

interference could occur or is occurring, the Commission should require that the victim receiver (1) be located within the reliable service contour of the base station with which it is operated; and (2) not be higher than the nearest authorized base station.⁴⁶ Thus, such control stations should be authorized on a secondary basis with respect to licensees using the channel for mobile service. This approach accords licensees an opportunity to make more efficient use of spectrum. At the same time, the secondary nature of such uses will help to preserve the "two-way" channels should they be needed for radiotelephone or new two-way services.

The Commission has likewise solicited comments on the appropriate criteria to insert into Section 22.567(b) of the Commission's rules specifying the methods for protecting fixed receivers on the mobile channels from base or fixed transmitters using those channels. The FCC in the past used the methods developed in its rulemaking in the Flexible Allocation of Frequencies in the Public Mobile Services, Report and Order, 4 FCC Rcd. 1576 (1989). However, it is believed that these criteria severely limit the use of the mobile channel for base or fixed operations. Accordingly, the Commission asks for new protection criteria that would enable licensees to provide an appropriate level of protection to fixed receivers while making more effective use of the mobile channels.

⁴⁶ Telocator recognizes that the victim receiver may not be co-located with the base station, but these two conditions at least allow a carrier proposing to use a mobile channel for control to accommodate the "worst case" it might encounter with respect to existing systems.

Telocator recommends that the same criteria suggested above in connection with proposed Section 22.575 be employed for other uses of the mobile channel. By stipulating which receivers would be protected and by making such "non-mobile" uses of the mobile channel secondary to mobile use, the agency will strike a reasonable balance between preserving mobile service and according flexibility to licensees to use spectrum to serve the public more efficiently.

IV. AIR-GROUND ISSUES

A. Non-Commercial Operations

Proposed Section 22.805 states in pertinent part that:

channels are allocated for the provision of radiotelephone service to airborne mobile subscribers in general aviation (non-commercial) aircraft. . ."

Telocator questions why the Commission has inserted the parenthetical "non-commercial" into its proposed rule. This service should not be restricted to non-commercial aircraft, and Telocator urges the Commission to delete this phrase from its proposed rule. Licensees in the 454/459 MHz service now provide service to charter aircraft that are operated on a commercial basis. The distinction is simply not needed. The marketplace and the limited number of 454/459 MHz frequencies will largely restrict such uses to aircraft other than those employed by scheduled air carriers. No regulatory prohibition is needed.

B. ERP Restrictions

Section 22.809(a), as proposed, indicates that the effective radiated power of ground station transmitters must not exceed 100 watts and must not be less than 50 watts. This limitation does not expressly provide for low power operation when a transmitter is in the idle condition. Consequently, Telocator suggests that the Commission modify the rule to add the phrase "when not operating in an idle condition" at the beginning of this subsection.

C. Mileage Separation

Proposed Section 22.813(a) prohibits licensing of facilities operating less than 497 miles from an authorized co-channel station. An inconsistency exists in this rule because of currently authorized co-channel transmitters on Channel 5 in Columbia, Missouri, and Shreveport, Louisiana. These stations are 451 miles apart.

Telocator suggests the Commission avoid an anomaly in its rules by revising this proposed section to indicate that the separation criteria should be 451 miles (722 km) rather than 497 miles. This will eliminate the need for the Commission to distinguish the two locations listed above.

V. CELLULAR ISSUES

**A. Major/Minor Modifications
- Cellular Systems**

As currently written, the Commission's proposed rules would require cellular carriers to file an unserved area application on Form 401 for any enlargement of their CGSAs once a market has passed its five-year date. This includes situations where the change is an insignificant modification to a system due to the adjustment of an antenna or other equipment. Requiring Form 401 unserved area applications for such de minimis changes would impose an unnecessary burden on both the Commission and the carriers. Accordingly, Telocator suggests that the FCC establish a five-mile buffer zone around the CGSA of a market at its five-year date and allow cellular carriers to make modifications within the zone on a Form 489 basis as long as no extensions are proposed into adjacent markets.

In addition, the agency should modify Sections 22.123, 22.163 and 22.165 to reflect its decision to permit cellular carriers to add or modify transmitters within the core of their systems without notifying the Commission. At the same time, the FCC should clarify that carriers are required to file Form 489s to modify or add transmitters constituting the outside boundaries of their CGSA.⁴⁷ Telocator also is troubled by an ambiguity in the rules regarding interference protection afforded to inner cell sites.

⁴⁷ Information regarding the outside contours of a market is necessary to allow adjacent markets to efficiently design their own systems. In addition, it gives the Commission and other carriers a picture of the system's coverage area.

