, including applications filed prior to the opening date or after the closing date of a filing window.

**§ 22.129 Agreements to dismiss applications, amendments or petitions to deny.**

Parties that have filed an application in the Public Mobile Services that is mutually exclusive with one or more other applications, and then enter into an agreement to resolve the mutual exclusivity by withdrawing or requesting dismissal of the application or an amendment thereto, must obtain the approval of the Commission. Parties that have filed a petition to deny against a pending application, and then seek to withdraw or request dismissal of the petition, either unilaterally or in exchange for a financial consideration, must obtain the approval of the Commission.

(a) Applications and petitions to deny. The party withdrawing or requesting dismissal of its application or petition to deny must submit to the Commission a request for approval of the withdrawal or dismissal, a copy of any written agreement related to the withdrawal or dismissal, and an affidavit setting forth:

(1) a certification that neither the petitioner nor its principals has received or will receive any money or other consideration in excess of legitimate and prudent expenses in exchange for the withdrawal or dismissal of the application or petition to deny. This paragraph does not apply to bona fide merger agreements;

(2) the exact nature and amount of any consideration received or promised;

(3) an itemized accounting of the expenses for which it seeks reimbursement; and

(4) the terms of any oral agreement related to the withdrawal or dismissal of the application or petition to deny.

(b) In addition, within 5 days of the filing date of the applicant or petitioner's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(1) a certification that neither the applicant nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the petitioner in exchange for withdrawing or dismissing the application or petition to deny; and

(2) the terms of any oral agreement relating to the withdrawal or dismissal of the application or petition to deny.

(c) Provisions. For the purposes of this section:

(1) Affidavits filed pursuant to this section must be executed by:

(i) the filing party, if an individual;

(ii) a partner having personal knowledge of the facts, if a partnership; or,

(ii) an officer having personal knowledge of the facts, if a corporation or association.

(2) Applications or petitions to deny are deemed to be pending before the Commission from the time the application or petition to deny is filed with the Commission until such time as an order of the Commission granting or denying the application or petition to deny is no longer subject to reconsideration by the Commission or to review by any court.

(3) "Legitimate and prudent expenses" are those expenses reasonably incurred by a party in preparing to file, filing, prosecuting and/or settling its application or petition to deny for which reimbursement is sought.

(4) "Other consideration" consists of financial concessions, including, but not limited to, the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

(5) Reimbursement by an applicant of the legitimate and prudent expenses of a potential petitioner or objector, incurred reasonably and directly in preparing to file a petition to deny, will not be considered to be payment for refraining from filing a petition to deny or an informal objection. Payments made directly to a potential petitioner or objector, or a person related to a potential petitioner or objector, to implement non-financial promises are

prohibited unless specifically approved by the Commission.

**§ 22.130 Petitions to deny, responsive pleadings.**

Petitions to deny any major filing may be filed within 30 days after the date of the Public Notice listing such filing, by parties able to demonstrate standing to file such petitions. Responsive pleadings to such petitions may be filed in accordance with the provisions of this section.

(a) Content and requirements. Petitions to deny and responsive pleadings must:

(1) clearly identify the pertinent major filing(s);

(2) comply with all applicable requirements of § 1.41 through § 1.52 of this chapter;

(3) contain specific allegations of fact which, except for facts of which official notice may be taken, are supported by affidavit of a person or persons with personal knowledge thereof, and which are sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant or other Commission action regarding the major filing would be prima facie inconsistent with the public interest;

(4) be filed within 30 days after the date of the Public Notice listing the major filing; and,

(5) contain a certificate of service showing that a copy has been mailed to the applicant no later than the date of filing with the Commission.

(b) Expansion. Petitions to deny a major amendment to an application may raise only matters directly related to the major amendment that could not have been raised in connection with the application as originally filed. This paragraph does not apply to petitioners who gain standing because of the major amendment.

(c) Dismissal. The Commission may, by letter, dismiss any petition to deny a major filing if the petition does not comply with the requirements of this section, if the issues raised become moot, or if the petitioner or his/her attorney fails to appear at a settlement conference pursuant to § 22.135. When a petition to deny is dismissed, any related responsive pleadings are also dismissed.

**§ 22.131 Mutually exclusive applications.**

Two or more pending applications are mutually exclusive if the grant of one application would effectively preclude the grant of one or more of the others under the rules governing the Public Mobile service involved.

(a) Procedures. Procedures for disposing of mutually exclusive applications are prescribed in the subparts of this part governing the individual Public Mobile services.

(b) Separate applications. Applicants that file an application, knowing that it will be mutually exclusive with one or more previously filed applications, should not include in the mutually exclusive application a request for other channels or facilities that would not, by themselves, render the application mutually exclusive with those previously filed applications. Instead, the request for such other channels or facilities should be filed in a separate application.

**§ 22.132 Grants of applications.**

Applications for authorization may be granted thirty days after the issuance date of a Public Notice listing an application or the latest filed major amendment thereto as acceptable for filing.

(a) Criteria for grants. The Commission grants applications without a hearing if, after examination of the application and consideration of any petitions or other pleadings and of such other matters as it may officially notice, the Commission finds that:

(1) a grant will serve the public interest, convenience, and necessity;

(2) there are no substantial and material questions of fact presented;

(3) the applicant is eligible and qualified under applicable FCC regulations and policies;

(4) the application is acceptable for filing, and complies with the Commission's rules and other applicable requirements;

(5) the application has not been designated for a hearing after being selected in a random selection process;

(6) there are no applications entitled to comparative consideration with the application being granted; and,

(7) operation of the proposed station would not cause interference to any authorized station(s).

(b) Grant of petitioned applications. The Commission may grant, without a hearing, applications against which petitions to deny have been filed. If any petition(s) to deny are pending (i.e. have not been dismissed pursuant to § 22.130(c) or withdrawn by the petitioner) when an application is granted, the Commission issues a Memorandum Opinion and Order denying the petition(s) to deny and stating the reason(s) for the denial.

(c) Partial and conditional grants. The Commission may grant applications in part, and/or subject to conditions other than those normally applied to authorizations of the same type. When the Commission does this, it will inform the applicant of the reasons therefor. Such partial or conditional grants are final unless the Commission revises its action in response to a petition for reconsideration. Such petitions for reconsideration must be filed by the applicant within thirty days after the date of the letter or order stating the reasons for the partial or conditional grant, and must reject the partial or conditional grant and return the instrument of authorization.

(d) Designation for hearing. The Commission may designate applications for a hearing, specifying with particularity the matters in issue, if, after consideration of the application, any petitions or other pleadings, and other matters which it may officially notice, the Commission is unable to make one or more of the findings listed in paragraph (a) of this section. The Commission may grant, deny or take other action with respect to applications designated for a hearing.

**§ 22.133 Random selection process.**

Certain types of mutually exclusive applications are included in a random selection process after which the selected application may

be granted and the other applications dismissed without prejudice. The procedures governing the random selection process are set forth in § 1.821 et seq. of this chapter. No preferences are awarded.

**§ 22.135 Settlement conference.**

In any contested application proceeding, the Commission, in its discretion, may direct the parties and/or their attorneys to appear before it for a conference.

(a) The purposes of such conference are:

(1) to obtain admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

(2) to consider the necessity for or desirability of amendments to the pleadings, or of additional pleadings or evidentiary submissions;

(3) to consider simplification or narrowing of the issues;

(4) to encourage settlement of the matters in controversy by agreement between the parties; and,

(5) to consider other matters that may aid in the resolution of the contested proceeding.

(b) Conferences are scheduled by the Commission at a time and place it may designate, to be conducted in person or by telephone conference call.

(c) The failure of any party or attorney, following reasonable notice, to appear at a scheduled conference will be deemed a failure to prosecute, rendering that party's application or petition defective and subjecting it to dismissal by the Commission pursuant to § 22.128(b) or § 22.130(c).

**§ 22.137 Assignment of authorization; transfer of control.**

Authorizations in the Public Mobile Services may be assigned by the licensee to another party, voluntarily or involuntarily, directly or indirectly, or by transfer of control of a corporate licensee holding such authorizations, only upon approval by the Commission. The assignee is responsible for ascertaining that the station facilities are and will remain in compliance with the terms and conditions authorization to be assigned.

(a) Application required. The assignor must file an application for approval of assignment or transfer of control (FCC Form 490). In the case of involuntary assignment, such application must be filed within 30 days after the event causing the assignment. The assignee must file a report qualifying it as a common carrier (FCC Form 430) unless an accurate report is already on file with the Commission.

(b) Notification of completion. Assignments must be completed within 60 days of FCC approval. The assignee must notify the Commission by letter of the date of completion of the assignment. If an assignment is not completed within this time, the assignor must so notify the Commission by letter, and the assignee must submit the authorization(s) to the Commission for cancellation or request an extension of time to complete the assignment. If the assignment is not completed, the authorization(s) revert to the assignor.

(c) Partial assignment of authorization. If the authorization for some, but not all, of the facilities of a Public Mobile Services station is assigned to another party, voluntarily or involuntarily, such action is a partial assignment of authorization.

(1) To request Commission approval of a partial assignment of authorization, the following must be filed in addition to the forms required by paragraph (a) of this section:

(i) The assignor must notify the Commission (FCC Form 489) of the facilities to be deleted from its authorization upon completion of the assignment.

(ii) The assignee must apply for authority (FCC Form 401) to operate a new station including the facilities for which authorization is assigned, or to modify the assignee's existing station to include the facilities for which authorization was assigned.

