

Action	FCC Form No.	Fee amount	Fee Type Code	Address
j. Notification of commencement of service to subscribers (per notification).	FCC 489 & FCC 159	45.00	CAF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
k. Request for special temporary authority (per channel/per location).	written request & FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
l. Application to combine separate authorizations (per call sign).	FCC 401 & FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
m. Application for new or modified auxiliary test transmitter (per transmitter).	FCC 401 & FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
n. Application for new or modified standby transmitter (per transmitter).	FCC 401 & FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.

8. Part 22 is revised to read as follows:

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AUTHORITY: 47 U.S.C. §§ 154, 303, unless otherwise noted.

#### Subpart A - Scope and Authority

##### § 22.1 Basis and purpose.

This section contains a concise general statement of the basis and purpose of the rules in this part, pursuant to 5 U.S.C. § 553(c).

(a) Basis. These rules are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. § 151 et. seq.

(b) Purpose. The purpose of these rules is to establish the requirements and conditions under which domestic common carrier radio stations may be licensed and used in the Public Mobile Services.

##### § 22.3 Authorization required.

Stations in the Public Mobile Services must be used and operated only in accordance with the rules in this part and with a valid authorization granted by the FCC under the provisions of this part.

(a) The holding of an authorization does not create any rights beyond the terms, conditions and period specified in the authorization. Authorizations may be granted upon proper application, provided that the FCC finds that the applicant is qualified in regard to citizenship, character, financial, technical and other criteria, and that the public interest, convenience and necessity will be served. See 47 U.S.C. §§ 301, 308, and 309.

(b) Authority for subscribers to operate mobile or fixed stations in the Public Mobile Services, except for certain stations in the Rural Radiotelephone Service and the Air-ground Radiotelephone Service, is included in the authorization held by the common carrier providing service to them. Subscribers are not required to apply for, and the FCC does not accept applications from subscribers for, individual mobile or fixed station authorizations in the Public Mobile Services, except as follows:

(1) Individual authorizations are required to operate general aviation airborne mobile stations in the Air-Ground Radiotelephone Service. See § 22.821.

(2) Individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as provided in § 22.703.

##### § 22.5 Citizenship.

The rules in this section implement Section 310 of the Communications Act of 1934, as amended (47 U.S.C. § 310), in regard to the citizenship of licensees in the Public Mobile Services.

(a) Foreign governments. The FCC will not grant an authorization in the Public Mobile Services to any foreign government or any representative thereof.

(b) Alien ownership or control. The FCC will not grant an authorization in the Public Mobile Services to:

(1) any alien or the representative of any alien;

(2) any corporation organized under the laws of any foreign government;

(3) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(4) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the FCC finds that the public interest will be served by the refusal or revocation of such license.

##### § 22.7 General eligibility.

Except as otherwise provided in this part, existing and proposed common carriers are eligible to hold authorizations in the Public Mobile Services. Applications are granted only if the applicant is legally, financially, technically and otherwise qualified to render the proposed service.

##### § 22.99 Definitions.

Terms used in this part have the following meanings:

Air-Ground Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

**Airborne station.** A mobile station in the Air-ground Radiotelephone Service authorized for use on aircraft while in flight or on the ground.

**Antenna structure.** A structure comprising an antenna, the tower or other structure that exists solely to support antennas, and any surmounting appurtenances (attachments such as beacons or lightning rods).

**Antenna.** A device that converts radio frequency electrical energy to radiated electromagnetic energy and vice versa; in a transmitting station, the device from which radio waves are emitted.

**Archival quality microfiche.** A silver halide master microfiche or a copy made on silver halide film.

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

**Authorization.** A written instrument or oral statement issued by the FCC conveying authority to operate, for a specified term, a station in the Public Mobile Services.

**Authorized bandwidth.** The necessary or occupied bandwidth of an emission, whichever is more.

**Authorized spectrum.** The spectral width of that portion of the electromagnetic spectrum within which the emission power of the authorized transmitter(s) must be contained, in accordance with the rules in this part. The authorized spectrum comprises one channel bandwidth or the bandwidths of two or more contiguous channels.

**Auxiliary test transmitter.** A fixed transmitter used to test Public Mobile systems.

**Base transmitter.** A stationary transmitter that provides radio telecommunications service to mobile and/or fixed receivers, including those associated with mobile stations.

**Blanketing interference.** Disturbance in consumer receivers located in the immediate vicinity of a transmitter, caused by currents directly induced into the consumer receiver's circuitry by the relatively high field strength of the transmitter.

**Build-out transmitters.** In the Cellular Radiotelephone Service, transmitters added to the first cellular system authorized on a channel block in a cellular market during the five year build-out period in order to expand the coverage of the system within the market.

**Cardinal radials.** Eight imaginary straight lines extending radially on the ground from an antenna location in the following azimuths with respect to true North: 0°, 45°, 90°, 135°, 180°, 225°, 270°, 315°.

**Carrier frequency.** The frequency of the unmodulated electrical wave at the output of an amplitude modulated (AM), frequency modulated (FM) or phase modulated (PM) transmitter.

**Cell.** The service area of an individual transmitter location in a cellular system.

**Cellular Geographic Service Area.** The geographic area served by a cellular system, within which that system is entitled to protection and adverse effects are recognized, for the purpose of determining whether a petitioner has standing. See § 22.911.

**Cellular markets.** Standard geographic areas used by the FCC for administrative convenience in the licensing of cellular systems. See § 22.909.

**Cellular Radiotelephone Service.** A radio service in which common carriers are authorized to offer and provide cellular service for hire to the general public. This service was formerly titled Domestic Public Cellular Radio Telecommunications Service.

