

#. New Section 1.907 is added to read as follows:

**Sec 1.907 Definitions.**

*Antenna power gain.* The ratio of the maximum radiation intensity to that of an isotropic (omnidirectional) radiator in the far field of its main (forward direction) lobe.

*Antenna power input.* The radio frequency peak or RMS power, as the case may be, supplied to the antenna from the antenna transmission line and its associated impedance matching network. Stations licensed pursuant to Part 97 shall use PEP as defined in section 97.3(b) for the antenna power input. Stations authorized pursuant to Part 95 shall use transmitter power as defined in section 95.639 for the antenna power input.

*Antenna structure.* The term antenna structure includes the radiating and receiving elements, its supporting structures, towers, and all appurtenances mounted thereon.

*Application.* A written request on a standard form for a station license as defined in Section 3(b) of the Communications Act, signed in accordance with Section 1.917 of this part, or a similar request to amend a pending application or to modify or renew an authorization. The term also encompasses requests to assign rights granted by the authorization or to transfer control of entities holding authorizations.

*Assigned frequency.* The center of the frequency band assigned to a station.

*Assigned frequency bandwidth.* The frequency band within which the emission of a station is authorized; the width of the band equals the necessary bandwidth plus twice the absolute value of the frequency tolerance.

*Auctionable license.* A Wireless Radio Service authorization identified in section 1.2102 of this part for which competitive bidding is used to select from among mutually exclusive applications.

*Auctionable license application.* A Wireless Radio Service license application identified in section 1.2102 of this part for which competitive bidding is used if the application is subject to mutually exclusive applications.

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

*Authorized bandwidth.* The maximum bandwidth permitted to be used by a station as specified in the station license. (See Sec. 2.202 of this chapter)

*Authorized power.* The maximum power a station is permitted to use. This power is specified by the Commission in the station's authorization or rules.

*Control point.* A location at which the control operator (an operator responsible for the operation of the transmitter) under the control and supervision of the licensee is stationed and performs the control operator function.

*Control station.* A fixed station, the transmissions of which are used to control automatically the emissions or operations of a radio station, or a remote base station transmitter.

*Coordination area.* The area associated with a station outside of which another station sharing the same or adjacent frequency band neither causes nor is subject to interfering emissions greater than a permissible level.

*Coordination contour.* The line enclosing the coordination area.

*Coordination distance.* The distance on a given azimuth from a station beyond which another station neither causes nor is subject to interfering emissions greater than a permissible level.

*Effective radiated power (ERP).* The product of the power supplied to the antenna multiplied by the gain of the antenna referenced to a half-wave dipole.

*Equivalent Isotropically Radiated Power (EIRP).* The product of the power supplied to the antenna multiplied by the antenna gain referenced to an isotropic antenna.

*Fixed service.* A radio communications service between specified fixed points.

*Fixed site.* The site of a transmitter or a receive antenna for a fixed station.

*Fixed station.* A station in a fixed radio communications service.

*Harmful interference.* Interference that endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radio communications service operating in accordance with the Radio Regulations.

*Microwave frequencies.* As used in this part, this term refers to frequencies of 890 MHz and above.

*Microwave link.* A link is defined as a simplex communications circuit between two points utilizing a single frequency/polarization assignment. A duplex communications circuit would require two links, one link in each direction.

*Mobile relay station.* A fixed transmitter used to facilitate the transmission of communications between mobile units.

*Mobile service.* A radio communication service carried on between mobile stations or receivers and land stations and by mobile stations communicating among themselves.

*Mobile station.* A radio communication station capable of being moved and which ordinarily does move.

*Non-auctionable license.* A Wireless Radio Service authorization identified in section 1.2102 of this part for which competitive bidding is not used to select from among mutually exclusive applications.

*Non-auctionable license application.* A Wireless Radio Service license application for which section 1.2102 of this part precludes the use of competitive bidding if the application is subject to mutually exclusive applications.

*Private line radio service.* A service whereby facilities for communication between two or more designated points are set aside for the exclusive use or availability for use of a particular customer and authorized users during stated periods of time.

*Private operational fixed point-to-point microwave service.* A private line radio service rendered on microwave frequencies by fixed and temporary fixed stations between points that lie within the United States or between points in the United States and points in its possessions or points in Canada or Mexico.

*Private Wireless Services.* Wireless Radio Services authorized by Parts 80, 87, 90, 95, 97, and 101 that are not Wireless Telecommunications Services, as defined in this part.

*Radio station.* A separate transmitter or a group of transmitters under simultaneous common control, including the accessory equipment required for carrying on a radio communications service.

*Radio communication.* Telecommunication by means of radio waves.

*Receipt date.* The date an electronic or paper application is received at the appropriate location at the Commission or Mellon Bank. Amendments to pending applications may result in the assignment of a new receipt date in accordance with section 1.927 of this part.

*Temporary fixed station.* A station established in a non-permanent mode (temporary) at a specified location for up to one year. Temporary fixed operations are itinerant in nature, and are not to be confused with mobile-type operations.

*Universal Licensing System.* The Universal Licensing System (ULS) is the consolidated database, application filing system, and processing system for all Wireless Radio Services. ULS supports electronic filing of all applications and related documents by applicants and licensees in the Wireless Radio Services, and provides public access to licensing information.

*Wireless Radio Services.* All radio services authorized in Parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97 and 101 of this chapter, whether commercial or private in nature.