(2) Partial assignments must be completed within 60 days of FCC approval. If an approved partial assignment is not completed within this time, the assignor must notify the Commission (FCC Form 489), and the assignee must submit the authorization(s) to the Commission for cancellation or request an extension of time to complete the assignment. If the assignment is not completed, the authorization(s) revert to the assignor.

(d) Limitations. The Commission may dismiss or deny applications for assignment of authorization if:

(1) the Commission is unable to make the findings contained in § 22.132(a) with respect to the both parties to the assignment;

(2) the authorization was obtained for the principal purpose of speculation or profitable resale, rather than provision of common carrier telecommunication services to the public; or,

(3) the authorization is for a commercial aviation system in the Air-ground Radiotelephone Service or an unserved area cellular system in the Cellular Radiotelephone Service and the system has not been constructed or operated, or has been operated for less than one year.

(i) Licensees must not enter into agreements (e.g. option agreements or management contracts) to assign authorizations before or during the first year of operation, even if the assignment is to take place after the first year of operation.

(ii) Notwithstanding the introductory text of paragraphs (d) and (d)(3) of this section, the Commission may grant applications for pro forma assignments during the first year of operation.

**§ 22.139 Trafficking.**

Carriers must not obtain or attempt to obtain authorizations in the Public Mobile services for the principal purpose of speculation or profitable resale, but rather for the provision of common carrier telecommunication services to the public.

(a) Applications for approval of assignment of authorization may be reviewed by the Commission to determine if the circumstances indicate trafficking in Public Mobile services authorizations.

(b) The Commission may require submission of an affirmative, factual showing, supported by affidavit of persons with personal knowledge thereof, to demonstrate that the assignor did not acquire

the authorization for the principal purpose of speculation or profitable resale. This showing may include, for example, a demonstration that the proposed assignment is due to changed circumstances (described in detail) affecting the licensee to the grant of the authorization, or that the proposed assignment is incidental to a sale of other facilities or a merger of interests.

**§ 22.142 Commencement of service; notification requirement.**

Stations must begin providing service to the public no later than the date of required commencement of service specified on the authorization. If service to the public has not begun by the date of required commencement of service, the authorization terminates, in whole or in part, without action by the Commission, pursuant to § 22.144. Additional requirements for construction of facilities apply to cellular systems (see § 22.946) and commercial aviation air-ground systems (see § 22.873).

(a) Construction period. The period between the date of grant of an authorization and the date of required commencement of service is referred to as the construction period. The normal terms of construction periods are given in the subparts of this part governing each Public Mobile Service.

(b) Notification requirement. Licensees must notify the Commission (FCC Form 489) of commencement of service to the public. The notification must be mailed no later than 15 days after service begins.

(1) The notification must state whether the station was constructed exactly as authorized or with minor changes.

(2) If service to the public has begun using some, but not all, of the authorized transmitters, the notification must show to which specific transmitters it applies. Additional notifications must be filed if and when other transmitters commence providing service to the public. If the licensee no longer intends to construct and/or operate the remaining authorized transmitters, the notification should so state.

(c) Requests for extension. Before the date of required commencement of service, licensees may file an application (FCC Form 401) requesting an extension of the construction period.

(1) The Commission may grant requests for extension of the construction period if the licensee shows that failure to commence providing service to the public is due to causes beyond its control.

(2) The Commission does not grant requests for extension of the construction period if failure to commence providing service to the public is due to delays caused by lack of financing, failure to obtain an antenna site, or failure to order equipment in a timely manner. If the licensee orders equipment within 90 days of the authorization grant, a presumption of diligence is created.

(3) The Commission does not grant requests for extension of the construction period if state certification has been denied and all state appeals have been exhausted or if there is lack of diligence on the part of the applicant in pursuing state certification. If the licensee files for state certification within 90 days of the authorization grant, a presumption of diligence is created.

(4) The Commission does not grant requests for extension of the construction period if the licensee fails to commence providing service to the public because it intends to assign the authorization. The Commission does not grant requests for extension of the construction period solely to allow an assignee to complete facilities the assignor failed to construct.

(d) Automatic extension for relocation. If, prior to the end of the construction period, a licensee files an application to relocate a transmitter because of loss of site or other involuntary reasons due to causes beyond the licensee's control, the construction period is automatically extended pending disposition of that application. Extension of the construction period for one transmitter under this paragraph does not extend the construction period for other transmitters under the same authorization that are not to be relocated. The filing of applications for modifications other than relocation does not automatically extend the construction period.

**§ 22.143 Construction prior to grant of application.**

Applicants may construct facilities in the Public Mobile services prior to grant of their applications, subject to the provisions of this section, but must not operate such facilities until the Commission issues an authorization.

(a) General. Applicants may begin construction 90 days after the date of the Public Notice listing the application as tentatively acceptable for filing.

(b) Paging and Radiotelephone Service. For applications to expand the service area of an authorized station in the Paging and Radiotelephone Service by less than 2 kilometers (1 mile) in any direction, the applicant may begin construction after mailing the application to the Commission.

(c) Initial cellular systems. Tentative selectees seeking authorization to operate the first cellular system on a channel block in a cellular market may begin construction 60 days after the date of the Public Notice listing the tentative selectee.

(e) Notification to stop. If the Commission for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(f) Assumption of risk. Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

(1) applications that are not granted;

(2) errors or time lags in Public Notices;

(3) having to alter, relocate or dismantle the facility; or

(4) incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or Commission rules and orders.

(g) Conditions. Except as indicated, all pre-grant construction is subject to the following conditions:

(1) except as provided in paragraph (c) of this section, the application is not mutually exclusive with any other application;

(2) no petitions to deny the application have been filed;

(3) the application does not request a waiver of Commission rules;

(4) the applicant, if necessary, has filed a Notice of Proposed Construction with the FAA and has received from the Commission any required antenna structure marking and lighting specifications;

(5) the applicant has determined that the proposed facility will not have a significant environmental effect in accordance with § 1.1301 et. seq.

(6) if not a cellular facility, the proposed facility will not be located between line A and the U.S.-Canada border;

(7) if cellular facilities, proposed service area boundaries do not extend into Mexico.

(8) if the facility will transmit in the 931-932 MHz frequency range, it is not located in any of the following areas:

(i) between line A or line C and the U.S.-Canada border

(ii) within 161 kilometers (100 miles) of the protected Canadian microwave receiver coordinates listed below; or within 402 kilometers (250 miles) of the Canadian border and within ±30 degrees of the given azimuth from the protected Canadian microwave receiver coordinates listed in Table B-2.

**§ 22.144 Termination of authorizations.**

Authorizations in the Public Mobile Services remain valid until terminated in accordance with this section, except that the Commission may revoke an authorization pursuant to § 312 of the Communications Act of 1934, as amended (47 U.S.C. 312).

(a) Expiration. Authorizations automatically terminate, without specific Commission action, on the expiration date specified therein, unless a timely application for renewal is filed (see § 22.145).

(b) Failure to commence providing service to the public. Authorizations automatically terminate, in whole or in part, without specific Commission action, on the date of required commencement of service, if service to the public is not commenced by that date (see § 22.142).

(c) Service discontinued. Authorizations automatically terminate, without specific Commission action, if service is permanently discontinued as provided in § 22.317.

(d) STAs. Special Temporary Authorizations automatically terminate, without specific Commission action, at the end of the period specified therein or upon failure to comply with the terms and conditions therein.

(e) Cancellation. By giving Public Notice of such action, the Commission terminates authorizations submitted by licensees for cancellation.

**§ 22.145 Renewal application procedures.**

Applications for renewal (FCC Form 405) of expiring authorizations must be filed by the licensee prior to, but no earlier than 30 days before, the expiration date of the authorization. A separate application is required for each authorization (call sign). Competing applications from parties wishing to challenge the renewal must be filed during the same 30 day period. Additional renewal requirements applicable only to specific Public Mobile Services are set forth in the subparts governing those services.

**Table B-2 - Protected Canadian Terrestrial Microwave Receivers**

| N. Latitude | W. Longitude | Azimuth from True North |
|---|---|---|
| 63°35'40" | 140°55'36" | 173.2° |
| 61°15'13" | 138°48'12" | 312.2° |
| 49°33'50" | 90°21'15" | 205.5° |
| 49°07'07" | 93°55'30" | 265.4° |
| 48°48'17" | 123°17'06" | 255.4° |
| 48°58'18" | 88°18'24" | 221.7° |
| 48°45'36" | 92°37'03" | 259.5° |
| 48°19'11" | 84°04'12" | 192.5° |
| 48°27'56" | 81°18'14" | 238.6° |
| 47°55'08" | 69°23'08" | 222.1° |
| 45°16'35" | 74°06'06" | 75.1° |

**§ 22.147 Authorization conditions.**

Authorizations in the Public Mobile Services are granted subject to the conditions in this section in the indicated circumstances.

(a) Errors or omissions in technical exhibits. When processing applications, the Commission relies upon required technical exhibits demonstrating compliance with the rules in this part. To prevent actual interference resulting from operation of stations authorized in reliance upon technical exhibits that contain errors or omissions, each authorization in the Paging and Radiotelephone Service and the Rural Radiotelephone Service granted after January 1, 1993 has the following condition attached:

> This authorization is subject to the condition that, if actual interference occurs as a result of operation of the facilities authorized herein because of an omission or error in the required technical exhibits of the application that resulted in the grant of this authorization, the Commission may suspend the operation of such facilities, in whole or in part, as necessary to eliminate the interference, without affording the licensee an opportunity for hearing.