**Cellular repeater.** In the Cellular Radiotelephone Service, a stationary transmitter or device that automatically re-radiates the transmissions of base transmitters at a particular cell site and mobile stations communicating with those base transmitters, with or without channel translation.

**Cellular service.** Radio telecommunication services provided using a cellular system.

**Cellular system.** An automated high-capacity system of one or more multichannel base stations designed to provide radio telecommunication services to mobile stations over a wide area in a spectrally efficient manner. Cellular systems employ techniques such as low transmitting power and automatic hand-off between base stations of communications in progress to enable channels to be reused at relatively short distances. Cellular systems may also employ digital techniques such as voice encoding and decoding, data compression, error correction, and time or code division multiple access in order to increase system capacity.

**Center frequency.** The frequency of the middle of the bandwidth of a channel.

**Central office transmitter.** A fixed transmitter in the Rural Radiotelephone Service that provides service to rural subscriber stations.

**CGSA.** See Cellular Geographic Service Area.

**Channel.** The portion of the electromagnetic spectrum assigned by the FCC for one emission. In certain circumstances, however, more than one emission may be transmitted on a channel. See, for example, § 22.161.

**Channel bandwidth.** The spectral width of a channel, as specified in this part, within which 99% of the emission power must be contained.

**Channel block.** A group of channels that are assigned together, not individually.

**Channel pair.** Two channels that are assigned together, not individually. In this part, channel pairs are indicated by an elipsis between the center frequencies.

**Communications channel.** In the Cellular Radiotelephone and Air-ground Radiotelephone Services, a channel used to carry subscriber communications.

**Construction period.** The period between the date of grant of an authorization and the date of required commencement of service.

**Control channel.** In the Cellular Radiotelephone Service and the Air-ground Radiotelephone Service, a channel used to transmit information necessary to establish or maintain communications. In the other Public Mobile Services, a channel that may be assigned to a control transmitter.

**Control point.** A location where the operation of a public mobile station is supervised and controlled by the licensee of that station.

**Control transmitter.** A fixed transmitter in the Public Mobile Services that transmits control signals to one or more base or fixed stations for the purpose of controlling the operation of the base or fixed stations, and/or transmits subscriber communications to one or more base or fixed stations that retransmit them to subscribers.

**Dead spots.** Small areas within a service area where the field strength is lower than the minimum level for reliable service. Service within dead spots is presumed.

**Dispatch service.** A radiotelephone service comprising communications between a dispatcher and one or more mobile units. These communications normally do not exceed one minute in duration and are transmitted directly through a base station, without passing through mobile telephone switching facilities.

**Effective radiated power (ERP).** The effective radiated power of a transmitter (with antenna, transmission line, duplexers etc.) is the power that would be necessary at the input terminals of a reference half-wave dipole antenna in order to produce the same maximum field intensity. ERP is usually calculated by multiplying the measured transmitter output power by the specified antenna system gain, relative to a half-wave dipole, in the direction of interest.

**Emission.** The electromagnetic energy radiated from an antenna.

**Emission designator.** An internationally accepted symbol for describing an emission in terms of its bandwidth and the characteristics of its modulation, if any. See § 2.201 of this chapter for details.

**Emission mask.** The design limits imposed, as a condition for type acceptance, on the mean power of emissions as a function of frequency both within the authorized bandwidth and in the adjacent spectrum.

**Equivalent isotropically radiated power (EIRP).** The equivalent isotropically radiated power of a transmitter (with antenna, transmission line, duplexers etc.) is the power that would be necessary at the input terminals of a reference isotropic radiator in order to produce the same maximum field intensity. An isotropic radiator is a theoretical lossless point source of radiation with unity gain in all directions. EIRP is usually calculated by multiplying the measured transmitter output power by the specified antenna system gain, relative to an isotropic radiator, in the direction of interest.

**Extension.** In the Cellular Radiotelephone Service, an area within the service area boundary of a cellular system, but outside of the market boundary. See §§ 22.911(c) and 22.912.

**Facsimile service.** Transmission of still images from one place to another by means of radio.

**Fill-in transmitters.** Transmitters added to a station, in the same area and transmitting on the same channel or channel block as previously authorized transmitters, that do not expand the existing

service area, but are established for the purpose of improving reception in dead spots.

**Five year build-out period.** A five year period during which the licensee of the first cellular system authorized on each channel block in each cellular market may expand the system within that market. See § 22.947.

**Fixed transmitter.** A stationary transmitter that communicates with other stationary transmitters.

**Frequency.** The number of cycles occurring per second of an electrical or electromagnetic wave; a number representing a specific point in the electromagnetic spectrum.

**Ground station.** In the Air-ground Radiotelephone Service, a stationary transmitter that provides service to airborne mobile stations.

**Height above average terrain (HAAT).** The height of an antenna above the average elevation of the surrounding area.

**In-building radiation systems.** Supplementary systems comprising low power transmitters, receivers, indoor antennas and/or leaky coaxial cable radiators, designed to improve service reliability inside buildings or structures located within the service areas of stations in the Public Mobile Services.

**Initial cellular applications.** Applications for authority to construct and operate a new cellular system, excluding applications for interim operating authority.

**Interfering contour.** The locus of points surrounding a transmitter where the predicted median field strength of the signal from that transmitter is the maximum field strength that is not considered to cause interference at the service contour of another transmitter.

**Interoffice transmitter.** A fixed transmitter in the Rural Radiotelephone Service that communicates with other interoffice transmitters for the purpose of interconnecting rural central offices.

**Meteor burst propagation mode.** A long distance VHF radio communication path occurring as a result of the refraction of electromagnetic waves by ionized meteor trails.