*Wireless Telecommunications Services.* Wireless Radio Services, whether fixed or mobile, that meet the definition of "telecommunications service" as defined by 47 U.S.C. § 153, as amended, and are therefore subject to regulation on a common carrier basis. Wireless Telecommunications Services include all radio services authorized by Parts 20, 22, 24, 26, and 27 of this chapter. In addition, Wireless Telecommunications Services include Public Coast Stations authorized by Part 80 of this chapter. Commercial Mobile Radio Services authorized by Part 90 of this chapter, and common carrier fixed microwave services, Local Television Transmission Service (LTTS), Local Multipoint Distribution Service (LMDS), and Digital Electronic Message Service (DEMS), authorized by Part 101 of this chapter.

*Written request.* A request filed with the Commission on paper or electronically according to the defined procedure for submitting the particular type of request. Requests which do not otherwise have a defined submission procedure should be filed in accordance with section 1.41 of this part.

#. A new sub-title is added to read as follows:

"Application Requirements and Procedures"

#. Section 1.911 is amended to read as follows:

**Sec. 1.911 Station files.**

Applications, notifications, correspondence, electronic filings and other material, and copies of authorizations, comprising technical, legal, and administrative data relating to each station in the Wireless Radio Services are maintained by the Commission in ULS. These files constitute the official records for these stations and supersede any other records, databases or lists from the Commission or other sources.

#. Section 1.912 is removed:

**Sec. 1.912 [Removed]**

#. Section 1.913 is amended to read as follows:

**Sec. 1.913 Application forms; electronic and manual filing.**

(a) *Application Forms.* Applicants and licensees in the Wireless Radio Services shall use the following forms for all applications. These forms are:

(1) FCC Form 601, Application for Authorization in the Wireless Radio Services. The FCC Form 601 is used to apply for initial authorizations, modifications to existing authorizations, amendments to pending applications, renewals of station authorizations, developmental authorizations, special temporary authority, and notifications.

(2) FCC Form 602, Wireless Radio Services Ownership Form. The FCC Form 602 is used by applicants and licensees to provide and update ownership information as required by Sections 1.919, 1.948, 1.2112, and any other section that requires the submission of such information.

(3) FCC Form 603, Application for Assignment of Authorization. The FCC Form 603 is used to apply for Commission consent to assignments of existing authorizations. It is also used to apply for Commission consent to partial assignments of authorizations, including partitioning and/or disaggregation.

(4) FCC Form 604, Application for Transfer of Control. The FCC Form 604 is used to apply for Commission consent to the transfer of control of entities holding authorizations.

(5) FCC Form 605, Quick-form Application for Authorization for Wireless Radio Services. The FCC Form 605 is used in lieu of FCC Form 601 by applicants for certain Amateur, ship, aircraft, and General Mobile Radio Service authorizations, as well as Commercial Radio Operator Licenses.

(b) **Electronic filing.** Except as specified in subparagraph (d) or elsewhere in this chapter, all applications using FCC Forms 601 through 605 shall be filed electronically in accordance with the electronic filing instructions provided by ULS.

(c) **Auctionable license applications.** Auctionable license applications, as defined in section 1.907 of this part, shall also comply with the requirements of Subpart Q of this part and the applicable Commission orders and public notices issued with respect to each auction for a particular service and spectrum.

(d) **Manual filing.** Where manual filing of Forms 601 through 605 is allowed, applications that do not require prior coordination must be submitted to the Commission at the appropriate address with the appropriate filing fee. The addresses for filing and the fee amounts for particular applications are listed in Part 1, Subpart G, of this chapter, and in the appropriate fee filing guide for each service available from the Federal Communications Commission, Washington, DC 20554.

(1) Manually filed applications requiring fees as set forth at Part 1, Subpart G, of this chapter must be filed in accordance with Sec. 0.401(b), 47 C.F.R. 0.401(b).

(2) Manually filed applications that do not require fees must be addressed and sent to Federal Communications Commission, 1270 Fairfield Road, Gettysburg, Pennsylvania 17325-7245.

(e) **Applications requiring prior coordination.** All applications that require frequency coordination shall, prior to filing, complete all frequency coordination requirements in service-specific rules contained within this chapter. After appropriate frequency coordination, such applications may be electronically filed via ULS or, if filed manually, must be forwarded to the appropriate address with the appropriate filing fee (if applicable) in accordance with subparagraph (d).

(f) **Applications for amateur licenses.** Each application for a new amateur service operator/primary station license and each application involving a change in operator class must be submitted to the volunteer examiners (VEs) administering the qualifying examination. See section 97.17(c) of this chapter. The VEs are required to submit the applications of persons passing their respective examinations for amateur operator licenses to the Volunteer-Examiner Coordinator (VEC). See section 97.509(m) of this chapter. All other applications for amateur service licenses must be submitted to FCC, 1270 Fairfield Road, Gettysburg, PA 17325-7245, or electronically filed via ULS. Feeable requests for vanity call signs must be filed in accordance with Section 0.401 of this chapter or electronically filed via ULS.

#. Section 1.914 is removed:

**Sec. 1.914 [Removed]**

#. New Section 1.915 is added to read as follows:

**Sec. 1.915      General application requirements.**

(a) *General Requirement.* Except as provided in subparagraph (b) of this section, for all Wireless Radio Services, station licenses, as defined in Section 308(a) of the Communications Act, as amended; construction permits; operator licenses or modifications or renewals of the preceding; waivers of the Commission's rules; assignments and transfers of control of station licenses or any rights thereunder shall be granted only upon an application filed pursuant to sections 1.913 - 1.917 of this part.

(b)(1) *Exception for Emergency Filings.* The Commission may grant station licenses, or modifications or renewals thereof, without the filing of a formal application in the following cases:

(i) an emergency found by the Commission to involve danger to life or property or to be due to damage to equipment;

(ii) a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged, when such action is necessary for the national defense or security or otherwise in furtherance of the war effort; or

(iii) an emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedures.