(b) Assignment of mobile channel to base or fixed transmitter. Each authorization that assigns to a base or fixed transmitter channel(s) that are designated in § 22.561 of this part for assignment to mobile transmitters has the following condition attached:

> This authorization is subject to the condition that, if actual interference occurs as a result of operation of base or fixed facilities authorized herein to transmit on channel(s) designated in § 22.561 of the Commission's rules for assignment to mobile transmitters, the Commission may suspend the operation of such base or fixed facilities, in whole or in part, as necessary to eliminate the interference, without affording the licensee an opportunity for a hearing.

**§ 22.150 Standard pre-filing technical coordination procedure.**

For operations on certain channels in the Public Mobile Services, carriers must attempt to coordinate the proposed use of spectrum with other affected spectrum users prior to filing an application for authority to operate a station. Rules requiring this procedure for specific channels and types of stations are contained in the subparts governing the individual Public Mobile Services.

(a) Coordination comprises two steps - notification and response. Each step may be accomplished orally or in writing.

(b) Notification must include relevant technical details of the proposal. At minimum, this should include the following:

(1) Geographical coordinates of the antenna site(s).

(2) Transmitting and receiving channels to be added or changed.

(3) Transmitting power, emission type and polarization.

(4) Transmitting antenna pattern and maximum gain.

(5) Transmitting antenna height above ground level.

(c) Applicants and licensees receiving notification must respond promptly, even if no channel usage conflicts are anticipated. If any notified party fails to respond within 30 days, the applicant may file the application without a response from that party.

(d) The 30-day period begins on the date of receipt of the notification by the party being notified. If the notification is by mail, this date may be ascertained by:

(1) the return receipt on certified mail,

(2) the enclosure of a card to be dated and returned by the party being notified, or

(3) a conservative estimate of the time required for the mail to reach its destination. In this case, the date when the 30-day period will expire must be stated in the notification.

(e) All channel usage conflicts discovered during the coordination process should be resolved prior to filing of the application. However, if the applicant is unable or unwilling to resolve a particular conflict, the application may be accepted for filing if it contains a statement describing the unresolved conflict and a brief explanation of the reasons why a resolution was not achieved.

(f) If a number of changes in the technical parameters of a proposed facility become necessary during the course of the coordination process, an attempt should be made to minimize the number of separate notifications. If the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified.

(g) In situations where subsequent changes are not numerous or complex, the party receiving the changed notification should make an effort to respond in less than 30 days. If the applicant believes a shorter response time is reasonable and appropriate, it should so indicate in the notice and suggest a response date.

(h) In situations where a change in the technical parameters could not affect the facilities of one or more parties that received an initial notification, it is not required to coordinate that change with these parties. However, these parties must be advised of the change and of the opinion that coordination is not required.

**§ 22.157 Distance computation.**

The method given in this section must be used to compute the distance between any two locations, except that, for computation of distance involving stations in Canada and Mexico, methods for distance computation specified in the applicable international agreement, if any, must be used instead. The method set forth in this paragraph is valid only for distances not exceeding 475 km (295 miles).

(a) Convert the latitudes and longitudes of each reference point from degree-minute-second format to degree-decimal format by dividing minutes by 60 and seconds by 3600, then adding the results to degrees.

$$LATX_{dd} = DD + \frac{MM}{60} + \frac{SS}{3600}$$

$$LONX_{dd} = DDD + \frac{MM}{60} + \frac{SS}{3600}$$

(b) Calculate the mean geodetic latitude between the two reference points by averaging the two latitudes:

$$ML = \frac{LAT1_{dd} + LAT2_{dd}}{2}$$

(c) Calculate the number of kilometers per degree latitude difference for the mean geodetic latitude calculated in paragraph (b) as follows:

$$KPD_{lat} = 111.13209 - 0.56605 \cos 2ML + 0.00120 \cos 4ML$$

(d) Calculate the number of kilometers per degree of longitude difference for the mean geodetic latitude calculated in paragraph (b) as follows:

$$KPD_{lon} = 111.41513 \cos ML - 0.09455 \cos 3ML + 0.00012 \cos 5ML$$

(e) Calculate the North-South distance in kilometers as follows:

$$NS = KPD_{lat} \times (LAT1_{dd} - LAT2_{dd})$$

(f) Calculate the East-West distance in kilometers as follows:

$$EW = KPD_{lon} \times (LON1_{dd} - LON2_{dd})$$

(g) Calculate the distance between the two locations by taking the square root of the sum of the squares of the East-West and North-South distances:

$$DIST = \sqrt{NS^2 + EW^2}$$

(h) Terms used in this section are defined as follows:

(1) $LAT1_{dd}$ and $LON1_{dd}$ are the coordinates of the first location in degree-decimal format.

(2) $LAT2_{dd}$ and $LON2_{dd}$ are the coordinates of the second location in degree-decimal format.

(3) ML is the mean geodetic latitude in degree-decimal format.

(4) $KPD_{lat}$ is the number of kilometers per degree of latitude at a given mean geodetic latitude.

(5) $KPD_{lon}$ is the number of kilometers per degree of longitude at a given mean geodetic latitude.

(6) NS is the North-South distance in kilometers.

(7) DIST is the distance between the two locations, in kilometers.

**§ 22.159 Computation of average terrain elevation.**

Average terrain elevation must be calculated by computer using elevations from a 30 second point or better topographic data file. The file must be identified. If a 30 second point data file is used, the elevation data must be processed for intermediate points using interpolation techniques; otherwise, the nearest point may be used. In cases of dispute, average terrain elevation determinations can also be done manually, if the results differ significantly from the computer derived averages.

(a) Radial average terrain elevation is calculated as the average of the elevation along a straight line path from 3 to 16 kilometers (2 and 10 miles) extending radially from the antenna site. If a portion of the radial path extends over foreign territory or water, such portion must not be included in the computation of average elevation unless the radial path again passes over United States land between 16 and 134 kilometers (10 and 83 miles) away from the station. At least 50 evenly spaced data points for each radial should be used in the computation.

(b) Average terrain elevation is the average of the eight radial average terrain elevations (for the eight cardinal radials).

(c) In Dade and Broward Counties, Florida, average terrain elevation is assumed to be 3 meters (10 feet).

**§ 22.161 Application requirements for ASSB.**

Applications for base stations employing amplitude compandored single sideband modulation (ASSB) must contain the following information:

(a) The application must describe fully the modulation characteristics, emission and occupied bandwidth, and specify the center frequency of the emission for each channel, carrier frequency, and pilot channels, if any. The emission must fall completely within a channel assignable for two-way operation in the Paging and Radiotelephone Service, Rural Radiotelephone Service or Offshore Radiotelephone Service.

(b) The application must contain interference studies between stations within an authorized bandwidth, whether FM-to-ASSB, ASSB-to-FM, or ASSB-to-ASSB in accordance with the following: For ASSB stations, the transmitter nearest to the protected station must be used. The effective radiated power in the direction of the protected station must be the sum of the peak effective radiated power of all transmitters in the group, in the direction of the protected station. The antenna center of radiation height above average terrain must be the highest antenna center of radiation height of any transmitter in the group in the direction of the protected station. The channel of the group is assumed to be the same as that of the protected station (co-channel), and studies must be made in accordance with § 22.567.

**§ 22.163 Minor modifications to existing stations.**

Licensees may make modifications to existing stations without obtaining prior Commission approval, provided:

(a) Classification as minor. The modifications must be minor. Modifications to a station are minor if an application filed solely for the purpose of obtaining authorization for such modifications would be classified as minor in accordance with § 22.123.

(b) Locations near Canadian border. The facilities to be modified must not be located between Line A or Line C and the US-Canada border.

(c) Antenna structure clearance required. For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, licensees must notify the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1) and file a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, FOB, Antenna Survey Branch, Washington, DC 20554.

(d) Provision of information upon request. Licensees must supply administrative or technical information concerning the

modified facilities upon request by the Commission.

**§ 22.165 Additional transmitters for existing systems.**

Licensees may operate additional transmitters at additional locations on the same channel or channel block as an existing system without obtaining prior Commission approval, provided:

(a) Locations near Canadian border. The additional transmitters must not be located between Line A or Line C and the US-Canada border.

(b) Antenna structure clearance required. For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, licensees must notify the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1) and file a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, FOB, Antenna Survey Branch, Washington, DC 20554.

(c) Environmental. The additional transmitters must not have a significant environmental effect, as defined by § 1.1301 et seq of this chapter.

(d) Paging and Radiotelephone Service. The provisions in this paragraph apply for stations in the Paging and Radiotelephone Service.

(1) The service area and interfering contours of the additional transmitter(s) must be totally encompassed by the composite service area contour and predicted interfering contour, respectively, of the existing station on the same channel; except that this limitation does not apply to nationwide network paging stations or in-building radiation systems.

(2) Additional transmitters in the 43 MHz frequency range operate under developmental authority, subject to the conditions set forth § 22.411 of this part.

(3) The additional transmitters must not operate on control channels in the 470-512 MHz, 928 MHz, 932 MHz, 941 MHz and 959 MHz frequency ranges.

(e) Cellular Radiotelephone Service. The service area boundaries of the additional transmitters must remain within the market. After the five year fill-in period, the service area boundaries of the additional transmitters must remain within the CGSA.