**Mobile station.** One or more transmitters that are capable of operation while in motion.

**Necessary bandwidth.** The calculated spectral width of an emission. Calculations are made using procedures set forth in Part 2 of this chapter. The bandwidth so calculated is considered to be the minimum necessary to convey information at the desired rate with the desired accuracy.

**Occupied bandwidth.** The measured spectral width of an emission. The measurement determines occupied bandwidth as the difference between upper and lower frequencies where 0.5% of the emission power is above the upper frequency and 0.5% of the emission power is below the lower frequency.

**Offshore central transmitter.** A fixed transmitter in the Offshore Radiotelephone Service that provides service to offshore subscriber stations.

**Offshore Radiotelephone Service.** A radio service in which

common carriers are authorized to offer and provide radio telecommunication services for hire to subscribers on structures in the offshore coastal waters of the Gulf of Mexico.

**Offshore subscriber station.** One or more fixed and/or mobile transmitters in the Offshore Radiotelephone Service that receive service from offshore central transmitters.

**Pager.** A small radio receiver designed to be carried by a person and to give an aural, visual or tactile indication when activated by the reception of a radio signal containing its specific code. It may also reproduce sounds and/or display messages that were also transmitted. Some pagers also transmit a radio signal acknowledging that a message has been received.

**Paging and Radiotelephone Service.** A radio service in which common carriers are authorized to offer and provide paging and radiotelephone service for hire to the general public. This service was formerly titled Public Land Mobile Service.

**Paging service.** Transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

**Partitioned cellular market.** A cellular market with two or more authorized cellular systems on the same channel block during the five year build-out period, as a result of settlements during initial licensing or contract(s) between the licensee of the first cellular system and the licensee(s) of the subsequent systems. See § 22.947(b).

**Public Mobile Services.** Radio services in which common carriers are authorized to offer and provide mobile and related fixed radio telecommunication services for hire to the public.

**Radio common carrier.** A telecommunications common carrier that provides radio communications services but is not engaged in the business of providing landline local exchange telephone service.

**Radio telecommunication services.** Communication services provided by the use of radio, including radiotelephone, radiotelegraph, paging and facsimile service.

**Radiotelegraph service.** Transmission of messages from one place to another by means of radio.

**Radiotelephone service.** Transmission of sound from one place to another by means of radio.

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

**Roamer.** A mobile station receiving service from a station or system in the Public Mobile Services other than one to which it is a subscriber.

**Rural Radiotelephone Service.** A radio service in which common carriers are authorized to offer and provide radio telecommunication services for hire to subscribers in areas where it is not feasible to provide communication services by wire or other means.

**Rural subscriber station.** One or more fixed transmitters in the Rural Radiotelephone Service that receive service from central office transmitters.

**Service area.** The geographic area considered by the FCC to be reliably served by a station in the Public Mobile Services.

**Service contour.** The locus of points surrounding a transmitter where the predicted median field strength of the signal from that transmitter is the minimum field strength that is considered sufficient to provide reliable service to mobile stations.

**Service to subscribers.** Service to at least one subscriber that is not affiliated with, controlled by or related to the providing carrier.

**Station.** A station equipped to engage in radio communication or radio transmission of energy [47 U.S.C. 153(k)].

**Telecommunications common carrier.** An individual, partnership, association, joint-stock company, trust or corporation engaged in rendering radio telecommunications services to the general public for hire.

**Temporary fixed station.** One or more fixed transmitters that normally do not remain at any particular location for longer than 6 months.

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

**Unserved areas.** In the Cellular Radiotelephone Service, areas outside of all existing CGSAs (on either of the channel blocks), to which the Communications Act of 1934, as amended, is applicable.

**Wireline common carrier.** A telecommunications common carrier that is also engaged in the business of providing landline local exchange telephone service.

#### Subpart B - Application Requirements and Procedures

##### § 22.101 Station files.

Applications, notifications, correspondence and other material, and copies of authorizations, comprising technical, legal, and administrative data relating to each station in the Public Mobile Services are maintained by the FCC in individual station files. These files constitute the official records for these stations and supersede any other records, data bases or lists from the FCC or other sources.

##### § 22.103 Representations.

Applicants must make full and continuing disclosure as required by § 1.65 of this chapter. Applicants must not make misrepresentations. The signing of an application or notification for new or additional facilities in the Public Mobile Services constitutes a representation that the applicant intends to use such facilities to provide service to subscribers in accordance with the rules in this part.

##### § 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, as amended (47 U.S.C. 308), the FCC may grant authorizations only upon written application (FCC Form 401) received by it. A separate written application is required for each authorization. Applicants shall submit any documents, exhibits, or other written statements of

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

Purpose of Filing	Form Number	Title of Form
<ul style="list-style-type: none"> <li>• application for new or modified station</li> <li>• major amendment to pending application</li> <li>• application for partial assignment of authorization</li> </ul>	401	Application for Mobile Radio Service Authorization
<ul style="list-style-type: none"> <li>• application for renewal of authorization</li> </ul>	405	Application for Renewal of Station License
<ul style="list-style-type: none"> <li>• application for airborne mobile authorization</li> </ul>	409	Application for Airborne Mobile Radiotelephone Authorization
<ul style="list-style-type: none"> <li>• application for assignment of authorization</li> </ul>	430	Licensee Qualification Report
<ul style="list-style-type: none"> <li>• notification of completion of construction</li> <li>• notification of minor modification of station</li> </ul>	489	Notification of Commencement of Service or of Additional or Modified Facilities
<ul style="list-style-type: none"> <li>• application for assignment of authorization</li> <li>• application for consent to transfer of control</li> </ul>	490	Application for Assignment of Authorization or Consent to Transfer of Control of Licensee

fact that the FCC 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 FCC 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, including 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.

