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§ 22.882 Designated entities.

(a) Eligibility for small business provisions in the commercial Air-Ground Radiotelephone Service.

(1) A small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $40 million for the preceding three years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $15 million for the preceding three years.

(b) Bidding credits in the commercial Air-Ground Radiotelephone Service.

(1) A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use a bidding credit of 15 percent, as specified in §1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid on a commercial Air-Ground Radiotelephone Service license.

(2) A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use a bidding credit of 25 percent, as specified in §1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid on a commercial Air-Ground Radiotelephone Service license.

[70 FR 76417, Dec. 27, 2005]

Subpart H—Cellular Radiotelephone Service

§ 22.900 Scope.

The rules in this subpart govern the licensing and operation of cellular radiotelephone systems. Licensing and operation of these systems are also subject to rules elsewhere in this part that apply generally to the Public Mobile Services. In case of conflict, however, the rules in this subpart govern.

§ 22.901 Cellular service requirements and limitations.

The licensee of each cellular system is responsible for ensuring that its cellular system operates in compliance with this section.

(a) Each cellular system must provide either mobile service, fixed service, or a combination of mobile and fixed service, subject to the requirements, limitations and exceptions in this section. Mobile service provided may be of any type, including two way radiotelephone, dispatch, one way or two way paging, and personal communications services (as defined in part 24 of this chapter). Fixed service is considered to be primary service, as is mobile service. When both mobile and fixed service are provided, they are considered to be co primary services. In providing cellular services, each cellular system may incorporate any technology that meets all applicable technical requirements in this part.

(b) Until February 18, 2008, each cellular system that provides two-way cellular mobile radiotelephone service must—

(1) Maintain the capability to provide compatible analog service (''AMPS'') to cellular telephones designed in conformance with the specifications contained in sections 1 and 2 of the standard document ANSI TIA/EIA–553–A–1999 Mobile Station—Base Station Compatibility Standard (approved October 14, 1999); or, the corresponding portions, applicable to mobile stations, of whichever of the predecessor standard documents was in effect at the time of the manufacture of the telephone. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the standard may be purchased from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112–5704 (or via the internet at *http://global.ihs.com)*. Copies are available for inspection at the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(2) Provide AMPS, upon request, to subscribers and roamers using such cellular telephones while such subscribers

are located in any portion of the cellular system's CGSA where facilities have been constructed and service to subscribers has commenced. *See* also § 20.12 of this chapter. Cellular licensees must allot sufficient system resources such that the quality of AMPS provided, in terms of geographic coverage and traffic capacity, is fully adequate to satisfy the concurrent need for AMPS availability.

[67 FR 77191, Dec. 17, 2002, as amended at 69 FR 18803, Apr. 9, 2004]

§ 22.905 Channels for cellular service.

The following frequency bands are allocated for assignment to service providers in the Cellular Radiotelephone Service.

(a) Channel Block A: 869–880 MHz paired with 824–835 MHz, and 890–891.5 MHz paired with 845–846.5 MHz.

(b) Channel Block B: 880–890 MHz paired with 835–845 MHz, and 891.5–894 MHz paired with 846.5–849 MHz.

[67 FR 77191, Dec. 17, 2002]

§ 22.907 Coordination of channel usage.

Licensees in the Cellular Radiotelephone Service must coordinate, with the appropriate parties, channel usage at each transmitter location within 121 kilometers (75 miles) of any transmitter locations authorized to other licensees or proposed by tentative selectees or other applicants, except those with mutually exclusive applications.

(a) Licensees must cooperate and make reasonable efforts to resolve technical problems that may inhibit effective and efficient use of the cellular radio spectrum; however, licensees are not obligated to suggest extensive changes to or redesign other licensees' cellular systems. Licensees must make reasonable efforts to avoid blocking the growth of other cellular systems that are likely to need additional capacity in the future.

(b) If technical problems are addressed by an agreement or operating agreement between the licensees that would result in a reduction of quality or capacity of either system, the licensees must notify the Commission by updating FCC Form 601.

[59 FR 59507, Nov. 17, 1994, as amended at 63 FR 68951, Dec. 14, 1998]

§ 22.909 Cellular markets.

Cellular markets are standard geographic areas used by the FCC for administrative convenience in the licensing of cellular systems. Cellular markets comprise Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs). All cellular markets and the counties they comprise are listed in Public Notice Report No. CL–92–40 ''Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties'', dated January 24, 1992, DA 92–109, 7 FCC Rcd 742 (1992).