(f) Air-ground Radiotelephone Service. Ground stations may be added to Commercial Aviation air-ground systems at previously established ground station locations, pursuant to this section, subject to compliance with the applicable technical rules. This section does not apply to General Aviation air-ground stations.

(g) Rural Radiotelephone Service. A "service area" and "interfering contours" must be determined using the same method as for stations in the Paging and Radiotelephone Service. The service area and interfering contours so determined for the additional transmitter(s) must be totally encompassed by the similarly determined composite service area contour and predicted interfering contour, respectively, of the existing station on the same channel.

(h) Offshore Radiotelephone Service. This section does not apply to stations in the Offshore Radiotelephone Service.

(i) Provision of information upon request. Upon request by the Commission, licensees must supply administrative or technical information concerning the additional transmitters.

**§ 22.167 Applications for assigned but unused channels.**

It is the policy of the Commission to encourage effective use of the spectrum by facilitating the expeditious reassignment of Public Mobile Service channels that have been assigned but are not currently being used to provide service to the public. This section sets forth procedures whereby carriers may apply for such assigned but unused channels prior to the deletion of their previous assignment from Commission station files.

(a) Finder's applications. Whenever a regular authorization automatically terminates in whole or in part without specific Commission action pursuant to paragraphs (b) or (c) of § 22.144, carriers may file applications that do not meet the technical criteria for protection of the specific facilities for which the authorization has terminated. Such applications are referred to as finder's applications. Finder's applications must comply with all applicable rules in this part, except as pertains to protection of the facilities for which authorization has terminated without specific Commission action.

(b) Requirements. Finder's applications serve to make the Commission aware of authorizations that have terminated without specific Commission action, so that these authorizations may be removed from the Commission's station files. Accordingly, finder's applications must indicate that they are finder's applications and must identify the specific facilities (by call sign, channel and location) for which authorization has terminated without specific Commission action. Finder's applications must also include a statement providing complete details of the discontinuance of service or failure to commence providing service to the public by these facilities.

(c) Procedures. The Commission identifies finder's applications as such on the Public Notice listing them as tentatively acceptable for filing. The Commission may also conduct an investigation to verify that the authorization for the identified facilities has terminated.

## Subpart C - Operational and Technical Requirements

### OPERATIONAL REQUIREMENTS

**§ 22.301 Station inspection.**

The licensee of any station authorized in the Public Mobile Services must make the station and station records available for inspection by representatives of the Commission at any reasonable hour.

**§ 22.303 Posting station authorizations.**

The current authorization for each station must be retained as a permanent part of the station records. A clearly legible photocopy of the authorization must be available at each regularly attended control point of the station. The station call sign must be clearly and legibly marked on every transmitter, other than mobile transmitters, of the station.

**§ 22.305 Operator and maintenance requirements.**

FCC operator permits and licenses are not required to operate, repair or maintain equipment authorized in the Public Mobile Services. Station licensees are responsible for the proper operation and maintenance of their stations, and for compliance with the Commission's rules.

**§ 22.307 Operation during emergency.**

Licensees of stations in the Public Mobile services may, during a period of emergency in which normal communications facilities are disrupted as a result of hurricane, flood, earthquake, or disaster, use their stations to temporarily provide emergency communications services in a manner or configuration not normally allowed by this part, provided that such operations comply with the provisions of this section.

(a) Technical limitations. Public Mobile stations providing temporary emergency communications service must not transmit:

(1) on channels other than those authorized for normal operations;

(2) with power in excess of that authorized for normal operations;

(3) emission types other than those authorized for normal operations.

(b) Discontinuance. Temporary emergency use of Public Mobile stations must be discontinued as soon as normal communication facilities are restored. The Commission may, at any time, order the discontinuance of any such emergency communication services.

**§ 22.313 Station identification.**

The licensee of each station in the Public Mobile Services must ensure that the transmissions of that station are identified in accordance with the requirements of this section.

(a) Station identification is not required for transmissions by:

(1) stations in the Cellular Radiotelephone Service;

(2) general aviation ground stations in the Air-ground Radiotelephone Service;

(3) rural subscriber stations using meteor burst propagation mode communications in the Rural Radiotelephone Service.

(b) For all other stations in the Public Mobile Services, station identification must be transmitted at the end of each transmission or series of transmissions. During prolonged or continuous series of transmissions, station identification must be transmitted at periodic intervals not to exceed thirty minutes; however, transmission of such periodic station identification may be temporarily delayed to avoid interrupting the continuity of any public communication in progress, provided that station identification is transmitted at the conclusion of that public communication.

(c) Station identification must be transmitted by telephony using the English language or by telegraphy using the international Morse code, and in a form that can be received using equipment appropriate for the modulation type employed, and understood without the use of unscrambling devices. Station identification comprises transmission of the call sign assigned by the Commission to the station, however, the following may be used in lieu of the call sign:

(1) for transmissions from subscriber operated transmitters, the telephone number or other designation assigned by the carrier, provided that a written record of such designations is maintained by the carrier;

(2) for general aviation airborne mobile stations in the Air-ground Radiotelephone Service, the official FAA registration number of the aircraft;

(3) for stations in the Paging and Radiotelephone Service, a call sign assigned to another station within the same system.

**§ 22.315 Duty to respond to official communications.**

Licensees in the Public Mobile services must respond to official communications from the Commission with reasonable dispatch and according to the tenor of the communication. Failure to do so may be considered by the Commission to reflect adversely on a carrier's qualifications to hold FCC authorizations, and may also create liabilities for other sanctions.

(a) Any person receiving official notice of an apparent or actual violation of a federal statute, international agreement, Executive Order, or regulation pertaining to communications shall respond in writing within 10 days to the office of the Commission originating the notice. If a response can not be sent within 10 days, an acknowledgement shall be sent, followed by a response as soon as possible explaining the reason for the delay.

(b) Responses to official communications must be complete and self-contained without reference to other communications unless copies of such other communications are attached to the response.

**§ 22.317 Discontinuance of station operation.**

If the operation of a Public Mobile Services station is permanently discontinued, the licensee shall send the authorization for cancellation to: Mobile Services Division, Common Carrier Bureau, Federal Communications Commission, Washington DC 20554. For purposes of this section, any station that has not provided service to the public for 90 continuous days is considered to have been permanently discontinued, unless the applicant notified the Commission otherwise prior to the end of the 90 day period and provided a date on which operation will resume, which date must not be in excess of 30 additional days.

**§ 22.321 Equal employment opportunities.**

Common carrier licensees shall afford equal opportunity in employment to all qualified persons, and personnel must not be discriminated against in employment because of sex, race, color, religion, or national origin.

(a) Equal employment opportunity program. Each licensee shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practice.

(1) Under the terms of its program, a licensee shall:

(i) Define the responsibility of each level of management to

insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(ii) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(iii) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to sex, race, color, religion or national origin, and solicit their recruitment assistance on a continuing basis.

(iv) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon sex, race, color, religion, or national origin, from the licensee's personnel policies and practices and working conditions.

(v) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(2) The program must reasonably address specific concerns through policies and actions as set forth in this paragraph, to the extent that they are appropriate in consideration of licensee size, location and other factors.

(i) To assure nondiscrimination in recruiting.

(A) Posting notices in the licensee's offices informing applicants for employment of their equal employment rights and their right to notify the Equal Employment Opportunity Commission, the Federal Communications Commission, or other appropriate agency. Where a substantial number of applicants are Spanish-surnamed Americans, such notice should be posted in both Spanish and English.

(B) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion or national origin is prohibited, and that they may notify the Equal Employment Opportunity Commission, the Federal Communications Commission or other appropriate agency if they believe they have been discriminated against.

(C) Placing employment advertisements in media which have significant circulation among minority groups in the recruiting area.

(D) Recruiting through schools and colleges with significant minority group enrollments.

(E) Maintaining systematic contacts with minority and human relations organizations, leaders and spokespersons to encourage referral of qualified minority or female applicants.

(F) Encouraging present employees to refer minority or female applicants.

(G) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members are being sought for consideration whenever the licensee hires.

(ii) To assure nondiscrimination in selection and hiring.

(A) Instructing personally those on the staff of the licensee who make hiring decisions that all applicants for all jobs are to be considered without discrimination.

(B) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements.

(C) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iii) To assure nondiscriminatory placement and promotion.

(A) Instructing personally those of the licensee's staff who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

(B) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

(C) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

(D) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iv) To assure nondiscrimination in other areas of employment practices.

(A) Examining rates of pay and fringe benefits for present employees with equivalent duties and adjusting any inequities found.

(B) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority groups or female employees.

(b) EEO statement. Each licensee having 16 or more full-time employees shall file with the Commission, no later than May 31st following the grant of that licensee's first Public Mobile Services authorization, a statement describing fully its current equal employment opportunity program, indicating specific practices to be followed in order to assure equal employment opportunity on the basis of sex, race, color, religion or national origin in such aspects of employment practices as regards recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff and termination. Any licensee having 16 or more full-time employees that changes its existing equal employment opportunity program shall file with the Commission, no later than May 31st thereafter, a revised statement reflecting the change(s).

NOTE: Licensees having 16 or more full-time employees that were granted their first Public Mobile Services authorization prior to [effective date], and do not have a current EEO statement on file with the Commission, must file such statement, required by paragraph (b) of § 22.321, no later than May 31, 1993.