(2) Three microfiche copies of each filing or submission must be submitted, except that, for initial Phase I unserved area applications

in the Cellular Radiotelephone Service (see § 22.949 of this part), two microfiche copies 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 background providing sufficient contrast to make legible copies) at 24x or 27x 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 FCC 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 notifications, amendments, reports, correspondence, pleadings and applications, other than initial applications in the Cellular Radiotelephone Service - 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.

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

(4) The microfiche copies of opposition and reply pleadings may be submitted after the required paper originals, in accordance with § 1.45 of this chapter.

(e) Paper original required. The paper originals of notifications, amendments, reports, correspondence and applications, other than initial Phase I unserved area applications in the Cellular Radiotelephone Service, must be submitted at the same time as the microfiche required by paragraph (d) of this section. The paper originals of initial Phase I unserved area applications selected in random selection processes must be submitted 7 days after the release of the public notice announcing the tentative selectee. The paper originals of opposition and reply pleadings must be submitted within the time frames established by § 1.45 of this chapter. 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 (if assigned) 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 FCC 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 compatible versions). A copy of each disk must also be submitted (2 identical disks per application).

(2) [reserved]

NOTE: Paragraph (g) of § 22.105 is not effective until further notice.

#### § 22.106 Filing fees; place.

Applications, amendments, notifications and other filings must be submitted to the FCC 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 Federal Communications Commission, Washington, DC 20554.

#### § 22.107 General application requirements.

In general, applications for authorizations, assignments of authorizations, or consent to transfer of control of licensees 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 FCC rules or application forms;

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

(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; and,

(f) Be signed in accordance with § 1.743 of this chapter.

#### § 22.108 Parties to applications.

Each application for an authorization, assignment of authorization, or for consent to transfer of control 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.

(d) For initial cellular applications, the name and address of each partner, his or her citizenship and the share or interest participation in the partnership. This information must be provided for all partners, regardless of their respective ownership interests in the partnership. A signed and dated copy of the partnership agreement must be included in the application. See § 22.953(a)(5)(v).

#### § 22.115 Content of applications.

Applications must contain all applicable 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.) If appropriate, the standard drawings on Schedule F of FCC Form 401 should be used to satisfy this requirement. Otherwise, the applicant may submit an exhibit containing the required 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 FCC, a Federal Aviation Administration (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 on the 1927 North American Datum (NAD27). Applicants may supply geographical coordinates based on NAD83 in addition to those required (NAD27).

(5) Environmental concerns. Each applicant is required to indicate at the time its application is filed whether or not an FCC 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 environmental review by the FCC must be completed prior to construction.

(b) Reference to material on file. Questions on application forms that call for specific technical data, or that can be answered yes or no or with another short answer, must be answered on the form. Otherwise, if documents, exhibits, or other lengthy showings already on file with the FCC 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" x 11" page and is current and accurate in all material 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 specific information as required by § 22.929 and § 22.953. Applications for authorization in the Paging and Radiotelephone Service must contain specific information as required by § 22.529, § 22.559 and § 22.589. 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 specific information as required by § 22.803 and § 22.875, as appropriate.

#### § 22.117 Content of notifications.

Notifications must contain all applicable information requested on the standard form and any additional information required by the rules in this part. See §§ 22.124, 22.137, 22.142, 22.163, 22.165, 22.941, and 22.946.

#### § 22.119 Requests for rule waivers.

The FCC 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 FCC 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) The FCC, in its discretion, may give public notice of the filing of a waiver request and seek comment from the public or affected parties.

(c) 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 FCC 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. For administrative efficiency, the FCC, in its discretion, occasionally consolidates separate applications filed simultaneously by the same applicant into a single application (with one file number) and splits applications comprising two or more severable proposals into separate applications (with different file numbers).

(b) **Received date.** The FCC 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 unacceptable for filing and may be 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 acceptable for filing.

(d) **Public notice: acceptance for filing.** The FCC periodically issues Public Notices that list applications that are acceptable for filing. The listing of an application on a Public Notice as acceptable for filing provides 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 or otherwise subject to dismissal under § 22.128.

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

Repetitious, inconsistent or conflicting applications are not accepted for filing by the FCC. Unless the FCC 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 FCC has, after hearing or default, denied the application or dismissed it with prejudice, the FCC 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 FCC's action on the original application.

(c) If an appeal has been taken from the action of the FCC 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 voluntarily cancelled or automatically terminated because of failure to commence service to subscribers (see § 22.144), the FCC 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. This paragraph does not apply to authorizations in the Cellular Radiotelephone Service.

#### § 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 or competitive bidding process, except as provided in paragraphs (b) and (c) of this section and in § 22.949 of this part.

(a) If a petition to deny or other formal objection has been filed, a copy of any amendment (or other filing) must be served on the petitioner. If the FCC 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 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 FCC 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 an FCC 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 FCC.