Section 22.163 of the agency's proposed rules suggests that no site will be offered protection unless a Form 489 is filed. Yet, the agency recently announced that Form 489 notifications will not be required for certain minor changes to cellular systems.⁴⁸ Telocator recommends that the FCC specify that interference protection will be afforded to facilities operating within the aggregate contour of a cellular system.

B. Cellular Height/Power Waivers

The Commission's proposed rule in Section 22.913(b) appears to eliminate the ability of cellular licensees to operate above the height/power limitations when they have obtained consent to construct the facilities from cellular licensees located within seventy-five miles. Carriers and their customers currently benefit from such negotiated arrangements. This mechanism, embodied in Section 22.905 of the current rules, allows companies to improve service without prejudicing the rights of adjacent licensees. It also avoids the administrative burdens associated with seeking such a waiver from the agency. Telocator therefore asks the agency to restore this provision to its rules.⁴⁹

⁴⁸ See Unserved Areas Rulemaking, 7 FCC Rcd 2449 (1992).

⁴⁹ Proposed language is set forth in Section 22.913 in the Attachment.

C. Dispatch Operations

The Commission has deleted the term "dispatch" from its definitions in Section 22.99. The definition is essential to advise carriers of the scope and application of the prohibition on offering dispatch service over cellular systems. See proposed Section 22.901(c).

Telocator recommends that the Commission insert into its final rules the definition of dispatch adopted in the Flexible Cellular rulemaking.⁵⁰ Specifically, the agency should define dispatch as:

Two-way communication, normally of not more than one minute's duration, that is transmitted between dispatcher and one or more land mobile stations, directly through a base station, without passing through the mobile telephone switching facilities.⁵¹

CONCLUSION

The Commission has an opportunity in this proceeding to implement a major overhaul of its rules for the benefit of consumers of mobile communications services. Telocator urges the agency to adopt its proposed rules with the modifications discussed above. By implementing the changes requested by Telocator, the Commission can foster the development of greater spectrum efficiency and the advent of innovative

⁵⁰ Flexible Cellular, 3 FCC Rcd 7033 (1988).

⁵¹ Id. at 7043, ¶ 77. Proposed Section 22.901(c) as revised in Attachment B sets forth this definition.

communication services. The FCC should move forward promptly on such a course of action.

Respectfully submitted,

TELOCATOR, THE PERSONAL
COMMUNICATIONS INDUSTRY
ASSOCIATION

By: David E. Hilliard

R. Michael Senkowski

David E. Hilliard

Kurt E. DeSoto

of

WILEY, REIN & FIELDING

1776 K Street, N.W.

Washington, D.C. 20006

(202) 429-7000

Its Attorneys

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ATTACHMENT A

Summary of Proposed Clarifications and Modifications

Summary Of Proposed Clarifications And Modifications

- **Modify the first come/first served policy to deter abusive filings that will harm existing wide-area service providers.**
- **Limit to one year the "condition" attached to licenses.**
- **Clarify that the amnesty provisions apply to the correction of the FCC's records.**
- **Revise the proposal regarding termination of authorizations to accommodate legitimate technological, market and business changes affecting carriers.**
- **Pursue magnetic filing proposals rather than adopt additional microfiche requirements.**
- **Confirm that the use of unofficial records will not result in forfeitures.**
- **Clarify the scope and procedures for "finder's preference" applications.**
- **Expand the period for filing renewals to one year before expiration to accommodate limited industry and Commission resources.**
- **Explain the use of old and new coordinates to avoid confusion and service delays.**
- **Eliminate unnecessary information and sketches to further reduce the size of FCC Forms.**
- **Clarify the tower marking and lighting requirements for pre-grant construction.**
- **Increase to one year the period for closing assignments and transfers.**
- **Clarify the control point and posting requirements.**
- **Apprise parties of certain 489 filings through Public Notices.**

- Clarify the rule regarding protection of AM broadcast antennas.
- Improve the mechanisms for consolidating callsigns.
- Retain the flexibility to employ multichannel transmitters so that carriers may continue to satisfy a variety of service needs.
- Allow for station identification every 60 minutes to increase subscriber access to spectrum.
- Accept the filing of an application for an additional channel upon the grant of a construction permit.
- Clarify the definition of interference to accord licensees needed certainty regarding their rights to continue offering service to subscribers.
- Re-evaluate the 931 MHz separations tables, minor modification rules and assignment policies.
- Implement rules to allow for limited modifications to control facilities.
- Allow mobile frequencies to be used to control paired or unpaired channels on a secondary basis to enhance spectrum utilization.
- Examine anomalies in the air-ground proposals.
- Facilitate minor expansions of a CGSA.
- Accord interference protection to inner cellular sites.
- Restore the rules that allow higher height/power cellular facilities pursuant to agreement.
- Insert the definition of "dispatch" into Section 22.901.