(c) Report of complaints filed against licensees. Licensees shall submit an annual report to the FCC no later than May 31st of each year indicating whether any complaints regarding violations by the licensee or equal employment provisions of Federal, State, Territorial, or local law have been filed before anybody having competent jurisdiction.

(1) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(2) Any licensee who has filed such information with the EEOC need not do so with the Commission, if such previous filing is indicated.

(d) Complaints of violations of Equal Employment Programs. Complaints alleging employment discrimination against a common carrier licensee are considered by the Commission in the following manner:

(1) If a complaint raising an issue of discrimination is received against a licensee who is within the jurisdiction of the EEOC, it is submitted to that agency. The Commission maintains a liaison with that agency that keeps the Commission informed of the disposition of complaints filed against common carrier licensees.

(2) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the Commission to the respective State agency.

(3) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC or an appropriate State law, are accorded appropriate treatment by the FCC.

(4) The Commission will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees with the principles of equal employment as set forth herein.

(5) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee that is required to file an employment report to the Commission under § 1.815(a) of this chapter are investigated by the Commission.

(e) Commission records. A copy of every annual employment report, equal employment opportunity program statement, reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the Commission.

(f) Licensee records. Each licensee required to file annual employment reports (pursuant to § 1.815(a) of this chapter), equal employment opportunity program statements, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain for public inspection a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference. The documents must be retained for a period of 2 years.

**§ 22.323 Incidental communications services.**

Carriers authorized to operate stations in the Public Mobile radio services may use these stations to provide other communications services incidental to the primary public mobile service for which the authorizations were issued, provided that:

(a) the costs and charges of subscribers who do not wish to use incidental services are not increased as a result of provision of incidental services to other subscribers;

(b) the quality of the primary public mobile service does not materially deteriorate as a result of provision of incidental services, and neither growth nor availability of the primary public mobile service is significantly diminished as a result of provision of incidental services;

(c) the provision of the incidental services is not inconsistent with the Communications Act of 1934, as amended, or with Commission rules and policies; and

(d) the licensee notifies the Commission by letter before providing the incidental services. This notification must include a complete description of the incidental services.

**§ 22.325 Control points.**

Each station in the Public Mobile Services must have at least one control point and a person on duty who is in charge of station operation. Each control point must have facilities that allow the person on duty to turn off the transmitters.

TECHNICAL REQUIREMENTS

**§ 22.351 Channel assignment policy.**

The channels allocated for use in the Public Mobile Services are listed in the applicable subparts of this part. Channels and channel blocks are assigned in such a manner as to facilitate the rendition of service on an interference-free basis in each service area. Except as otherwise provided in this part, each channel or channel block is assigned exclusively to one common carrier in each service area. All applicants for, and licensees of, stations in the Public Mobile Services shall cooperate in the selection and use of channels in order to minimize interference and obtain the most efficient use of the allocated spectrum.

**§ 22.352 Protection from interference.**

Public Mobile Services stations operating in accordance with the Commission's rules and the terms and conditions of their authorizations are normally considered to be non-interfering. However, if the Commission determines that interference which significantly interrupts or degrades a radio service is being caused, the Commission may require modifications to any Public Mobile station to eliminate such interference.

(a) Failure to operate as authorized. Any licensee causing interference to the service of other stations by failing to operate its station in accordance with its authorization or the Commission's

rules shall discontinue all transmissions, except those concerning the immediate safety of life or property, until it can bring its station into full compliance with the authorization and rules.

(b) Intermodulation interference. Licensees should attempt to resolve such interference by technical means.

(c) Situations in which no protection is afforded. Except as provided elsewhere in this part, no protection from interference is afforded in the following situations:

(1) Interference to base receivers from base transmitters. Licensees should attempt to resolve such interference by technical means or operating arrangements.

(2) Interference to mobile receivers from mobile transmitters. No protection is provided against mobile-to-mobile interference.

(3) Interference to base receivers from mobile transmitters. No protection is provided against mobile-to-base interference.

(4) Interference to fixed stations. Licensees should attempt to resolve such interference by technical means or operating arrangements.

(5) Anomalous or infrequent propagation modes. No protection is provided against interference caused by tropospheric and ionospheric propagation of signals.

**§ 22.353 Blanketing interference.**

Licensees of Public Mobile services stations are responsible for resolving cases of blanketing interference in accordance with the provisions of this section.

(a) Except as provided in paragraph (c) of this section, licensees must resolve any cases of blanketing interference in their area of responsibility caused by operation of their transmitter(s) during a one-year period following commencement of service from new or modified transmitter(s). Interference must be resolved promptly at no cost to the complainant.

(b) The area of responsibility is that area in the immediate vicinity of the transmitting antenna of stations where the field strength of the electromagnetic radiation from such stations equals or exceeds 115 dBμV/m. To determine the radial distance to the boundary of this area, the following formula must be used:

$$d = 0.394 \times \sqrt{p}$$

where d is the radial distance to the boundary, in kilometers
p is the radial effective radiated power, in kilowatts

The maximum effective radiated power in the pertinent direction, without consideration of the antenna's vertical radiation pattern or height, must be used in the formula.

(c) Licensees are not required to resolve blanketing interference to mobile receivers or non-RF devices or blanketing interference occurring as a result of malfunctioning or mistuned receivers, improperly installed antenna systems, or the use of high gain antennas or antenna booster amplifiers.

(d) Licensees that install transmitting antennas at a location where there are already one or more transmitting antennas are responsible for resolving any new cases of blanketing interference in accordance with this section.

(e) Two or more licensees that concurrently install transmitting antennas at the same location are jointly responsible for resolving blanketing interference cases, unless the Commission can readily determine which station is causing the interference, in which case the licensee of that station is held fully responsible.

(f) After the one year period of responsibility to resolve blanketing interference, licensees must provide upon request technical information to complainants on remedies for blanketing interference.

**§ 22.355 Frequency tolerance.**

The carrier frequency of each transmitter in the Public Mobile Services must be maintained within the tolerances given in Table C-1.

**Table C-1 - Frequency Tolerance for Transmitters in the Public Mobile Services**

| Frequency range | base, fixed | mobile > 3 Watts | mobile <= 3 Watts |
|---|---|---|---|
| 25 to 50 MHz | 20.0 ppm | 20.0 ppm | 50.0 ppm |
| 50 to 450 MHz | 5.0 ppm | 5.0 ppm | 50.0 ppm |
| 450 to 512 MHz | 2.5 ppm | 5.0 ppm | 5.0 ppm |
| 821 to 896 MHz | 1.5 ppm | 2.5 ppm | 2.5 ppm |
| 928 to 929 MHz | 5.0 ppm | n/a | n/a |
| 929 to 960 MHz | 1.5 ppm | n/a | n/a |
| 2110 to 2220 MHz | 10.0 ppm | n/a | n/a |

**§ 22.357 Emission types.**

All authorized stations in the Public Mobile services may transmit the standard emission types set forth in this section, regardless of whether or not they are listed on the station authorization. Before using any emission types other than those set forth in this section (e.g. amplitude compandored single sideband), licensees must apply for and obtain authority to do so, and explain in detail the reason why such authority is needed. An explanation of the standard international emission designators used throughout the Commission's rules is contained in Subpart C of Part 2 of this chapter.

(a) All stations in the Public Mobile Services may transmit unmodulated emissions (N0N) for short periods for equipment testing.

(b) All stations in the Paging and Radiotelephone Service, Rural Radiotelephone Service and Offshore Radiotelephone services may transmit the following:

(1) emission types: 15K0F2D, 16K0F3E, 16K0F3C, 16K0F1D, and 16K0F1E;

(2) emissions resulting from modulation of transmitters by sub-audible tones or other signals used to establish and/or maintain communications;

(3) continuous unmodulated emissions (N0N), with a power at least 10 dB less than that authorized, to prevent false indication of channel occupation.

(c) All stations in the Cellular Radiotelephone Service may transmit the following emission types: 40K0F3E, 40K0F3D and 40K0F1D.

(d) The frequency deviation must not exceed 12 kHz for frequency modulated emissions with a bandwidth of 40 kHz, and 5 kHz for frequency modulated emissions with a bandwidth of 16 kHz.

**§ 22.359 Emission masks.**

Unless otherwise indicated in the rules governing a specific radio service, all transmitters intended for use in the Public Mobile Services must be designed to comply with the emission masks outlined in this section. If an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

(a) Analog modulation. For transmitters other than those employing digital modulation techniques, the mean or peak envelope power of adjacent channel emissions must be attenuated below the output mean or peak envelope power of the total emission (P, in Watts) in accordance with the following schedule:

(1) On any frequency removed from the center frequency of the assigned channel by more than 50 percent up to and including 100 percent of the authorized bandwidth:

at least 25 dB;

(2) On any frequency removed from the center frequency of the assigned channel by more than 100 percent up to and including 250 percent of the authorized bandwidth:

at least 35 dB;

(3) On any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth:

at least 43 + 10 log P dB, or 80 dB, whichever is the lesser attenuation.