(b) **Developmental.** Applications are major if they request a developmental authorization pursuant to § 22.409 of this part, 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) **Paging and Radiotelephone Service.** In the Paging and Radiotelephone Service, filings are major if they:

(1) Request an authorization that would establish for the filer a new service area or fixed transmission path on a requested channel;

(2) Request an authorization that would extend the service area of an existing station to include area not served by station(s) authorized to the filer on a requested channel;

(3) Request an authorization that would extend the interfering contours of an existing station beyond the composite interfering contours of station(s) authorized to the filer on a requested channel;

(4) Request an authorization that would increase the effective

radiated power or antenna height above average terrain in any azimuth from an existing fixed transmitter authorized to the filer;

(5) Request an authorization that would relocate an existing fixed transmitter;

(6) Amend a pending application to change a requested channel;

(7) Amend a pending application in a way that would extend the service area of a station on a requested channel to include area that (i) would not have been served by that station as previously proposed in the application and (ii) is not already served by the station on the requested channel;

(8) Amend a pending application in a way that would extend the interfering contours of a station on a requested channel beyond (i) the composite interfering contours of that station as previously proposed in the application and (ii) the composite interfering contours of any other stations authorized to the filer on a requested channel;

(9) Amend a pending application to increase the proposed effective radiated power or antenna height above average terrain in any azimuth of a fixed transmitter;

(10) Amend a pending application to change the location of a fixed transmitter from that previously proposed in the application; or,

(11) Amend a pending application for which pre-filing coordination was required (see § 22.150 of this part) to change the technical proposal substantially from that which was coordinated with other users.

(f) Rural Radiotelephone Service. In the Rural Radiotelephone Service, filings are major if they:

(1) Request an authorization for a new central office or subscriber station;

(2) Request an authorization that would extend the interfering contours of an existing station beyond the composite interfering contours of station(s) authorized to the filer on a requested channel;

(3) Request an authorization that would increase the effective radiated power or antenna height above average terrain in any azimuth from an existing transmitter authorized to the filer;

(4) Request an authorization that would relocate an existing transmitter;

(5) Amend a pending application to change a requested channel;

(6) Amend a pending application in a way that would extend the interfering contours of a station on a requested channel beyond (i) the composite interfering contours of that station as previously proposed in the application and (ii) the composite interfering contours of any other stations authorized to the filer on a requested channel; or,

(7) Amend a pending application to increase the proposed effective radiated power or antenna height above average terrain in any azimuth of a transmitter.

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

(1) Request an authorization to operate a new cellular system;

(2) Request an authorization for facilities that would expand the cellular geographic service area (CGSA) of an existing cellular system, except during the applicable five year build-out period, if any;

(3) Request an authorization for facilities that would produce a de minimis service area boundary extension (see § 22.911(c)(1));

(4) Request that a CGSA boundary or a portion of a CGSA boundary be determined using an alternative method (see § 22.911(b));

(5) Amend a pending application to change the requested channel block; or,

(6) Amend a pending application by modifying the CGSA of the proposed cellular system to include area that (i) was not included in the CGSA as previously proposed in the application, and (ii) is not included in the currently authorized CGSA, if any.

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

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

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

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

(4) Amend a pending application to change the requested channel or channel block.

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

(1) Request an authorization for a new offshore central or subscriber station;

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

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

(j) Clerical errors. Amendments are classified as minor if they only correct typographical, transcription or similar clerical errors that are clearly demonstrated (e.g. by reference to other parts of the application) to be mistakes, and whose discovery and correction does not change information previously listed in a Public Notice.

#### § 22.124 Notification processing.

This section contains rules governing the processing of notifications (filed on FCC Form 489) in the Public Mobile Services.

(a) File numbers. Notifications received by the FCC 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 FCC. Assignment of a file number does not preclude the return of a notification subsequently found to be defective.

(b) Defective notifications. A notification is defective 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 FCC 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 may be returned to the licensee with a brief statement describing the deficiency. If a notification is found to be unacceptable, the FCC may 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 FCC 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. Requests 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 FCC 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 FCC 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 FCC issues Public Notices listing major filings and other information of public significance. Categories of Public Notice listings are as follows:

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

(b) Actions. FCC actions on pending applications previously listed as accepted for filing.

(c) Informative listings. Information that the FCC, 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 FCC may dismiss any application for authorization, assignment of authorization, or consent to transfer of control in the Public Mobile Services, upon request by the applicant, or if the application is untimely filed, or if the application is mutually exclusive with another application that is selected or granted in accordance with the rules in this part, or for failure to prosecute, or if the requested spectrum is not available, or if the application is found to be defective. Such dismissal may be "without prejudice," meaning that the FCC may accept from the applicant another application for the same purpose at any later time, or "with prejudice," meaning that the FCC 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) If the applicant requests dismissal of its application with prejudice, the FCC will dismiss that application with prejudice.

(2) If the applicant requests dismissal of its application without prejudice, the FCC will dismiss that application without prejudice, unless (i) it has been designated for comparative hearing, (ii) it has been selected in a random selection process or (iii) it is an application for which the applicant submitted the winning bid in a competitive bidding process. If the applicant requests dismissal of its application for which it submitted the winning bid in a competitive bidding process, the FCC will dismiss that application with prejudice. If the applicant requests dismissal of its application after that application has been designated for comparative hearing or selected in a random selection process, it may submit a written petition requesting that the dismissal be without prejudice. Such petition

must demonstrate good cause and comply with § 22.129 of this part and be served upon all parties of record. The FCC may grant such petition and dismiss the application without prejudice or deny the petition and dismiss the application with prejudice.

(b) Dismissal of mutually exclusive applications not granted. The FCC may dismiss mutually exclusive applications:

(1) For which the applicant did not submit the winning bid in a competitive bidding process;

(2) That are included in a random selection process but are not granted; or,

(3) That receive comparative consideration in a hearing but are not granted by order of the presiding officer.

(c) Dismissal for failure to prosecute. The FCC may dismiss applications for failure of the applicant to prosecute or for failure of the applicant 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 a 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 a random selection process. The FCC may dismiss applications with prejudice for failure of the applicant to comply with requirements related to a competitive bidding process.