(2) No such authorization shall be granted for or continue in effect beyond the period of the emergency or war requiring it. The procedures to be followed for emergency requests submitted under this subparagraph are the same as for seeking special temporary authority under Section 1.931 of this part. After the end of the period of emergency, the party must submit its request by filing the appropriate FCC form in accordance with subparagraph (a).

#. New Section 1.917 is added to read as follows:

**Sec. 1.917      Who may sign applications.**

(a) Except as provided in paragraph (b) of this section, applications, amendments, and related statements of fact required by the Commission must be signed as follows (either electronically or manually, *see* subparagraph (d) below): (1) by the applicant, if the applicant is an individual; (2) by one of the partners if the applicant is a partnership; (3) by an officer, director, or duly authorized employee, if the applicant is a corporation; (4) by a member who is an officer, if the applicant is an unincorporated association; or (5) by the trustee if the applicant is an amateur radio service club. Applications, amendments, and related statements of fact filed on behalf of eligible government entities such as states and territories of the United States, their political subdivisions, the District of Columbia, and units of local government, including unincorporated municipalities, must be signed by a duly elected or appointed official who is authorized to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or absence from the United States, or by applicant's designated vessel master when a temporary permit is requested for a vessel. The attorney shall, when applicable, separately set forth the reason why the application is not

signed by the applicant. In addition, if any matter is stated on the basis of the attorney's or master's belief only (rather than knowledge), the attorney or master shall separately set forth the reasons for believing that such statements are true. Only the original of applications, amendments, and related statements of fact need be signed.

(c) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

(d) "Signed," as used in this section, means, for manually filed applications only, an original hand-written signature or, for electronically filed applications only, an electronic signature. An electronic signature shall consist of the name of the applicant transmitted electronically via ULS and entered on the application as a signature.

#. Section 1.918 is removed:

**Sec. 1.918 [Removed]**

#. New Section 1.919 is added to read as follows:

**Sec. 1.919 Ownership information.**

(a) Except as provided in subparagraph (f), applicants and licensees in the Wireless Radio Services shall use FCC Form 602 to provide all initial and updated ownership information required by this chapter.

(b) Any applicant that is subject to ownership disclosure requirements and does not have an FCC Form 602 on file at the time it submits an auction short-form application (FCC Form 175), application for new authorization (FCC Form 601), application for assignment of authorization (FCC Form 603), or application for transfer of control (FCC Form 604) shall also file an FCC Form 602 with the application. A single FCC Form 602 may be filed for multiple applications filed by the same applicant. There is no filing fee required to submit FCC Form 602.

(c) If an applicant or licensee filing an FCC Form 175, 601, 603, or 604 already has a current Form 602 on file, the applicant or licensee is not required to file an additional Form 602 but may incorporate the existing form by reference.

(d) If an applicant or licensee filing an FCC Form 175, 601, 603, or 604 has an FCC Form 602 on file, it must update the ownership information contained on FCC Form 602 under the following circumstances:

(1) where additional ownership information not previously submitted on FCC Form 602 is required in connection with the filing of the particular application; or

(2) where information previously submitted on FCC Form 602 is no longer current.

(e) Except as provided in subparagraph (f), applicants and licensees required to file FCC Form 602 shall include:

(1) For auctionable licenses and applications, all information required by sections 1.2105, 1.2110 and 1.2112;

(2) For non-auctionable licenses and applications, the applicant or licensee must disclose fully the real party (or parties) in interest, including (as required) a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant or licensee.

(f) For applicants and licensees that are government entities or operate in services that use FCC Form 605 (application for ship, aircraft, and General Mobile Radio Service authorizations, as well as Commercial Radio Operator Licenses), filing of the FCC Form 602 is not required.

#. Section 1.921 is removed.

**Sec. 1.921 [Removed]**

#. Section 1.922 is removed.

**Sec. 1.922 [Removed]**

#. Section 1.923 is amended to read as follows:

**Sec. 1.923 Content of applications.**

(a) Applications must contain all information requested on the applicable form and any additional information required by the rules pertaining to the specific service for which the application is filed.

(b) *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, referenced to NAD83, must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude.

(c) *Antenna structure registration.* Applications proposing the use of one or more new or existing antenna structures must contain the FCC Antenna Structure Registration Number, if assigned, of each such antenna structure for which Federal Aviation Administration (FAA) notification is or was required by part 17 of this chapter prior to its construction. If, at the time an application is filed, an FCC Antenna Structure Registration Number has not been assigned for any such antenna structure, the applicant must indicate in the application whether or not, as of the date the application is filed, the antenna structure owner has registered the antenna structure with the FCC in accordance with part 17 of this chapter.

(d) *FAA notification.* Before constructing a new antenna structure or increasing the height of an existing structure, an antenna structure owner may be required to obtain an FAA determination of No Hazard to Air Navigation. To obtain this determination, the FAA must be notified of the planned

construction or alteration. Criteria used to determine whether FAA notification is required for any particular antenna structure are contained in part 17 of this chapter.

(1) Applications proposing to use a new antenna structure or an existing antenna structure of which the height is increased must indicate whether FAA notification is required by part 17 of this chapter.

(2) If FAA notification is required by part 17 of this chapter, a copy of the FAA determination or the FAA study number should be included in the application. However, if 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.

(3) If FAA notification is not required by part 17 of this chapter, the application must so indicate and, unless the reason therefor is obvious (*e.g.*, antenna structure height is less than 6.10 meters above ground level), must contain a statement explaining why FAA notification is not required.

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

(f) *Quiet zones.* Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to radio frequency interference. Applications that propose service in a quiet zone must comply with service-specific showings with respect to quiet zones as required by the Commission's rules.