(b) Digital modulation. For transmitters not equipped with an audio low pass filter and for transmitters employing digital modulation techniques, the mean or peak envelope power of sideband emissions must be attenuated below the mean or peak envelope power of the total emission (P, in Watts) in accordance with the following schedule:

(1) For transmitters that operate in the frequency ranges 35 to 44 MHz, 72 to 73 MHz, 75.4 to 76.0 MHz and 152 to 159 MHz,

(i) On any frequency removed from the center frequency of the assigned channel by a displacement frequency $f_d$ (in kHz) of more than 5 kHz but not more than 10 kHz:

at least 83 log $(f_d \div 5)$ dB;

(ii) On any frequency removed from the center frequency of the assigned channel by a displacement frequency $f_d$ (in kHz) of more than 10 kHz but not more than 250 percent of the authorized bandwidth:

at least 29 log $(f_d^2 \div 11)$ dB or 50 dB, whichever is the lesser attenuation;

(iii) On any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth:

at least 43 + 10 log P dB, or 80 dB, whichever is the lesser attenuation.

(2) For transmitters that operate in the frequency ranges 450 to 512 MHz and 929 to 932 MHz,

(i) On any frequency removed from the center frequency of the assigned channel by a displacement frequency $f_d$ (in kHz) of more than 5 kHz but not more than 10 kHz:

at least 83 log $(f_d \div 5)$ dB;

(ii) On any frequency removed from the center frequency of the assigned channel by a displacement frequency $f_d$ (in kHz) of more than 10 kHz but not more than 250 percent of the authorized bandwidth:

at least 116 log $(f_d \div 6.1)$ dB, or 50 + 10 log P dB, or 70 dB, whichever is the lesser attenuation;

(iii) On any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth:

at least 43 + 10 log P dB, or 80 dB, whichever is the lesser attenuation.

(c) Measurement procedure. Either peak or average power may be used, provided that the same technique is used for both the adjacent channel or sideband emissions and the total emission. The resolution bandwidth of the measuring instrument must be set to 300 Hz for measurements on any frequency removed from the center frequency of the assigned channel by no more than 250 percent of the authorized bandwidth and 30 kHz for measurements on any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth.

**§ 22.361 Standby facilities.**

Licensees of stations in the Public Mobile Services may install standby transmitters for the purpose of continuing service in the event of failure or other required maintenance of regular transmitters without obtaining separate authorization, provided that operation of the standby transmitters would not increase the service areas or interference potential of the stations, and that such standby transmitters use the same antenna as the regular transmitters they temporarily replace.

**§ 22.363 Directional antennas.**

Fixed transmitters for point-to-point operation must use a directional transmitting antenna with the major lobe of radiation in the horizontal plane directed toward the receiving antenna or passive reflector of the station for which the transmissions are intended. Directional antennas used in the Public Mobile Services must meet the technical requirements given in Table C-2.

(a) Maximum beamwidth is for the major lobe at the half power points.

(b) Suppression is the minimum attenuation for any secondary lobe referenced to the main lobe.

(c) An omnidirectional antenna may be used for fixed transmitters where there are two or more receive locations at different azimuths.

**§ 22.365 Antenna structures; air navigation safety.**

Licensees must not allow antenna structures to become a hazard to air navigation.

(a) Marking and lighting. Antenna structures must be marked, lighted and maintained in accordance with Part 17 of this chapter and all applicable rules and requirements of the Federal Aviation Administration. Lighting and marking specifications are contained in FCC Form 715 and FCC Form 715a.

(b) Maintenance contracts. Licensees may enter into a contract with an entity to monitor and carry out necessary maintenance of antenna structures. Licensees that make such contractual arrangements, including situations in which a common antenna structure is used, continue to be responsible for the maintenance of antenna structures in regard to air navigation safety.

**§ 22.367 Antenna polarization.**

Public mobile station antennas must be of the correct type and properly installed such that the electromagnetic emissions have the polarization required by this section.

(a) Vertical. The following types of stations must radiate a vertically polarized wave:

(1) Base, mobile, dispatch, and auxiliary test stations operating in the Paging and Radiotelephone Service;

(2) Offshore Telephone stations;

(3) Stations transmitting on channels in the 72-76 MHz frequency range;

(4) Stations in the Cellular Radiotelephone Service;

(5) Control and repeater stations transmitting on channels in the 900-960 MHz frequency range;

(6) Rural subscriber stations communicating with base stations in the Paging and Radiotelephone Service;

(7) Ground and airborne mobile stations in the Air-ground Radiotelephone Service.

(b) Horizontal. All Public Mobile Services stations not required or allowed by paragraph (a) of this section to radiate a vertically polarized wave must radiate a horizontally polarized wave.

**Table C-2 - Technical Requirements for Directional Antennas**

| Frequency range | Maximum beamwidth | Suppression |
|---|---|---|
| 35 to 512 MHz | 80° | 10 dB |
| 512 to 1500 MHz | 20° | 13 dB |
| 1500 to 2500 MHz | 12° | 13 dB |

(c) Circular. If communications efficiency would be improved and/or interference reduced, the Commission may authorize stations other than those listed in paragraphs (a)(1) through (a)(7) of this section to radiate a circularly polarized signal.

(d) Any polarization. Public Land Mobile stations transmitting on channels higher than 960 MHz are not limited as to the type of polarization.

**§ 22.369 Quiet zones.**

Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference. The areas involved and procedures required are as follows:

(a) NRAO, NRRO. The requirements of this paragraph are intended to minimize possible interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia.

(1) Carriers planning to construct and operate a new or modified Public Mobile Services station at a permanent fixed location within the area bounded by N.39°15' on the north, W.78°30' on the east, N.37°30' on the south, and W.80°30' on the west must notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical details of the proposed operation. The notification must include the geographical coordinates of the antenna location, the antenna height, antenna directivity (if any), the channel, the emission type and power.

(2) When an application for authority to operate a station is filed with the Commission, the notification required in paragraph (a)(1) of this section should be sent at the same time. The application must state the date that notification in accordance with paragraph (a)(1) of this section was made. After receipt of such applications, the Commission will allow a period of 20 days for comments or objections in response to the notifications indicated.

(3) If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will, after consideration of the record, take whatever action is deemed appropriate.

(b) Table Mountain. The requirements of this paragraph are intended to minimize possible interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado.

(1) Carriers planning to construct and operate a new or modified Public Mobile Services station at a permanent fixed location in the vicinity of Boulder County, Colorado, are advised to give consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" North Latitude, 105°14'40" West Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the values given in Table C-3.

(1) Advance consultation is recommended, particularly for applicants that have no reliable data to indicate whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities. In general, coordination is recommended for:

(i) Stations located within 2.4 kilometers (1.5 miles);

(ii) Stations located within 4.8 kilometers (3 miles) transmitting with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations located within 16 kilometers (10 miles) transmitting with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations located within 80 kilometers (50 miles) transmitting with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services NOAAR/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497-6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, such consultation may avoid the filing of objections from the Department of Commerce or institution of proceedings to modify the authoriza-

**Table C-3 - Field Strength Limits for Table Mountain**

| Frequency range | Field strength | Power flux density |
|---|---|---|
| 1.6 to 470 MHz | 10 mV/m | -65.8 dBW/m$^2$ |
| 470 to 890 MHz | 30 mV/m | -56.2 dBW/m$^2$ |
| 890 to 3000 MHz | 1 mV/m | -85.8 dBW/m$^2$ |

Note: Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 Ω (120π Ω).

tions of stations that radiate signals with a field strength or power flux density at the site in excess of those specified herein.

(c) Federal Communications Commission protected field offices. The requirements of this paragraph are intended to minimize possible interference to FCC monitoring activities.

(1) Carriers planning to construct and operate a new or modified Public Mobile Services station at a permanent fixed location in the vicinity of an FCC protected field office are advised to give consideration, prior to filing applications, to the need to avoid interfering with the monitoring activities of that office. FCC protected field offices are listed in § 0.121 of the Commission's Rules.

(2) Applications for stations (except mobile stations) that could produce on any channel a direct wave fundamental field strength of greater than 10 mV/m (-65.8 dBW/m$^2$ power flux density assuming a free space characteristic impedance of 120$\pi$ $\Omega$) in the authorized bandwidth at the protected field office may be examined to determine the potential for interference with monitoring activities. After consideration of the effects of the predicted field strength of the proposed station, including the cumulative effects of the signal from the proposed station with other ambient radio field strength levels at the protected field office, the Commission may add a condition restricting radiation toward the protected field office to the station authorization.

(3) In the event that the calculated field strength exceeds 10 mV/m at the protected field office site, or if there is any question whether field strength levels might exceed that level, advance consultation with the Commission to discuss possible measures to avoid interference to monitoring activities should be considered. Prospective applicants may communicate with: Chief, Field Operations Bureau, Federal Communications Commission, Washington, DC 20554.

(4) Advance consultation is recommended for applicants that have no reliable data to indicate whether the field strength or power flux density figure indicated would be exceeded by their proposed radio facilities. In general, coordination is recommended for:

(i) Stations located within 2.4 kilometers (1.5 miles);

(ii) Stations located within 4.8 kilometers (3 miles) with 50 watts or more average effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the protected field offices.

(iii) Stations located within 16 kilometers (10 miles) with 1 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the protected field office;

(iv) Stations located within 80 kilometers (50 miles) with 25 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the protected field office;

(5) Advance coordination for stations transmitting on channels above 1000 MHz is recommended only if the proposed station is in the vicinity of a protected field office designated as a satellite monitoring facility in § 0.121 of this chapter.

(6) The Commission will not screen applications to determine whether advance consultation has taken place. However, such consultation may serve to avoid the need for later modification of the authorizations of stations that interfere with monitoring activities at protected field offices.