(d) Dismissal as defective. The FCC 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; or,

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

(e) Dismissal because spectrum not available. The FCC may dismiss applications that request spectrum which is unavailable because:

(1) It is not allocated for assignment in the Public Mobile Services (see Part 2 of this chapter);

(2) It was previously assigned to another licensee on an exclusive basis or cannot be assigned to the applicant without causing interference; or,

(3) 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.

(f) Dismissal as untimely. The FCC 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, or after the cut-off date for a mutually exclusive application filing group.

§ 22.129 Agreements to dismiss applications, amendments or pleadings.

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 FCC. Parties that have filed or threatened to file a petition to deny, informal objection or other pleading against a pending application in the Public Mobile Services and then seek to withdraw or request dismissal of, or refrain from filing, the petition, either unilaterally or in exchange for a financial consideration, must obtain the approval of the FCC.

(a) The party withdrawing or requesting dismissal of its application, petition to deny, informal objection or other pleading or refraining from filing a pleading must submit to the FCC 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 party nor its principals has received or will receive any money or other consideration in excess of the legitimate and prudent expenses incurred in preparing and prosecuting the application, petition to deny, informal objection or other pleading in exchange for the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading, or threat to file a pleading, except that this provision does not apply to dismissal or withdrawal of applications pursuant 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, petition to deny, informal objection or other pleading or threat to file a pleading.

(b) In addition, within 5 days of the filing date of the applicant's 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, petition to deny, informal objection or other pleading; and

(2) The terms of any oral agreement relating to the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading.

(c) No person shall make or receive any payments in exchange for withdrawing a threat to file or refraining from filing a petition to deny, informal objection, or any other pleading against an application. For the purposes of this section, 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 FCC.

(d) For the purposes of this section:

(1) Affidavits filed pursuant to this section must be executed by the filing party, if an individual, a partner having personal knowledge of the facts, if a partnership, or an officer having personal knowledge of the facts, if a corporation or association.

(2) Applications, petitions to deny, informal objections and other pleadings are deemed to be pending before the FCC from the time the application or petition to deny is filed with the FCC until such time as an order of the FCC granting, denying or dismissing the application, petition to deny, informal objection or other pleading is no longer subject to reconsideration by the FCC 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, petition to deny, informal objection or other pleading 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.

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

Petitions to deny any major filing may be filed 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 FCC action regarding the major filing would be 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 FCC.

(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 FCC 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. The reason(s) for the dismissal are stated in the letter. 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 and in Part 1 of this chapter. The FCC may first dismiss any applications that are untimely filed or otherwise subject to dismissal under § 22.128 of this part. If any remaining applications continue to be mutually exclusive, the FCC may grant one of the mutually exclusive applications and dismiss the rest pursuant to § 22.128 of this part. In selecting the application to grant, the FCC may use competitive bidding, random selection processes or comparative hearings, depending on the nature of the mutually exclusive applications involved.

(b) Separate applications. Applicants that file an application, knowing that it will be mutually exclusive with one or more 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 other 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 FCC 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 FCC 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 FCC 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 FCC may grant, without a formal 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 FCC denies the petition(s) and issues a concise statement of the reason(s) for the denial, disposing of all substantive issues raised in the petitions.

(c) Partial and conditional grants. The FCC may grant applications in part, and/or subject to conditions other than those normally applied to authorizations of the same type. When the FCC does this, it will inform the applicant of the reasons therefor. Such partial or conditional grants are final unless the FCC 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 FCC 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 FCC is unable to make one or more of the findings listed in paragraph (a) of this section. The FCC may grant, deny or take other action with respect to applications designated for a hearing.

#### § 22.135 Settlement conference.

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

(a) The purposes of such conferences 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 FCC 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, subjecting that party's application or petition to dismissal by the FCC pursuant to § 22.128(c) 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 licensee holding such authorizations, only upon approval by the FCC. The assignee is responsible for ascertaining that the station facilities are and will remain in compliance with the terms and conditions of the authorization to be assigned.

(a) Application required. The assignor or transferor 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 no later than 30 days after the event causing the assignment. The assignee or transferee must file a report qualifying it as a common carrier (FCC Form 430) unless a current report is already on file with the FCC.

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

(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 FCC 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 FCC (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 FCC (FCC Form 489), and the assignee must submit the authorization(s) to the FCC for cancellation or request an extension of time to complete the assignment. If the assignment is not completed, the authorization(s) remain with the assignor.

(d) Limitations. The FCC may deny applications for assignment of authorization or consent to transfer of control if:

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

(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 texts of paragraphs (d) and (d)(3) of this section, the FCC may grant applications for pro forma assignments during the first year of operation.

#### § 22.139 Trafficking.

Carriers must not obtain or attempt to obtain an authorization in the Public Mobile services for the principal purpose of speculation or profitable resale of the authorization, 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 FCC to determine if the circumstances indicate trafficking in Public Mobile services authorizations.

(b) The FCC 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 of the authorization. This showing may include, for example, a demonstration that the proposed assignment is due to changed circumstances (described in detail) affecting the licensee after 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 subscribers no later than the date of required commencement of service specified on the authorization. If service to subscribers has not begun by the date of required commencement of service, the authorization terminates, in whole or in part, without action by the FCC, 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 terms of construction periods are given in the subparts of this part governing each Public Mobile Service.

(b) Notification requirement. Licensees must notify the FCC (FCC Form 489) of commencement of service to subscribers. The notification must be mailed or delivered to the filing place (see § 22.106 of this part) 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 subscribers 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 subscribers. If the licensee no longer intends to construct and/or operate the remaining authorized transmitters, the notification should so state.

(3) This section does not require licensees to notify the FCC of facilities added or modified pursuant to the provisions of §§ 22.163 and 22.165 of this part. It applies only to facilities specifically listed in authorizations for which a construction period is provided.