(g) *Frequency coordination, Canada.* (1) As a result of mutual agreements, the Commission has, since May 1950, had an arrangement with the Industry Canada for the exchange of frequency assignment information and engineering comments on proposed assignments along the Canada-United States borders in certain bands above 30 MHz. Except as provided in subparagraph (2) of this section, this arrangement involves assignments in the following frequency bands.

MHz

30.56-32.00	39.00-40.00	75.40-76.00	1850.0-2200.0
33.00-34.00	42.00-46.00	150.80-174.00	2450.0-2690.0
35.00-36.00	47.00-49.60	450-470	3700.0-4200.0
37.00-38.00	72.00-73.00	806.00-960.00	5925.0-7125.0

GHz

10.55-10.68	10.70-13.25
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(2) The following frequencies are not involved in this arrangement because of the nature of the services authorized:

MHz			
156.3	156.6	157.0 and 161.6	157.30
156.35	156.65	157.05	157.35
156.4	156.7	157.1	157.40.
156.45	156.8	157.15	
156.5	156.9	157.20	
156.55	156.95	157.25	

(3) Assignments proposed in accordance with the railroad industry radio frequency allotment plan along the United States-Canada borders utilized by the Federal Communications Commission and the Industry Canada, respectively, may be excepted from this arrangement at the discretion of the referring agency.

(4) Assignments proposed in any Wireless Radio Service in frequency bands below 470 MHz appropriate to this arrangement, other than those for stations in the Domestic Public (land mobile or fixed) category, may be excepted from this arrangement at the discretion of the referring agency if a base station assignment has been made previously under the terms of this arrangement or prior to its adoption in the same radio service and on the same frequency and in the local area, and provided the basic characteristics of the additional station are sufficiently similar technically to the original assignment to preclude harmful interference to existing stations across the border.

(5) For bands below 470 MHz, the areas which are involved lie between Lines A and B and between Lines C and D, which are described as follows:

*Line A*--Begins at Aberdeen, Wash., running by great circle arc to the intersection of 48 deg. N., 120 deg. W., thence along parallel 48 deg. N., to the intersection of 95 deg. W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45 deg. N., 85 deg. W., thence southward along meridian 85 deg. W., to its intersection with parallel 41 deg. N., thence along parallel 41 deg. N., to its intersection with meridian 82 deg. W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southern-most point of Searsport, Maine, at which point it terminates; and

*Line B*--Begins at Tofino, B.C., running by great circle arc to the intersection of 50 deg. N., 125 deg. W., thence along parallel 50 deg. N., to the intersection of 90 deg. W., thence by great circle arc to the intersection of 45 deg. N., 79 deg. 30' W., thence by great circle arc through the northernmost point of Drummondville, Quebec (lat: 45 deg.52' N., long: 72 deg.30' W.), thence by great circle arc to 48 deg.30' N., 70 deg. W., thence by great circle arc through the northernmost point of Campbellton, N.B., thence by great circle arc through the northernmost point of Liverpool, N.S., at which point it terminates.

*Line C*--Begins at the intersection of 70 deg. N., 144 deg. W., thence by great circle arc to the intersection of 60 deg. N., 143 deg. W., thence by great circle arc so as to include all of the Alaskan Panhandle; and

*Line D*--Begins at the intersection of 70 deg. N., 138 deg. W., thence by great circle arc to the intersection of 61 deg.20' N., 139 deg. W., (Burwash Landing), thence by great circle arc to the

intersection of 60 deg.45' N., 135 deg. W., thence by great circle arc to the intersection of 56 deg. N., 128 deg. W., thence south along 128 deg. meridian to Lat. 55 deg. N., thence by great circle arc to the intersection of 54 deg. N., 130 deg. W., thence by great circle arc to Port Clements, thence to the Pacific Ocean where it ends.

(6) For all stations using bands between 470 MHz and 1000 MHz; and for any station of a terrestrial service using a band above 1000 MHz, the areas which are involved are as follows:

- (i) For a station the antenna of which looks within the 200 deg. sector toward the Canada-United States borders, that area in each country within 35 miles of the borders;
- (ii) For a station the antenna of which looks within the 160 deg. sector away from the Canada-United States borders, that area in each country within 5 miles of the borders; and
- (iii) The area in either country within coordination distance as described in Recommendation 1A of the Final Acts of the EARC, Geneva, 1963 of a receiving earth station in the other country which uses the same band.

(7) Proposed assignments in the space radiocommunication services and proposed assignments to stations in frequency bands allocated coequally to space and terrestrial services above 1 GHz are not treated by these arrangements. Such proposed assignments are subject to the regulatory provisions of the International Radio Regulations.

(8) Assignments proposed in the frequency band 806-890 MHz shall be in accordance with the Canada-United States agreement, dated April 7, 1982.

#. Section 1.924 is removed:

**Sec. 1.924** [Removed]

#. Section 1.925 is amended to read as follows:

**Sec. 1.925** **Waivers.**

(a) *Waiver Requests Generally.* The Commission may waive specific requirements of the rules in this Subpart on its own motion or upon request. The fees for such waiver requests are set forth in Section 1.1101 of this part.

(b) *Procedure and Format for Filing Waiver Requests.*

(1) Requests for waiver of rules, unless contained in the body of another FCC Form, must be filed on FCC Form 601 or 605.

(2) Requests for waiver must contain a complete explanation as to why the waiver is desired. If the information necessary to support a waiver request is already on file, the applicant may cross-reference the specific filing where the information may be found.

(3) The Commission may grant a request for waiver if it is shown that:

(i) 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;

(ii) 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

(ii) The applicant has no reasonable alternative.

(4) Applicants requiring expedited processing of their request for waiver shall clearly caption their request for waiver with the words "WAIVER--EXPEDITED ACTION REQUESTED."

(c) *Action on Waiver Requests.*

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

(2) 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 will be processed using the alternative proposal as if the waiver had not been requested. Applications rendered defective may be dismissed without prejudice.