**§ 22.371 Disturbance of AM broadcast station antenna patterns.**

Public Mobile Service licensees that construct or modify towers in the immediate vicinity of AM broadcast stations are responsible for measures necessary to correct disturbance of the AM station antenna pattern which causes operation outside of the radiation parameters specified by the Commission for the AM station, if the disturbance occurred as a result of such construction or modification.

(a) If tower construction or modification is planned within 1 kilometer (0.6 mile) of a non-directional AM broadcast station tower, the Public Mobile Service licensee must notify the licensee of the AM broadcast station in advance of the planned construction or modification. Before and after measurements must be made to determine whether the construction or modification affected the AM station antenna pattern. The Public Mobile Service licensee is responsible for the installation and continued maintenance of any detuning apparatus necessary to restore proper non-directional performance of the AM station tower.

(b) If tower construction or modification is planned within 3 kilometers (1.9 miles) of a directional AM broadcast station array, the Public Mobile Service licensee must notify the licensee of the AM broadcast station in advance of the planned construction or modification. A partial proof of performance must be made before and after the construction or modification to determine whether the AM station antenna pattern was affected. The Public Mobile Service licensee is responsible for the installation and continued maintenance of any detuning apparatus necessary to restore proper performance of the AM station array.

**§ 22.373 Access to transmitters.**

Unless otherwise provided in this part, transmitters in the Public Mobile Services must meet the requirements of this section.

(a) Transmitters must be installed such that unauthorized persons will not have access to the transmitter or its control point(s).

(b) Transmitters must be designed and installed such that any adjustments or controls that could cause the transmitter to deviate from its authorized operating parameters are accessible only by properly qualified service persons.

(c) Transmitters (other than hand-carried or pack-carried mobile transmitters) and control points must be equipped with a means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate.

(d) Transmitters must be designed such that they can be turned off independently of any remote control circuits.

**§ 22.375 Use of transmitters in other services prohibited.**

Base and fixed transmitters licensed in the Public Mobile services must not be used in any radio service other than a Public Mobile service.

**§ 22.377 Type-acceptance of transmitters.**

Except as provided in paragraph (b) of this section, transmitters used in the Public Mobile services must be type-accepted for use in

the services regulated under this part. Transmitters must be type-accepted when the station is ready for service, not necessarily at the time of filing an application.

(a) The Commission may list as type-accepted only transmitters that are capable of meeting all technical requirements of the rules governing the service in which they will operate. The procedure for obtaining type-acceptance is set forth in Part 2 of this chapter.

(b) Transmitters operating under a developmental authorization (see Subpart D) do not have to be type-accepted.

(c) Type-accepted transmitters are listed in the Commission's "Radio Equipment List," which is available for public inspection at the Commission in Washington, DC, and its field offices.

(d) In addition to the technical standards contained in this part, transmitters intended for operation in the Cellular Radiotelephone service must be designed to comply with the technical requirements contained in the Commission's cellular system compatibility specification (see § 22.933).

**§ 22.379 Replacement of equipment.**

Licensees may replace any equipment in Public Mobile stations without applying for authorization or notifying the Commission, provided that:

(a) if a transmitter is replaced, the replacement transmitter must be type-accepted for use in the Public Mobile services;

(b) the antenna structure must not become a hazard to air navigation and its height must not be not increased;

(c) the interference potential of the station must not be increased;

(d) the effective radiated power, emission type, antenna radiation pattern and center of radiation height above average terrain are not changed.

**§ 22.381 Auxiliary test transmitters.**

Auxiliary test transmitters may be used only for testing the performance of fixed receiving equipment located remotely from the control point. Auxiliary test transmitters may transmit only on channels designated for mobile transmitters.

**Subpart D - Developmental Authorizations**

**§ 22.401 Description and purposes of developmental authorizations.**

Communications common carriers may apply for, and the Commission may grant, authority to construct and operate one or more transmitters subject to the rules in this subpart and other limitations, waivers and/or conditions that may be prescribed. Authorizations granted on this basis are developmental authorizations. In general, the Commission grants developmental authorizations in situations and circumstances where it cannot reasonably be determined in advance whether a particular transmitter can be operated or a particular service can be provided without causing interference to the service of existing stations. For example, the Commission may grant developmental authorizations for:

(a) field strength surveys to evaluate the technical suitability of antenna locations for stations in the Public Mobile Services;

(b) experimentation leading to the potential development of a new Public Mobile Service or technology; or,

(c) stations transmitting on channels in certain frequency ranges, to provide a trial period during which it can be individually determined whether such stations can operate without causing excessive interference to existing services.

**§ 22.403 General limitations.**

The provisions and requirements of this section are applicable to all developmental authorizations.

(a) Developmental authorizations are subject to cancellation at any time upon notice to the licensee, without a hearing being held by the Commission.

(b) Developmental authorizations will normally terminate one year from the date of grant. The Commission may, however, specify a different term.

(c) Stations operating under developmental authorizations must not interfere with the services of regularly authorized stations.

(d) A grant of a developmental authorization does not carry with it any assurance that the Commission will grant an application for regular authorization to operate the same transmitter(s), even if operation during the developmental period has not caused interference and/or the developmental program is successful.

**§ 22.409 Developmental authorization for a new public mobile service or technology.**

The Commission may grant applications for developmental authority to operate a transmitter for the purpose of developing a new public mobile service or technology not regularly authorized under this part, subject to the requirements of this section. Such applications may request the use of any portion of the spectrum allocated for Public Mobile Service in the Table of Frequency Allocations contained in Part 2 of this chapter, regardless of whether that spectrum is regularly available under this part. Requests to use any portion of the spectrum for a service or purpose other than that indicated in the Table of Frequency Allocations in Part 2 of this chapter may be made only in accordance with the provisions of Part 5 of this chapter.

(a) Preliminary determination. The Commission will make a preliminary determination with respect to the factors set forth in paragraphs (a)(1) through (a)(3) of this section before acting on an application for developmental authority pursuant to this section. These factors are:

(1) that the public interest, convenience or necessity warrants consideration of the establishment of the proposed public mobile service;

(2) that the proposal appears to have potential value to the public that could warrant the establishment of the new service;

(3) that some operational data should be developed for consideration in any rule making proceeding which may be initiated to establish such service.

(b) Petition required. Applications for developmental authorizations pursuant to this section must be accompanied by a petition for rule making requesting the Commission to amend the rules as may be necessary to provide for the establishment of the proposed public mobile service.

(c) Application requirements. Authorizations for developmental authority pursuant to this section will be issued only upon a showing that the applicant has a definite program of research and development which has reasonable promise of substantial contribution to the services authorized by this part. The application must contain an exhibit demonstrating the applicant's technical qualifications to conduct the research and development program, including a description of the nature and extent of engineering facilities that the applicant has available for such purpose. Additionally, the Commission may, in its discretion, require a showing of financial qualification.

(d) Communication service for hire prohibited. Stations authorized under developmental authorizations granted pursuant to this section must not be used to provide communication service for hire, unless otherwise specifically authorized by the Commission.

(e) Adherence to program. Carriers granted developmental authorization pursuant to this section must substantially adhere to the program of research and development described in their application for developmental authorization, unless the Commission directs otherwise.

(f) Report requirements. Upon completion of the program of research and development, or upon the expiration of the developmental authorization under which such program was permitted, or at such times during the term of the station authorization as the Commission may deem necessary to evaluate the progress of the developmental program, the licensee shall submit a comprehensive report, containing:

(1) a description of the progress of the program and a detailed analysis of any result obtained;

(2) copies of any publications produced by the program;

(3) a listing of any patents applied for, including copies of any patents issued;

(4) copies of any marketing surveys or other measures of potential public demand for the new service;

(5) a description of the carrier's experiences with operational aspects of the program including -

(i) the duration of transmissions on each channel or frequency range and the technical parameters of such transmissions; and,

(ii) any interference complaints received as a result of operation and how these complaints were investigated and resolved.

(g) Confidentiality. Normally, applications and developmental reports are a part of the Commission's public records. However, an applicant or licensee may request that the Commission withhold from the public specific exhibits, reports and other material associated with a developmental authorization.

(h) Renewal. Expiring developmental authorizations issued pursuant to this section may be renewed if the carrier -

(1) shows that further progress in the program of research and development requires additional time to operate under developmental authorization;

(2) complied with the reporting requirements of paragraph (e) of this section; and,

(3) immediately resolved to the Commission's satisfaction all complaints of interference caused by the station operating under developmental authority.

**§ 22.411 Developmental authorization of 43 MHz paging transmitters.**

Because of the potential for interference to the intermediate frequency stages of receivers in broadcast television sets and video recorders, 43 MHz paging channels are assigned only under developmental authorizations subject to the requirements of this section, except as provided in paragraph (d) of this section.

(a) Carrier responsibility. Carriers so authorized shall operate the 43 MHz paging service under developmental authority for a period of two years. During the two year developmental period, carriers must resolve any broadcast television receiver intermediate frequency interference problems that may occur as a result of operation of the 43 MHz paging transmitter(s). Carriers shall inform subscribers receiving service on the channels assigned under developmental authority during the developmental period that this service could be terminated by the Commission on short notice if such action were to become necessary to eliminate interference. Carriers shall notify the appropriate Commission Field Office, in advance, of the date on which service to the public is to begin.

(b) Periodic surveys. To determine the extent of any interference to broadcast television receivers resulting from operation of 43 MHz paging stations authorized pursuant to this section, carriers shall conduct semi-annual surveys during the first two years of operation. The first such survey is to begin on the date when service to the public commences. For each survey, the carrier shall contact at least 25 television viewers to determine whether they have experienced interference.