(a) *MSAs.* Metropolitan Statistical Areas are 306 areas, including New England County Metropolitan Areas and the Gulf of Mexico Service Area (water area of the Gulf of Mexico, border is the coastline), defined by the Office of Management and Budget, as modified by the FCC.

(b) *RSAs.* Rural Service Areas are 428 areas, other than MSAs, established by the FCC.

§ 22.911 Cellular geographic service area.

The Cellular Geographic Service Area (CGSA) of a cellular system is the geographic area considered by the FCC to be served by the cellular system. The CGSA is the area within which cellular systems are entitled to protection and within which adverse effects for the purpose of determining whether a petitioner has standing are recognized.

(a) *CGSA determination.* The CGSA is the composite of the service areas of all of the cells in the system, excluding any area outside the cellular market boundary, except as provided in paragraph (c) of this section, and excluding any area within the CGSA of another cellular system. The service area of a cell is the area within its service area boundary (SAB). The distance to the SAB is calculated as a function of effective radiated power (ERP) and antenna center of radiation height above average terrain (HAAT), height above sea level (HASL) or height above mean sea level (HAMSL).

(1) Except as provided in paragraphs (a)(2) and (b) of this section, the distance from a cell transmitting antenna to its SAB along each cardinal radial is calculated as follows:

$d=2.531\times h^{0.34}\ xp^{0.17}$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(2) The distance from a cell transmitting antenna located in the Gulf of Mexico Service Area (GMSA) to its SAB along each cardinal radial is calculated as follows:

$d = 6.895 \times h^{0.30}\times p^{0.15}$

Where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(3) The value used for h in the formula in paragraph (a)(2) of this section must not be less than 8 meters (26 feet) HASL (or HAMSL, as appropriate for the support structure). The value used for h in the formula in paragraph (a)(1) of this section must not be less than 30 meters (98 feet) HAAT, except that for unserved area applications proposing a cell with an ERP not exceeding 10 Watts, the value for h used in the formula in paragraph (a)(1) of this section to determine the service area boundary for that cell may be less than 30 meters (98 feet) HAAT, but not less than 3 meters (10 feet) HAAT.

(4) The value used for p in the formulas in paragraphs (a)(1) and (a)(2) of this section must not be less than 0.1 Watt or 27 dB less than (1/500 of) the maximum ERP in any direction, whichever is more.

(5) Whenever use of the formula in paragraph (a)(1) of this section pursuant to the exception contained in paragraph (a)(3) of this section results in a calculated distance that is less than 5.4 kilometers (3.4 miles), the radial distance to the service area boundary is deemed to be 5.4 kilometers (3.4 miles).

(6) The distance from a cell transmitting antenna to the SAB along any radial other than the eight cardinal radials is calculated by linear interpolation of distance as a function of angle.

(b) *Alternative CGSA determination.* If a carrier believes that the method described in paragraph (a) of this section produces a CGSA that departs significantly (±20% in the service area of any cell) from the geographic area where reliable cellular service is actually provided, the carrier may submit, as an exhibit to an application for modification of the CGSA using FCC Form 601, a depiction of what the carrier believes the CGSA should be. Such submissions must be accompanied by one or more supporting propagation studies using methods appropriate for the 800–900 MHz frequency range, including all supporting data and calculations, and/or by extensive field strength measurement data. For the purpose of such submissions, cellular service is considered to be provided in all areas, including ''dead spots'', between the transmitter location and the locus of points where the predicted or measured median field strength finally drops to 32 dBμV/m (i.e. does not exceed 32 dBμV/m further out). If, after consideration of such submissions, the FCC finds that adjustment to a CGSA is warranted, the FCC may grant the application.

(1) The alternative CGSA determination must define the CGSA in terms of distances from the cell sites to the 32 dBuV/m contour along the eight cardinal radials, with points in other azimuthal directions determined by the method given in paragraph (a)(6) of this section. The distances used for the cardinal radials must be representative of the coverage within the 45° sectors, as depicted by the alternative CGSA determination.

(2) If an uncalibrated predictive model is used to depict the CGSA, the alternative CGSA determination must identify factors (e.g. terrain roughness or features) that could plausibly account for the difference between actual coverage and that defined by the formula in paragraph (a)(1) of this section. If actual measurements or a measurement-calibrated predictive model are used to depict the CGSA, and this fact is disclosed in the alternative CGSA determination, it is not necessary to offer an explanation of the difference between actual coverage and that defined by the formula in paragraph (a)(1) of this section. If the formula in paragraph (a)(1) of this section is clearly inapplicable for the cell(s) in question

(e.g. for microcells), this should be disclosed in the alternative CGSA determination.