#. Section 1.926 is amended to read as follows:

**Sec. 1.926      Application processing; initial procedures.**

Applications are assigned file numbers and service codes in order to facilitate processing. 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. Purpose and service codes appear on the Commission forms.

#. New Section 1.927 is added to read as follows:

**Sec. 1.927      Amendment of applications.**

(a) Pending applications may be amended as a matter of right if they have not been designated for hearing or listed in a Public Notice as accepted for filing, except as provided in paragraphs (b) through (e) of this section. Applicants may be required by service-specific rules to obtain a new frequency coordination to amend technical parameters on applications.

(b) Applicants for an initial license in auctionable services may amend such applications only in accordance with Subpart Q of this part.

(c) Amendments to applications that resolve mutual exclusivity in non-auctionable licenses may be filed at any time, subject to the requirements of Section 1.945 of this part.

(d) Any amendment to an application for modification must be consistent with, and must not conflict with, any other application for modification regarding that same station.

(e) Amendments to applications designated for hearing may be allowed by the presiding officer or, when a proceeding is stayed or otherwise pending before the full Commission, may be allowed by the

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

(f) Amendments to applications are also subject to the service-specific rules in applicable parts of this chapter.

(g) Where an amendment to an application specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant, the applicant must provide an exhibit with the amendment application containing an affirmative, factual showing as set forth in section 1.948(g)(2).

#. New Section 1.929 is added to read as follows:

**Sec. 1.929 Classification of filings as major or minor.**

(a) Application filings, including applications to modify existing licenses and amendments to pending applications, are classified as major or minor. Categories of major and minor filings are listed in section 309 of the Communications Act of 1934, as amended (47 U.S.C. § 309).

(b) The following changes are considered major for all Wireless Radio Services, whether licensed geographically or on a site-specific basis:

- (1) Any substantial change in ownership or control, *but see* section 1.927(g);
- (2) Any addition or change in frequency, excluding removing a frequency;
- (3) Any request for partitioning or disaggregation;
- (4) Any modification or amendment requiring an environmental assessment (as governed by Secs. 1.1301-1319); or
- (5) Any modification or amendment requiring notification to the Federal Aviation Administration as defined in 47 C.F.R. Part 17, Subpart B.

(c) In addition to those changes listed in subparagraph (b) above, the following are major changes applicable to stations licensed to provide base-to-mobile, mobile-to-base, mobile-to-mobile, or repeater communications on a site-specific basis:

- (1) Any increase in antenna height above average terrain (HAAT);
- (2) Any increase in effective radiated power (ERP);
- (3) Any change in latitude or longitude; or
- (4) Any increase or expansion of coverage area (in this context, coverage area is defined in the rule parts governing the particular radio services).

(d) In addition to those changes listed in subparagraphs (b) and (c) above, the following are major changes applicable to stations licensed to provide exclusively fixed point-to-point, multipoint-to-point, or point-to-multipoint communications on a site-specific basis:

- (1) Any change in transmit antenna location by more than 5 seconds in latitude or longitude (*e.g.*, a 5 second change in both latitude and longitude would be minor);
- (2) Any increase in frequency tolerance;
- (3) Any increase in bandwidth;

- (4) Any change in emission type;
- (5) Any increase in EIRP greater than 3 dB;
- (6) Any increase in transmit antenna height (above mean sea level) more than 3 meters;
- (7) Any increase in transmit antenna beamwidth;
- (8) Any change in transmit antenna polarization;
- (9) Any change in transmit antenna azimuth greater than 1 degree;
- (10) Any change in latitude or longitude that requires special aeronautical study; or
- (11) Any change which together with all minor modifications or amendments since the last major modification or amendment produces a cumulative effect greater than any of the above major criteria.

(e) In the DEMS, in addition to those major changes listed in subparagraphs (b) and (c) above, changes to applications and authorizations will be considered major if they would result in

- (1) any increase in EIRP greater than 1.5 dB; or
- (2) any increase in antenna height less than 3.0 meters (10 feet) above the originally authorized height where the overall height of the antenna structure is not increased as a result of the antenna extending above the height of the originally authorized structure, except where the new height of the antenna structure is 6.1 meters (20 feet) or less after the change is made.

(f) For applications and modifications in all of the Wireless Radio Services, the following changes are considered minor:

- (1) Any non-substantial (*pro forma*) change in ownership or control;
- (2) Any name change not involving a substantial change in ownership or control;
- (3) Any address and/or telephone number changes;
- (4) Any changes in contact person;
- (5) Any change to a site where the licensee's interference contours are not extended and co-channel separation criteria are met;
- (6) Any conversion of site-specific licenses into a single geographic license where there is no change in the licensee's aggregate service area; or
- (7) Any other change not listed in this section as major.

#. Section 1.931 is amended to read as follows:

**Sec. 1.931      Application for special temporary authority, temporary permit or temporary operating authority.**

(a) Wireless Telecommunications Services.

(1) In circumstances requiring immediate or temporary use of Wireless Telecommunications Services stations, carriers may request special temporary authority (STA) to operate new or modified equipment. Such requests must be filed electronically using FCC Form 601 and must contain complete details about the proposed operation and the circumstances that fully justify and necessitate the grant of STA. Such requests should be filed in time to be received by the Commission at least 10 days prior to the date of proposed operation or, where an extension is sought, 10 days prior to the expiration date of the existing STA. Requests received less than 10 days prior to the desired date of operation may be given expedited consideration only if compelling reasons are given 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 STA must be accompanied by the proper filing fee.

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

(A) 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;

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

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

(D) 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.