(1) The carrier shall contact viewers located throughout the geographic area encompassed by a 3 kilometer (2 mile) radius of the 43 MHz paging transmitter antenna site. The carrier must not attempt to obtain a misleading survey by contacting only viewers less likely to be experiencing interference. For example, the carrier must not contact only the viewers located most distant from the paging transmitter antenna site. Instead, the carrier shall contact viewers located near the paging transmitter antenna site.

(2) The carrier shall not, in subsequent surveys, contact viewers who were contacted in a previous survey; provided that, in the event that all of the viewers within 3 kilometers (2 miles) have been contacted, viewers located near the paging transmitter antenna site shall be contacted again.

(c) Periodic reports. Following each survey, the carrier shall submit to the Commission a written report disclosing and evaluating the extent of any interference. These reports must include:

(1) the number of the report (1 to 4);

(2) the station call sign;

(3) the file number of the application that resulted in the developmental authorization;

(4) an exact description of the transmitter location(s);

(5) the date(s) and time of day when the survey was conducted;

(6) the survey method used (e.g. telephone, on-site, etc.);

(7) the names, addresses and telephone numbers of the viewers contacted;

(8) if interference resulted from operation of the 43 MHz paging station, a summary of how the interference problem was resolved;

(9) the names and telephone numbers of any technical personnel consulted and/or employed to resolve interference problems.

(d) Exceptions. The Commission may grant a regular authorization in the Paging and Radiotelephone Service for a 43 MHz paging station in the following circumstances:

(1) After the two-year developmental period, provided that broadcast TV interference complaints have been resolved by the carrier in a satisfactory manner. Licensees that hold a developmental authorization for a 43 MHz paging station and wish to request a regular authorization must file FCC Form 401 prior to the expiration of the developmental period.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a 43 MHz paging station in the Paging and Radiotelephone Service, provided that the station has been in continuous operation providing service with no substantial interruptions.

**§ 22.413 Developmental authorization of 72-76 MHz fixed transmitters.**

Because of the potential for interference with the reception by broadcast television sets and video recorders of full service TV stations transmitting on TV Channels 4 and 5, 72-76 MHz channels are assigned for use within 16 kilometers (10 miles) of the antenna of any full service TV station transmitting on TV Channel 4 or 5 only under developmental authorizations subject to the requirements of this section, except as provided in paragraph (b) of this section.

(a) Carrier responsibility. Carriers so authorized shall operate the 72-76 MHz fixed station under developmental authority for a period of at least six months. During the developmental period, carriers must resolve any broadcast television receiver interference problems that may occur as a result of operation of the 72-76 MHz transmitter(s).

(b) Exceptions. The Commission may grant a regular authorization in the Paging and Radiotelephone Service for a 72-76 MHz fixed station under the following circumstances:

(1) After six months of operation under developmental authorization, and provided that broadcast TV interference complaints have been resolved by the carrier in a satisfactory manner, the Commission may grant a regular authorization. Licensees that hold a developmental authorization for a 72-76 MHz fixed station and wish to request a regular authorization must file FCC Form 401 prior to the expiration of the developmental authorization.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a 72-76 MHz fixed station in the Paging and Radiotelephone Service, the Commission may grant such assignment or consent to such transfer of control provided that the station has been in continuous operation providing service with no substantial interruptions.

(3) If a proposed 72-76 MHz fixed transmitter antenna is to be located within 50 meters (164 feet) of the antenna of the full service TV station transmitting on TV Channel 4 or 5, the Commission may grant a regular authorization instead of a developmental authorization.

**§ 22.415 Developmental authorization of 928-960 MHz fixed transmitters.**

Channels in the 928-929 MHz and 952-960 MHz ranges may be assigned under developmental authorizations to fixed transmitters in point-to-multipoint systems at locations that are short-spaced (i.e. do not meet the 113 kilometer (70 mile) separation requirement of § 22.625), subject to the requirements of this section.

(a) Carrier responsibility. Applications for developmental authorizations pursuant to this section must contain an engineering analysis that shows that no interference will be caused or received. Carriers so authorized shall operate the short-spaced transmitter for a period of one year.

(b) Exceptions. The Commission may grant a regular authorization in the Paging and Radiotelephone Service for a short-spaced fixed station under the following circumstances:

(1) After one year of operation under developmental authorization, and provided that no interference has been caused, the Commission may grant a regular authorization. Licensees that hold a developmental authorization and wish to request a regular authorization must file FCC Form 401 prior to the expiration of the developmental authorization.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a short-spaced fixed station in the Paging and Radiotelephone Service, the Commission may grant such assignment or consent to such transfer of control provided that the station has been in continuous operation providing service and no interference has been caused.

**§ 22.417 Developmental authorization of meteor burst systems.**

Because of the potential for interference to other 42-46 MHz operations, central office and rural subscriber stations in Alaska are authorized to use meteor burst propagation modes to provide rural radiotelephone service only under developmental authorizations subject to the requirements of this section, except as provided in paragraph (b) of this section. See also §§ 22.715(c) and 22.719.

(a) Carrier responsibility. Carriers and subscribers so authorized shall operate the station under developmental authority for a period of at least one year.

(b) Exceptions. The Commission may grant a regular authorization in the Rural Radiotelephone Service for a central office or rural subscriber to use meteor burst propagation modes to provide rural radiotelephone service under the following circumstances:

(1) After one year of operation under developmental authoriza-

tion, and provided that no interference has been caused to other operations, the Commission may grant a regular authorization. Licensees that hold a developmental authorization to use meteor burst propagation modes to provide rural radiotelephone service and wish to request a regular authorization must file FCC Form 401 prior to the expiration of the developmental authorization.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a central office or rural subscriber station authorizing the use of meteor burst propagation modes in the Rural Radiotelephone Service, the Commission may grant such assignment or consent to such transfer of control provided that the station has been in operation providing service with no substantial interruptions.

## Subpart E - Paging and Radiotelephone Service

### § 22.501 Scope.

The rules in this subpart govern the licensing and operation of public mobile paging and radiotelephone stations. The licensing and operation of these stations are also subject to rules elsewhere in this part that apply generally to the Public Mobile Services. However, in case of conflict, the rules in this subpart govern.

### § 22.507 Number of transmitters per station.

The rules in this section concern the number of transmitters licensed under each station authorization in the Paging and Radiotelephone Service.

(a) Unless otherwise allowed in this subpart, each station must comprise at least one separate and dedicated transmitter, providing service to the public, for each transmitting channel at each location where that channel is assigned for use by that station.

(b) There is no limit to the number of transmitters that a station may comprise. However, transmitters within a station must be operationally related. Furthermore, it may become necessary, in certain cases, for the Commission to break up wide-area systems into two or more stations for administrative convenience. Except for nationwide paging and other operationally related transmitters, transmitters that are widely separated geographically are not licensed under a single authorization. The Commission may consolidate separately authorized stations upon request of the applicant, if appropriate under this section.

### § 22.509 Procedure for mutually exclusive applications.

Mutually exclusive applications in the Paging and Radiotelephone Service and the Rural Radiotelephone Service are processed in accordance with the rules in this section.

(a) First-filed. Except as provided in paragraphs (b) and (d), when mutually exclusive applications are pending, the earliest-filed (according to filing date) may be granted and the other application(s) dismissed without prejudice.

(b) Same filing date. Except as provided in paragraph (d) of this section, mutually exclusive applications filed on the same day (according to the filing date) or during a Commission specified filing window are included in a random selection process in which all applications receive an order of selection. After the random selection process, the application selected first may be granted and the application(s) excluded by it dismissed without prejudice. Any applications that are no longer excluded as a result of such dismissal(s) may be granted. Next, the earliest selected of any remaining mutually exclusive applications may be granted and any application(s) excluded by it dismissed without prejudice. As before, any applications that are no longer excluded as a result of dismissal(s) may be granted. This process continues until all the applications have been disposed.

(c) Filing date. For the purposes of this section, the filing date of an application is the date on which that application was received in a condition acceptable for filing or the date on which the most recently filed major amendment to that application was received, whichever is later, excluding major amendments in the following circumstances:

(1) the application has been listed as included in a random selection process and the Commission accepts the amendment pursuant to § 22.122(c);

(2) the amendment reflects only a change in ownership or control found by the Commission to be in the public interest;

(3) the amendment as received is defective or otherwise unacceptable for filing.

(d) Renewal. Mutually exclusive applications are designated for a comparative hearing if one application is a timely application for renewal.

### § 22.511 Construction period for the Paging and Radiotelephone Service.

The construction period for stations in the Paging and Radiotelephone Service is one year.

### § 22.513 Channel availability.

When acting on applications in which the applicant is not required to request a specific channel, the Commission may assign any channel in the appropriate frequency range, including any channel that becomes available while the application is pending, prior to a random selection process. However, the Commission does not delay action on pending applications in order to wait for a channel to become available.

### § 22.515 Permissible communications paths.

Mobile stations may communicate only with and through base stations. Base stations may communicate only with mobile stations and receivers on land or surface vessels.

### § 22.529 Application requirements for the Paging and Radiotelephone Service.

In addition to information required by Subparts B and D of this part, applications for authorization to operate a transmitter in the Paging and Radiotelephone Service must contain the applicable supplementary information described in this section.

(a) Administrative information. The following information is required by FCC Form 401, Schedule A.

(1) The number of transmitter sites for which authorization is requested.