ATTACHMENT B

Recommend additions are in bold with a shadow.
Proposed deletions are shown with a strike through language to be removed.

§ 22.99 Definitions.

Terms used in this part have the following meanings:

Assignment of authorization. A transfer of a Public Mobile Services authorization from one party to another, voluntarily or involuntary, directly or indirectly, or by. *See also* "transfer of control of the licensee."

Protected station. A base or fixed station authorized under this Part entitled to protection from interference in accordance with this Part and recorded in the Commission's database following the filing of a notification of the commencement of service to the public.

Repeater. A fixed transmitter that retransmits the signals of other fixed stations or mobile stations.

Service to the public. As used in this Part, the term "service to the public" means that the facilities authorized by the Commission have been constructed in accordance with the Commission's Rules and are either (1) actually providing service to customers or (2) if no customers are yet using the facilities, are fully capable of providing service within a reasonable period of time following a request by a representative of the Commission and are available to customers upon their request. With respect to the Cellular Radio Telephone Service, *see also* §22.946.

Transfer of control. A transfer of the controlling interest in a Public Mobile Services licensee from one party to another. *See also* "assignment of authorization."

§ 22.105 Written applications, standard forms, microfiche, magnetic disks.

Except for authorizations granted under the emergency conditions set forth in § 308 of the Communications Act of 1934 (47 U.S.C. 308), the Commission may grant authorizations only upon written application received by it. A separate written application is required for each authorization. Applicants shall submit any documents, exhibits, or other written statements of fact that the Commission may require in determining whether to grant, deny or dismiss an application.

(a) Formal applications, amendments and notifications. Except as provided in paragraph (b) of this section, applications, amendments and notifications must be filed using the standard forms listed in paragraph (c) of this section.

(b) Informal applications, amendments and notifications. Applications, amendments and notifications in letter or document form may be accepted for filing, if none of the standard forms listed in this section are prescribed for or clearly applicable for the intended purpose. Such informal applications, amendments and notifications must be submitted in duplicate, with a caption clearly stating 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, if any, and must contain all necessary technical data and exhibits.

(c) Standard forms. Standard forms may be obtained in small quantities from the FCC. Standard forms may be reproduced and the copies used. Computer-generated standard forms may also be used after approval by the Commission staff. Standard forms used for applications, amendments, notifications and reports in the Public Mobile Services are listed in Table B-1.

(d) Microfiche required. All filings and submissions related to stations in the Public Mobile Services, such as applications (including exhibits and attachments), notifications, amendments, reports, correspondence and pleadings must be submitted in microfiche form, except as provided in paragraphs (d)(1) and (g) of this section.

(1) Emergency filings, such as requests for special temporary authority, need not be submitted in microfiche form. Filings and submissions (other than standard application forms) that are no longer than three pages need not be submitted in microfiche form. Standard application forms must be submitted in microfiche form, even if they comprise three pages or less. **Pleadings may be filed in microfiche form within 15 days of the submittal of the signed paper original in accordance with Section 1.45 of this Chapter.**

(2) Three microfiche copies of each filing or submission must be submitted. Each microfiche copy must be a complete copy of the signed paper original. Each microfiche must be a 148mm by 105mm negative (clear transparent characters appearing on a black background) at 24× or 27× reduction. At least one of the microfiche copies must be a silver halide camera master or a copy made on silver halide film such as Kodak Direct Duplicatory Film. Microfiche must be placed in paper microfiche envelopes and submitted in a 5" by 7½" envelope. Applicants must leave Row "A" (the first row for page images) of the first microfiche blank for Commission use.

(3) The following information must be printed on the mailing envelope, the microfiche envelope, and the title area at the top of the microfiche:

(i) for applications other than initial applications in the Cellular Radiotelephone Service, notifications, amendments, reports, correspondence, and pleadings - the name of the applicant, the city and state of the application and the call sign of the station, if the application refers to an existing station.