(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 FCC may grant applications for extension of the construction period if the licensee shows that failure to commence providing service to subscribers is due to causes beyond its control.

(2) The FCC does not grant applications for extension of the construction period if failure to commence providing service to subscribers 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 FCC does not grant applications for extension of the construction period if the licensee fails to commence providing service to subscribers because it intends to assign the authorization. The FCC does not grant applications 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 (FCC Form 401) to relocate a transmitter because of involuntary loss of the proposed site or for other reasons due to causes beyond the licensee's control, the construction period is automatically extended pending disposition of that application.

(1) 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.

(2) The filing of applications for modifications other than involuntary 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 FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities in the Public Mobile Services.

(a) When applicants may begin construction. An applicant may begin construction of a facility 35 days after the date of the Public Notice listing the application for that facility as acceptable for filing, except that an applicant whose application to operate a new cellular system was selected in a random selection process may begin construction of that new cellular system 35 days after the date of the Public Notice listing it as the tentative selectee.

(b) Notification to stop. If the FCC 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 (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) 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 delays in issuing 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 FCC rules and orders.

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

(1) The application is not mutually exclusive with any other application, except for successful bidders and tentative selectees in the Cellular Radiotelephone Service;

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

(3) The application does not include a request for a waiver of one or more FCC rules;

(4) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, PRB, Support Services Branch, Gettysburg, PA 17325;

(5) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with § 1.1301 et. seq.; and,

(6) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required.

#### § 22.144 Termination of authorizations.

Authorizations in the Public Mobile Services remain valid until terminated in accordance with this section, except that the FCC 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 FCC action, on the expiration date specified therein, unless a timely application for renewal is filed (see § 22.145). No authorization granted under the provisions of this part shall be for a longer term than ten years. See 47 U.S.C. § 307(c).

(b) Failure to commence providing service to subscribers. Authorizations automatically terminate, in whole or in part, without specific FCC action, on the date of required commencement of

service, if service to subscribers is not commenced by that date (see § 22.142), except as provided in paragraph (b)(1) of this section.

(1) Authorizations do not terminate while a timely filed application for extension of the construction period is pending (see § 22.142(c)).

(2) If a timely filed application for extension of the construction period is dismissed or denied, the authorization automatically terminates, in whole or in part, without specific FCC action, on the day after the applicant or the applicant's attorney is notified of the FCC's action dismissing or denying the application for extension of the construction period.

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

(d) STAs. Special Temporary Authorizations (STAs) automatically terminate, without specific FCC action, at the end of the period specified therein, except as provided in paragraph (d)(1) of this section, or upon failure to comply with the terms and conditions therein.

(1) STAs do not terminate while a timely filed request for an extension of the STA term, in accordance with § 22.125(b) of this part, is pending.

(2) If a timely filed request for extension of the STA term is dismissed or denied, the STA automatically terminates, without specific FCC action, on the day after the applicant or the applicant's attorney is notified of the FCC's action dismissing or denying the request for extension.

(e) Cancellation. Authorizations submitted by licensees for cancellation terminate when the FCC gives Public Notice of such action.

#### § 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.

#### § 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 reasonable 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. 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) If a subsequent change in the technical parameters of a proposed facility could not affect the facilities of one or more of the parties that received an initial notification, the applicant 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 considered to be sufficiently accurate 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<sub>dd</sub> and LON1<sub>dd</sub> are the coordinates of the first location in degree-decimal format.
- (2) LAT2<sub>dd</sub> and LON2<sub>dd</sub> are the coordinates of the second location in degree-decimal format.
- (3) ML is the mean geodetic latitude in degree-decimal format.
- (4) KPD<sub>lat</sub> is the number of kilometers per degree of latitude at a given mean geodetic latitude.
- (5) KPD<sub>lon</sub> 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) For locations in Dade and Broward Counties, Florida, the method prescribed above may be used or average terrain elevation may be assumed to be 3 meters (10 feet).

#### § 22.161 Application requirements for ASSB.

Applications for base stations employing amplitude companded 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 not be classified as major in accordance with § 22.123.

(b) International coordination. The modifications are limited to those for which individual coordination of the channel assignment(s) with a foreign administration, under applicable international agreements and rules in this part, is not required.

(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, PRB, Support Services Branch, Gettysburg, PA 17325.

(d) Provision of information upon request. Licensees must supply administrative or technical information concerning the modified facilities upon request by the FCC. At the time modifications are made pursuant to this section, licensees must make a record of the pertinent technical and administrative information so that such information is readily available. See § 22.303 of this part.

(e) Notification required for modifications affecting CGSA. Licensees in the Cellular Radiotelephone Service must notify the FCC (FCC Form 489) of any modifications made under this section that cause a change in the Cellular Geographic Service Area boundary (including the removal of a transmitter or transmitters). The notification must include full size and reduced maps, and supporting engineering, as described in § 22.953(a)(5)(i)-(iii) of this part. If the modification involves a contract service area boundary (SAB) extension (see § 22.912), the notification must include a statement as to whether the five year build-out period for the system on the relevant channel block in the market into which the SAB extends has elapsed, and whether the SAB extends into any unserved area in that market. The notification must be mailed or delivered to the filing place (see § 22.106 of this part) no later than 15 days after the modification is made.

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

A licensee may operate additional transmitters at additional locations on the same channel or channel block as its existing system without obtaining prior Commission approval provided:

(a) International coordination. The locations and/or technical parameters of the additional transmitters are such that individual coordination of the channel assignment(s) with a foreign administration, under applicable international agreements and rules in this part, is not required.

(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, PRB, Support Services Branch, Gettysburg, PA 17325.