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

(b) *Private Wireless Services.*

(1) A licensee of, or an applicant for, a station in the Private Wireless Services may request STA not to exceed 180 days for (A) operation of a new station or (B) operation of a licensed station in a manner which is beyond the scope of that authorized by the existing license. See sections 1.962(b)(5) and (f). For those Private Wireless Services that are Common Carrier Services, such requests must be filed electronically. Where the applicant, seeking a waiver of the 180 day limit, requests STA to operate as a private mobile radio service provider for a period exceeding 180 days, evidence of frequency coordination is required. Requests for shorter periods do not require coordination and, if granted, will be authorized on a secondary, non-interference basis.

(2) STA may be granted in the following circumstances:

(A) In emergency situations;

(B) To permit restoration or relocation of existing facilities to continue communication service;

(C) To conduct tests to determine necessary data for the preparation of an application for regular authorization;

(D) For a temporary, non-recurring service where a regular authorization is not appropriate;

(E) In other situations involving circumstances which are of such extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest.

(3) The nature of the circumstance which, in the opinion of the applicant justifies issuance of STA, must be fully described in the request. Applications for STA must be filed at least 10 days prior to the proposed operation. Applications filed less than 10 days prior to the proposed operation date will be accepted only upon a showing of good cause.

(4) The Commission may grant extensions of STA for a period of 180 days, but the applicant must show that extraordinary circumstances warrant such an extension.

(5) In special situations defined in sec. 1.915(b)(1), a request for STA may be made by telephone or telegraph provided a properly signed application is filed within 10 days of such request.

(6) An applicant for an Aircraft Radio Station License may operate the radio station pending issuance of an Aircraft Radio Station License by the Commission for a period of 90 days under temporary operating authority, evidenced by a properly executed certification made on FCC Form 605.

(7) Unless the Commission otherwise prescribes, a person who has been granted an operator license of Novice, Technician, Technician Plus, General, or Advanced class and who has properly submitted to the administering VEs an application document for an operator license of a higher class, and who holds a CSCE indicating that he/she has completed the necessary examinations within the previous 365 days, is authorized to exercise the rights and privileges of the higher operator class until final disposition of the application or until 365 days following the passing of the examination, whichever comes first.

(8) An applicant for a Ship Radio station license may operate the radio station pending issuance of the ship station authorization by the Commission for a period of 90 days, under a temporary operating authority, evidenced by a properly executed certification made on FCC Form 605.

(9) An applicant for a station license in the Industrial/Business pool (other than an applicant who seeks to provide commercial mobile radio service as defined in Part 20 of this chapter) utilizing an already authorized facility may operate the station for a period of 180 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 605, after filing an application for a station license together with evidence of frequency coordination, if required, with the Commission. The temporary operation of stations, other than mobile stations, within the Canadian coordination zone will be limited to stations with a maximum of 5 watts effective radiated power and a maximum antenna height of 20 feet (6.1 meters) above average terrain.

(10) An applicant for a radio station license under Part 90, Subpart S, of this chapter (other than an applicant who seeks to provide commercial mobile radio service as defined in Part 20 of this chapter) to utilize an already existing Specialized Mobile Radio System (SMR) facility or to utilize an already licensed transmitter may operate the radio station for a period of up to 180 days, under a temporary permit. Such request must be evidenced by a properly executed certification of FCC Form 601 after the filing of an application for station license, provided that the antenna employed by the control station is a maximum of 20 feet (6.1 meters) above a man-made structure (other than an antenna tower) to which it is affixed.

(11) An applicant for an itinerant station license, an applicant for a new private land mobile radio station license in the frequency bands below 470 MHz and in the one-way paging 929-930 MHz

band or an applicant seeking to modify or acquire through assignment or transfer an existing station below 470 MHz or in the one-way paging 929-930 MHz band may operate the proposed station during the pendency of its application for a period of up to 180 days under a conditional permit. Conditional operations may commence upon the filing of a properly completed application that complies with sec. 90.127 if the application, when frequency coordination is required, is accompanied by evidence of frequency coordination in accordance with sec. 90.175 of this chapter. Operation under such a permit is evidenced by the properly executed Form 601 with certifications that satisfy the requirements of sec. 90.159(b).

(12) An applicant for a General Mobile Radio Service system license, sharing a multiple-licensed base station used as a mobile relay station, may operate the system for a period of 180 days, under a Temporary Permit, evidenced by a properly executed certification made on FCC Form 605.

#. Section 1.933 is amended to read as follows:

**Sec. 1.933 Public notices.**

(a) *Generally.* Periodically, the Commission issues Public Notices in the Wireless Radio Services listing major filings and other information of public significance. Categories of Public Notice listings are as follows:

- (1) Accepted for filing. Acceptance for filing of applications and major amendments thereto.
- (2) Actions. Commission actions on pending applications previously listed as accepted for filing.
- (3) Environmental Considerations. Special environmental considerations as required by Part 1 of this chapter.
- (4) Informative listings. Information that the Commission, in its discretion, believes to be of public significance. Such listings do not create any rights to file petitions to deny or other pleadings.

(b) *Accepted for Filing Public Notices.* The Commission will issue at regular intervals Public Notices listing applications that have been received by the Commission in a condition acceptable for filing, or which have been returned to an applicant for correction. Any application that has been listed as acceptable for filing and is (1) subject to a major amendment, or (2) has been returned as defective or incomplete and resubmitted to the Commission, shall be listed in a subsequent Public Notice pursuant to Section 1.959. Acceptance for filing shall not preclude the subsequent dismissal of an application as defective.

(c) *Public Notice prior to grant.* Applications for authorizations, major modifications, major amendments to applications, and substantial assignment or transfer applications for the following categories of stations and services shall be placed on Public Notice as accepted for filing prior to grant:

- (1) Wireless Telecommunications Services.