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

Purpose of Filing	Form Number	Title of Form
<ul style="list-style-type: none">• application for new or modified station• major amendment to pending application• application for partial assignment of authorization	401	Application for Public Mobile Services Radio Station Authorization
<ul style="list-style-type: none">• application for renewal of authorization	405	Application for Renewal of Station License
<ul style="list-style-type: none">• application for airborne mobile authorization	409	Application for Airborne Mobile Radiotelephone Authorization
<ul style="list-style-type: none">• qualification of new common carrier	430	Common Carrier and Satellite Radio Licensee Qualification Report
<ul style="list-style-type: none">• notification of completion of construction• notification of minor modification of station	489	Notification of Status or Minor Modification of Public Mobile Services Station
<ul style="list-style-type: none">• application for assignment of authorization• application for approval of transfer of control	490	Application for Assignment or Transfer of Control of Public Mobile Services Station

(ii) for initial applications in the Cellular Radiotelephone Service -the name of the applicant, the market name, the market number, and the channel block.

(e) Paper original required. Except for initial applications in the Cellular Radiotelephone Service, the paper originals of applications, notifications, amendments, reports, ~~and~~ 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 ~~and shall be stamped "ORIGINAL" on the top page.~~

(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 (HOD).

(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.

§ 22.115 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 **and applications proposing to mount an antenna atop an existing structure**, need not contain a drawing, **provided however that in lieu of a drawing any application proposing to mount an antenna atop an existing structure shall clearly indicate the height of the structure without the antenna and the height to the tip of the top mounted antenna.**) 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. **Any narrative submitted when a drawing is not required shall note clearly the height to the tip of the top mounted antenna, the overall structure height including appurtenances, 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.

* * *

§ 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 of 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, **provided however, that this provision shall not apply in the case of an authorization voluntarily submitted for cancellation or to an application for co-channel facilities within 64 km (40 miles) of an operating station controlled by the applicant.**

§ 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. **Licenses are encouraged to file notifications on Form 489 of minor changes in order that minor changes may be incorporated into the Commission's data bases and reflected in the official record for the station. See § 22.99 ("Protected Station") and § 22.101.**

(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, **except when a base station is proposed to be employed as a control station;**

(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, **except as provided herein with respect to 931 MHz base stations;**

(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, **except as provided herein with respect to 931 MHz base stations ;**

(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 by more than 2 km, provided that (1) a control station operating on a base station channel may be relocated more than 2 km if such modification is in accordance with the provisions of this Section pertaining to minor changes in base stations and that (2) a control station operating in the 928, 932, or 959 MHz bands may be relocated more than 2 km provided that the Commission is notified by the filing of a notification on Form 489 and that there is no decrease in the co-channel separation required under this Part for such stations; or,

(F) **relocate a base station in the 931 MHz band by more than 2 km, provided that (1) no relocation of a 931 MHz base station shall be allowed as a minor change if the facilities are between Line A or line C and the U.S. -Canada border and operate on a channel as to which the United States does not have priority or (2) such relocation would decrease the co-channel separation to less than 113 km.**

(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 **where the change would be a major change if the proposed facility were an authorized station;** 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) **unless the expanded service area is within a five mile (8 km) buffer surrounding the CGSA but within the cellular market area;**

(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.

§ 22.127 Public notices.

~~Periodically~~ ~~On a regular basis~~, 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.

~~(d) Notification of commencement of service to the public. Form 489 notifications of commencement of service to the public pursuant to an authorization issued by the Commission or under the provisions of this Part~~

pertaining to fill-in stations and minor changes in existing stations for which the licensee has filed Form 489 notifications

§ 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~~ **one year** 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~~ **remain with** 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~~ **one year** 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~~ **remain with** 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.

§ 22.143 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. ~~Unless restricted by this section, applicants~~ 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 upon the filing of an application to the Commission, seeking authority for the proposed facilities.~~

~~(e)(b)~~ 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)(c)~~ 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)(d)~~ 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)(e)~~ 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 known to be mutually exclusive with any other application;
- (2) no petitions to deny the application have been filed prior to construction;
- (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 or proposes construction for which no additional painting and lighting specifications are required as in the case of an applicant mounting an antenna on an existing antenna structure without exceeding the height of the structure and the structure is already marked and lighted in compliance

with applicable marking and lighting conditions imposed on the applicant or other Commission licensee(s) having facilities on the structure;

(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, **unless it is for a channel that has already been coordinated between the U.S. and Canada as a channel on which U.S. stations shall have priority;**

(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, **provided, however, that operation may continue pursuant to the special temporary authorization if a request for extension of the authorization is filed 10 days before its expiration and the authorization is not specifically conditioned upon termination without continued operation upon the timely filing of an extension request.**

(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~~ **12 months** 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~~ **within 30 days following public notice of the acceptance for filing of the renewal application.** Additional renewal requirements applicable only to specific Public Mobile Services are set forth in the subparts governing those services.

§ 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~~ **a claim of co-channel** 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