(3) The provision for alternative CGSA determinations was made in recognition that the formula in paragraph (a)(1) of this section is a general model that provides a reasonable approximation of coverage in most land areas, but may under-predict or over-predict coverage in specific areas with unusual terrain roughness or features, and may be inapplicable for certain purposes, *e.g.*, cells with a coverage radius of less than 8 kilometers (5 miles). In such cases, alternative methods that utilize more specific models are appropriate. Accordingly, the FCC does not consider use of the formula in paragraph (a)(1) of this section with parameters outside of the limits in paragraphs (a)(3), (a)(4) and (a)(5) of this section or with data for radials other than the cardinal radials to be a valid alternative method for determining the CGSA of a cellular system.

(c) *CGSA extension areas.* SAB extensions (areas outside of the cellular market boundary, but within the service area as calculated using the methods of paragraph (a) of this section) are part of the CGSA only under the following circumstances:

(1) During the five year build-out period of the system in the cellular market containing the extension, the licensees of systems on the same channel block in adjacent cellular markets may agree that the portion of the service area of one system that extends into unserved areas in the other system's cellular market is part of the CGSA of the former system.

(2) At the end of the five year build-out period of the system in the cellular market containing the extension, the portion of the service area that extends into unserved areas in another cellular market becomes part of the CGSA, provided that the licensee of the system so extended files a system information update in accordance with § 22.947(c).

(3) For original systems in MSAs, extensions of the CGSA authorized by the FCC are part of the CGSA to the extent authorized.

(d) *Protection afforded.* Within the CGSA determined in accordance with this section, cellular systems are entitled to protection from co-channel and first-adjacent channel interference and from capture of subscriber traffic by adjacent systems on the same channel block.

(1) Licensees must cooperate in resolving co-channel and first-adjacent channel interference by changing channels used at specific cells or by other technical means.

(2) Protection from capture of subscriber traffic is applied and limited in accordance with the following:

(i) Subscriber traffic is captured if an SAB of one cellular system overlaps the CGSA of another operating cellular system. Therefore, cellular licensees must not begin to operate any facility that would cause an SAB to overlap the existing CGSA of another cellular system on the same channel block, without first obtaining the written consent of the licensee of that system. However, cellular licensees may continue to operate existing facilities that produce an SAB overlapping a subsequently-authorized portion of the CGSA of another cellular system on the same channel block until the licensee of that system requests that the SAB be removed from its CGSA. Such request may be made directly to the licensee of the overlapping system or to the FCC. In the event such request is made, the licensee of the overlapping system must reduce the transmitting power or antenna height (or both) at the pertinent cell site as necessary to remove the SAB from the CGSA of the other system, unless a written consent from the licensee of the other system allowing the SAB to remain is obtained. Cellular licensees may enter into contracts with the licensees of other cellular systems on the same channel block to allow SABs to overlap CGSAs.

(ii) Cellular licensees are at most entitled to have a CGSA free of SABs from other cellular systems on the same channel block.

(e) *Unserved areas.* Unserved areas are areas outside of all existing CGSAs (on either of the channel blocks), to which

the Communications Act of 1934, as amended, is applicable.

[59 FR 59507, Nov. 17, 1994, as amended at 59 FR 59954, Nov. 21, 1994; 63 FR 68951, Dec. 14, 1998; 67 FR 9609, Mar. 4, 2002; 67 FR 77191, Dec. 17, 2002; 68 FR 42295, July 17, 2003]

§ 22.912 Service area boundary extensions.

This section contains rules governing service area boundary (SAB) extensions. SAB extensions are areas outside of the cellular market boundary, but within the service area as calculated using the methods of § 22.911(a). Cellular systems must be designed to comply with the rules in this section. Applications proposing systems that would not comply with the rules in this section are defective. Service within SAB extensions is not protected from interference or capture under § 22.911(d) unless and until the area within the SAB extension becomes a part of the cellular geographic service area (CGSA) in accordance with § 22.911(c).

(a) *De minimis extensions.* Except as otherwise provided in paragraphs (b) and (d) of this section, SABs may be extended into adjacent cellular markets if such extensions are *de minimis*, are demonstrably unavoidable for technical reasons of sound engineering design, and do not extend into the CGSA of any other licensee's cellular system on the same channel block, any part of the Gulf of Mexico Exclusive Zone (GMEZ), or into any adjacent cellular market on a channel block for which the five year build-out period has expired.