(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 72-76 MHz, 470-512 MHz, 928 MHz, 932 MHz, 941 MHz or 959 MHz frequency ranges.

(e) Cellular Radiotelephone Service. During the five year build-out period, the service area boundaries of the additional transmitters, as calculated by the method set forth in § 22.911(a) of this part, must remain within the market, except that the service area boundaries may extend beyond the market boundary into area that is part of the CGSA or is already encompassed by the service area boundaries of previously authorized facilities. After the five year build-out period, the service area boundaries of the additional transmitters, as calculated by the method set forth in § 22.911(a) of this part, must remain within the CGSA. Licensees must notify the FCC (FCC Form 489) of any transmitters added under this section that cause a change in the CGSA boundary. The notification must include full size and reduced maps, and supporting engineering, as described in § 22.953(a)(5)(i)-(iii) of this part. If the addition of transmitters involves a contract service area boundary (SAB) extension (see § 22.912), the notification must include a statement as to whether the five year build-out period for the system on the relevant channel block in the market into which the SAB extends has elapsed, and whether the SAB extends into any unserved area in that market. The notification must be mailed or delivered to the filing place (see § 22.106 of this part) no later than 15 days after the addition is made.

(f) Air-ground Radiotelephone Service. Ground stations may be added to Commercial Aviation air-ground systems at previously established ground station locations, pursuant to § 22.859 of this part, 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. This section does not apply to Basic Exchange Telecommunications Radio Systems.

(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 FCC, licensees must supply administrative or technical information concerning the additional transmitters. At the time transmitters are added pursuant to this section, licensees must make a record of the pertinent technical and administrative information so that such information is readily available. See § 22.303 of this part.

#### § 22.169 International coordination of channel assignments.

Channel assignments under this part are subject to the applicable provisions and requirements of treaties and other international agreements between the United States government and the governments of Canada and Mexico.

### 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 FCC at any reasonable hour.

##### § 22.303 Retention of station authorizations; Identifying transmitters.

The current authorization for each station, together with current administrative and technical information concerning modifications to facilities pursuant to § 22.163 of this part and added facilities pursuant to § 22.165 of this part 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, or in lieu of this photocopy, licensees may instead make available at each regularly attended control point the address or location where the licensee's current authorization and other records may be found. The station call sign must be clearly and legibly marked on or near every transmitting facility, 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 FCC 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 other natural disaster, civil unrest, widespread vandalism, national emergencies or emergencies declared by Executive Order of the President, 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 FCC 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;
- (4) Rural subscriber stations using Basic Exchange Telephone Radio Systems 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 FCC 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 FCC with reasonable dispatch and according to the tenor of the communication. Failure to do so may be considered by the FCC 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 FCC 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 subscribers for 90 continuous days is considered to have been permanently discontinued, unless the applicant notified the FCC 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.

Public Mobile Services 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, each 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 (EEOC), the Federal Communications Commission (FCC), 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 EEOC, the FCC 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 employees 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 employees of the licensee 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 FCC, 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 FCC, 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 FCC, must file such statement, required by paragraph (b) of § 22.321, no later than May 31, 1995.

(c) Report of complaints filed against licensees. Each licensee, regardless of how many employees it has, 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 may file a notification of such filing with the FCC in lieu of a report.

(d) Complaints of violations of Equal Employment Programs. Complaints alleging employment discrimination against a common carrier licensee are considered by the FCC 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 FCC maintains a liaison with that agency that keeps the FCC 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 FCC 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 FCC 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 FCC under § 1.815(a) of this chapter are investigated by the FCC.

(e) FCC 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 FCC 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 FCC.

(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 violation 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 FCC 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 FCC rules and policies; and

(d) The licensee notifies the FCC 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 responsible for station operation. This section does not require that the person on duty be at the control point or continuously monitor all transmissions of the station. However, the control point must have facilities that enable the person on duty to turn off the transmitters in the event of a

malfunction.

### 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 full accordance with applicable FCC rules and the terms and conditions of their authorizations are normally considered to be non-interfering. If the FCC determines, however, that interference which significantly interrupts or degrades a radio service is being caused, it may, after notice and an opportunity for a hearing, require modifications to any Public Mobile station as necessary 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 full accordance with its authorization and applicable FCC rules shall discontinue all transmissions, except those necessary for 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 or fixed 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.

(6) Facilities for which the FCC not notified. No protection is provided against interference to the service of any additional or modified transmitter operating pursuant to § 22.163 or § 22.165, unless and until the licensee notifies the FCC (FCC Form 489) of the additional or modified transmitter.

(7) In-building radiation systems. No protection is provided against interference to the service of in-building radiation systems (see § 22.383).

**§ 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 consumer antenna systems, or the use of high gain antennas or antenna booster amplifiers by consumers.

(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 FCC 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.**

Except as otherwise provided in this part, the carrier frequency of each transmitter in the Public Mobile Services must be maintained within the tolerances given in Table C-1.

**§ 22.357 Emission types.**

Any authorized station in the Public Mobile services may transmit the standard emission types set forth in this section, regardless of whether they are listed on the station authorization. Before using any emission type(s) other than those set forth in this section (e.g., amplitude companded single sideband), licensees must apply for (FCC Form 401) and obtain authority to do so, and must explain in detail the reason why such authority is needed. An explanation of the standard international emission designators used throughout the FCC rules is contained in Subpart C of Part 2 of this chapter.

(a) Any station in the Public Mobile Services may transmit unmodulated emissions (NON) for short periods for equipment testing.

(b) Any station in the Paging and Radiotelephone Service, Rural Radiotelephone Service or Offshore Radiotelephone Service may transmit:

(1) Emissions of the following 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;

**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