(2) Industrial radiopositioning stations for which frequencies are assigned on an exclusive basis.

(3) Aeronautical enroute stations.

(4) Airport control tower stations.

(5) Aeronautical fixed stations.

(d) *No Public Notice prior to grant.* The following types of applications, notices, and other filings need not be placed on Public Notice as accepted for filing prior to grant:

(1) Applications for authorizations, major modifications, and major amendments to applications in the Private Wireless Services.

(2) Applications or notifications concerning minor modifications to authorizations or minor amendments to applications.

(3) Applications or notifications concerning non-substantial (*pro forma*) assignments and transfers.

(4) Consent to an involuntary assignment or transfer under section 310(b) of the Communications Act.

(5) Applications for licenses under section 319(c) of the Communications Act.

(6) Requests for extensions of time to complete construction of authorized facilities.

(7) Requests for special temporary authorization not to exceed 30 days where the applicant does not contemplate the filing of an application for regular operation, or not to exceed 60 days pending or after the filing of an application for regular operation.

(8) Requests for authorizations under section 308(a) of the Communications Act.

(9) Any application for temporary authorization under section 101.31(a) of this chapter.

#. Section 1.934 is amended to read as follows:

**Sec. 1.934 Defective applications and dismissal.**

(a) *Dismissal of applications.* The Commission may dismiss any application for authorization, consent to assignment of authorization, or consent to transfer of control in the Wireless Radio Services at the request of the applicant; if the application is mutually exclusive with another application that is selected or granted in accordance with the rules in this part; for failure to prosecute or if the application is found to be defective; if the requested spectrum is not available; or if the application is untimely filed. Such dismissal may be "without prejudice," meaning that the Commission may accept from the applicant another application for the same purpose at a later time, provided that the

application is otherwise timely. Dismissal "with prejudice" means that the Commission will not accept another application from the applicant 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.

(1) *Dismissal at request of applicant.* Any applicant may request that its application be withdrawn or dismissed. A request for the withdrawal 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.

(i) If the applicant requests dismissal of its application with prejudice, the Commission will dismiss that application with prejudice.

(ii) If the applicant requests dismissal of its application without prejudice, the Commission will dismiss that application without prejudice, unless:

(A) It has been designated for comparative hearing; or

(B) It is an application for which the applicant submitted the winning bid in a competitive bidding process.

(2) If an applicant who is a winning bidder for a license in a competitive bidding process requests dismissal of its short-form or long-form application, the Commission will dismiss that application with prejudice. The applicant will also be subject to default payments under Subpart Q of this Part.

(3) An applicant who requests dismissal of its application after that application has been designated for comparative hearing may submit a written petition requesting that the dismissal be without prejudice. Such petition must demonstrate good cause and be served upon all parties of record. The Commission 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 Commission may dismiss mutually exclusive applications:

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

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

(c) *Dismissal for failure to prosecute.* The Commission 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, but may be with prejudice in cases of non-compliance with section 1.945. Dismissal will generally be with prejudice if the failure to prosecute or respond occurred after designation of the application for comparative hearing. The Commission 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 Commission may dismiss without prejudice applications that it finds to be defective. Applications for authorization or assignment of authorization are defective if:

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

(2) They request an authorization that would not comply with one or more of the Commission rules and do not contain a request for waiver of these rule(s); or

(3) The appropriate filing fee has not been paid.

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

(1) It is not allocated for assignment in the specific service requested;

(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 Commission may dismiss without prejudice applications that are premature 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

#. New Section 1.935 is added to read as follows:

**Sec. 1.935      Agreements to dismiss applications, amendments or pleadings.**

Parties that have filed applications that are 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(s), specific frequencies on the application or an amendment thereto, must obtain the approval of the Commission. Parties that have filed or threatened to file a petition to deny, informal objection or other pleading against an application 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 Commission.

(a) The party withdrawing or requesting dismissal of its application (or specific frequencies on the application), petition to deny, informal objection or other pleading or refraining from filing a pleading must submit to the Commission a request for approval of the withdrawal or dismissal, a copy of any written agreement related to the withdrawal or dismissal, and an affidavit setting forth:

(1) A certification that neither the 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 Commission.

(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) Each application, petition to deny, informal objection or other pleading is deemed to be pending before the Commission from the time the petition to deny is filed with the Commission until such time as an order or correspondence of the Commission granting, denying or dismissing it is no longer subject to reconsideration by the Commission or to review by any court.

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

(e) Notwithstanding the provisions of this section, any payments made or received in exchange for withdrawing a short-form application for a Commission authorization awarded through competitive bidding shall be subject to the restrictions set forth in Sec. 1.2105(c) of this chapter.

#. New Section 1.937 is added to read as follows:

**Sec. 1.937      Repetitious or conflicting applications.**

(a) Where the Commission has, for any reason, dismissed an application for a new station or for any modification of services or facilities with prejudice, or revoked the license for a radio station in the Wireless Radio Services, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of final Commission action.

(b) If an applicant has been afforded an opportunity for a hearing with respect to an application for a new station or an enlargement of service area, and the Commission has, after hearing or default, denied the application or dismissed it with prejudice, the Commission will not consider a like application for service of the same type to the same area by that applicant, or by its successor or assignee, or on behalf of or for the benefit of the parties in interest to the original application, until after the lapse of 12 months from the effective date of final Commission action on the original application.

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

(d) If an authorization is automatically terminated because of failure to commence service, the Commission will not consider an application for another authorization to operate a station on the same channel in the same service 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.

(e) 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.

#. New Section 1.939 is added to read as follows:

**Sec. 1.939      Petitions to deny.**

(a) *Who may file.* Any party in interest may file with the Commission a petition to deny any application listed in a Public Notice as accepted for filing, whether as filed originally or upon major amendment as defined in section 1.929.