(b) *Contract extensions.* Except as otherwise provided in paragraph (d) of this section, cellular system licensees may enter into contracts to allow SAB extensions as follows:

(1) The licensee of any cellular system may, at any time, enter into a contract with an applicant for, or licensee of, a cellular system on the same channel block in an adjacent cellular market, to allow one or more SAB extensions into its CGSA only (not into unserved area).

(2) The licensee of the first authorized cellular system on each channel block in the Gulf of Mexico Service Area (GMSA) may enter into a contract with an applicant for, or licensee of, a cellular system on the same channel block in an adjacent cellular market or in the Gulf of Mexico Coastal Zone (GMCZ), to allow one or more SAB extensions into the Gulf of Mexico Exclusive Zone.

(3) The licensee of the first authorized cellular system on each channel block in each cellular market may enter into a contract with an applicant for or licensee of a cellular system on the same channel block in an adjacent cellular market, to allow one or more SAB extensions into its CGSA and/or unserved area in its cellular market, during its five year build-out period.

(b) *Contract extensions.* Except as restricted in paragraph (d) of this section, licensees of cellular systems on the same channel block in adjacent cellular markets may, at any time, enter into contracts with applicants or other licensees to allow SAB extensions into their CGSA only (not into unserved areas). Except as restricted in paragraph (d) of this section, licensees of the first authorized cellular systems on the same channel block in adjacent cellular markets may agree to allow SAB extensions into their CGSA and/or unserved areas in their cellular markets during the five year build-out period of the market into which the SAB extends.

(c) *Same applicant/licensee.* Except as restricted in paragraph (d) of this section, licensees of cellular systems that are also an applicant or licensee on the same channel block in adjacent cellular markets may, at any time, allow or propose SAB extensions from their adjacent market system into their CGSH only (not into unserved areas). Except as restricted in paragraph (d) of this section, licensees of the first authorized cellular systems that are also an applicant or licensee on the same channel block in adjacent cellular markets may allow or propose SAB extensions from their adjacent market system into their CGSA and/or unserved areas in their cellular markets during the five year build-out period of the market into which the SAB extends.

(d) *Unserved area systems.* Phase I initial cellular applications must not propose SAB extensions. Phase I sole major modification applications and Phase II applications may propose SAB

extensions, subject to the conditions in this section.

[59 FR 59507, Nov. 17, 1994, as amended at 68 FR 42295, July 17, 2003]

§ 22.913 Effective radiated power limits.

The effective radiated power (ERP) of transmitters in the Cellular Radiotelephone Service must not exceed the limits in this section.

(a) *Maximum ERP.* In general, the effective radiated power (ERP) of base transmitters and cellular repeaters must not exceed 500 Watts. However, for those systems operating in areas more than 72 km (45 miles) from international borders that:

(1) Are located in counties with population densities of 100 persons or fewer per square mile, based upon the most recently available population statistics from the Bureau of the Census; or,

(2) Extend coverage on a secondary basis into cellular unserved areas, as those areas are defined in § 22.949, the ERP of base transmitters and cellular repeaters of such systems must not exceed 1000 Watts. The ERP of mobile transmitters and auxiliary test transmitters must not exceed 7 Watts.

(b) *Height-power limit.* The ERP of base transmitters must not exceed the amount that would result in an average distance to the service area boundary of 79.1 kilometers (49 miles) for cellular systems authorized to serve the Gulf of Mexico MSA and 40.2 kilometers (25 miles) for all other cellular systems. The average distance to the service area boundary is calculated by taking the arithmetic mean of the distances determined using the procedures specified in § 22.911 for the eight cardinal radial directions.

(c) *Coordination exemption.* Licensees need not comply with the height-power limit in paragraph (b) of this section if the proposed operation is coordinated with the licensees of all affected cellular systems on the same channel block within 121 kilometers (75 miles) and concurrence is obtained.

[59 FR 59507, Nov. 17, 1994, as amended at 69 FR 75171, Dec. 15, 2004]

§ 22.917 Emission limitations for cellular equipment.

The rules in this section govern the spectral characteristics of emissions in the Cellular Radiotelephone Service.

(a) *Out of band emissions.* The power of any emission outside of the authorized operating frequency ranges must be attenuated below the transmitting power (P) by a factor of at least 43 + 10 log(P) dB.