(1) For auctionable license applications, petitions to deny, and related pleadings are governed by the procedures set forth in section 1.2108.

(2) Petitions to deny for non-auctionable applications that are subject to petitions under section 309(d) of the Communications Act must comply with the provisions of this section and must be filed no later than 30 days after the date of the Public Notice listing the application or major amendment to the application as accepted for filing.

(b) *Filing of petitions.* Petitions to deny and related pleadings may be filed electronically via ULS. Manually filed petitions to deny must be filed with the Office of the Secretary, 1919 M Street, Washington, DC 20554.

(c) *Service.* A petitioner shall serve a copy of its petition to deny on the applicant and on all other interested parties pursuant to section 1.47. Oppositions and replies shall be served on the petitioner and all other interested parties.

(d) *Content.* A petition to deny must contain specific allegations of fact sufficient to make a *prima facie* showing that the petitioner is a party in interest and that a grant of the application would be inconsistent with the public interest, convenience and necessity. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof.

(e) *Petitions to deny amended applications.* 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.

(f) *Oppositions and replies.* The applicant and any other interested party may file an opposition to any petition to deny and the petitioner may file a reply thereto in which allegations of fact or denials thereof, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof. Time for filing of oppositions and replies is governed by section 1.45 for non-auctionable services and section 1.2108 for auctionable services.

(g) The Commission must state its reason(s) for the dismissal.

(f) *Commission action.* The Commission may dismiss any petition to deny if the petition does not comply with the requirements of this section or other sections of this chapter. When a petition to deny is dismissed, any related responsive pleadings are dismissed. If a petition to deny has been filed and the Commission grants the application, the Commission will deny the petition. The Commission must issue a concise statement of the reason(s) for dismissing or denying the petition and disposing of all substantive issues raised therein.

#. New Section 1.945 is added to read as follows:

**Sec. 1.945 License grants.**

(a) *License Grants - Auctionable license applications.* Procedures for grant of licenses awarded through competitive bidding are set forth in sections 1.2108 and 1.2109 of this part.

(b) *License Grants - Non-auctionable license applications.* No application subject to the provisions of this section for an authorization not assigned by competitive bidding procedures, as originally filed or substantially amended, will be granted by the Commission prior to the 31st day following the issuance of a Public Notice of the acceptance for filing of such application or of any substantial amendment thereof, unless the application is not subject to section 309(b) of the Communications Act.

(c) *Grant without hearing.* In the case of both auctionable license applications and non-mutually exclusive non-auctionable license applications, the Commission will grant the application without a hearing if it is proper upon its face and if the Commission finds from an examination of such application and supporting data, any pleading filed, or other matters which it may officially notice, that:

(1) There are no substantial and material questions of fact;

(2) The applicant is legally, technically, financially, and otherwise qualified;

(3) A grant of the application would not involve modification, revocation, or non-renewal of any other existing license;

(4) A grant of the application would not preclude the grant of any mutually exclusive application; and

(5) A grant of the application would serve the public interest, convenience, and necessity.

(d) *Designation for hearing.* If the Commission is unable to make the findings prescribed in subparagraph (c), it will formally designate the application for hearing on the grounds or reasons then obtaining and will notify the applicant and all other known parties in interest of such action.

(1) Orders designating applications for hearing will specify with particularity the matters in issue.

(2) Parties in interest, if any, who are not notified by the Commission of its action in designating a particular application for hearing may acquire the status of a party to the proceeding by filing a petition for intervention showing the basis of their interest not more than 30 days after publication in the Federal Register of the hearing issues or any substantial amendment thereto.

(3) The applicant and all other parties in interest shall be permitted to participate in any hearing subsequently held upon such applications. Hearings may be conducted by the Commission or by the Chief of the Wireless Telecommunications Bureau, or, in the case of a question which requires oral testimony for its resolution, an Administrative Law Judge. The burden of proceeding with the introduction of evidence and burden of proof shall be upon the applicant, except that with respect to

any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission or the Chief of the Wireless Telecommunications Bureau.

#. New Section 1.946 is added to read as follows:

**Sec 1.946 Construction and coverage requirements.**

(a) *Construction and commencement of service requirements.* For each of the Wireless Radio Services, requirements for construction and commencement of service are set forth in the rule part governing the specific service. For purposes of this section, 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.

(b) *Coverage and substantial service requirements.* In certain Wireless Radio Services, licensees must comply with geographic coverage requirements or substantial service requirements within a specified time period. These requirements are set forth in the rule part governing each specific service. For purposes of this section, the period between the date of grant of an authorization and the date that a particular degree of coverage or substantial service is required is referred to as the coverage period.

(c) *Termination of authorizations.* If a licensee fails to commence service by the expiration of its construction period or to meet its coverage or substantial service obligations by the expiration of its coverage period, its authorization terminates without further action by the Commission.

(d) *Licensee notification of compliance.* A licensee who commences service within the construction period or meets its coverage or substantial service obligations within the coverage period must notify the Commission by updating its FCC Form 601. The notification must be filed with the Commission within 15 days of the expiration of the applicable construction or coverage period.

(1) Where the authorization is site-specific, the notification of construction must state whether the station was constructed exactly as authorized or with minor changes.

(2) Where the authorization is site-specific, 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 become operational. If the licensee no longer intends to construct or operate the remaining authorized transmitters, the notification should so state.

(3) This section does not require licensees to notify the Commission of facilities added or modified pursuant to the provisions of sections 22.163 and 22.165 of the Commission's rules. It applies only to facilities specifically listed in authorizations for which a construction or coverage period is provided.

(e) *Requests for extension of time.* Licensees may request to extend a construction period or coverage period by filing FCC Form 601. The request must be filed before the expiration of the construction or coverage period.