(b) *Measurement procedure.* Compliance with these rules is based on the use of measurement instrumentation employing a resolution bandwidth of 100 kHz or greater. In the 1 MHz bands immediately outside and adjacent to the frequency block a resolution bandwidth of at least one percent of the emission bandwidth of the fundamental emission of the transmitter may be employed. A narrower resolution bandwidth is permitted in all cases to improve measurement accuracy provided the measured power is integrated over the full required measurement bandwidth (*i.e.* 100 kHz or 1 percent of emission bandwidth, as specified). The emission bandwidth is defined as the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, outside of which all emissions are attenuated at least 26 dB below the transmitter power.

(c) *Alternative out of band emission limit.* Licensees in this service may establish an alternative out of band emission limit to be used at specified band edge(s) in specified geographical areas, in lieu of that set forth in this section, pursuant to a private contractual arrangement of all affected licensees and applicants. In this event, each party to such contract shall maintain a copy of the contract in their station files and disclose it to prospective assignees or transferees and, upon request, to the FCC.

(d) *Interference caused by out of band emissions.* If any emission from a transmitter operating in this service results in interference to users of another radio service, the FCC may require a greater attenuation of that emission than specified in this section.

[67 FR 77191, Dec. 17, 2002]

§ 22.921 911 call processing procedures; 911-only calling mode.

Mobile telephones manufactured after February 13, 2000 that are capable of operating in the analog mode described in the standard document ANSI TIA/EIA–553–A–1999 Mobile Station—Base Station Compatibility Standard (approved October 14, 1999—available for purchase from Global Engineering Documents, 15 Inverness East, Englewood, CO 80112), must incorporate a special procedure for processing 911 calls. Such procedure must recognize when a 911 call is made and, at such time, must override any programming in the mobile unit that determines the handling of a non-911 call and permit the call to be transmitted through the analog systems of other carriers. This special procedure must incorporate one or more of the 911 call system selection processes endorsed or approved by the FCC.

[67 FR 77192, Dec. 17, 2002]

§ 22.923 Cellular system configuration.

Mobile stations communicate with and through base transmitters only. Base transmitters communicate with mobile stations directly or through cellular repeaters. Auxiliary test stations may communicate with base or mobile stations for the purpose of testing equipment.

§ 22.925 Prohibition on airborne operation of cellular telephones.

Cellular telephones installed in or carried aboard airplanes, balloons or any other type of aircraft must not be operated while such aircraft are airborne (not touching the ground). When any aircraft leaves the ground, all cellular telephones on board that aircraft must be turned off. The following notice must be posted on or near each cellular telephone installed in any aircraft:

''The use of cellular telephones while this aircraft is airborne is prohibited by FCC rules, and the violation of this rule could result in suspension of service and/or a fine. The use of cellular telephones while this aircraft is on the ground is subject to FAA regulations.''

§ 22.927 Responsibility for mobile stations.

Mobile stations that are subscribers in good standing to a cellular system, when receiving service from that cellular system, are considered to be operating under the authorization of that cellular system. Cellular system licensees are responsible for exercising effective operational control over mobile stations receiving service through their cellular systems. Mobile stations that are subscribers in good standing to a cellular system, while receiving service from a different cellular system, are considered to be operating under the authorization of such different system. The licensee of such different system is responsible, during such temporary period, for exercising effective operational control over such mobile stations as if they were subscribers to it.

§ 22.929 Application requirements for the Cellular Radiotelephone Service.

In addition to information required by subparts B and D of this part, applications for authorization in the Cellular Radiotelephone Service contain required information as described in the instructions to the form. Site coordinates must be referenced to NAD83 and be correct to ±1 second.

(a) *Administrative information*. The following information is required either by FCC Form 601, or as an exhibit:

(1) Location description; city; county; state; geographical coordinates correct to ±1 second, the datum used (NAD 83), site elevation above mean sea level, proximity to adjacent market boundaries and international borders;

(2) Antenna height to tip above ground level, the height of the center of radiation of the antenna above the average terrain, the height of the antenna center of radiation above the average elevation of the terrain along each of the 8 cardinal radials, antenna gain in the maximum lobe, the beamwidth of the maximum lobe of the antenna, a polar plot of the horizontal gain pattern of the antenna, the electric field polarization of the wave emitted by the antenna when installed as proposed:

(3) The channel block requested, the maximum effective radiated power, the effective radiated power in each of the cardinal radial directions.

(b) If the application involves a service area boundary (SAB) extension (§ 22.912 of this chapter), the licensee must provide a statement as described in § 22.953.

(c) *Maps.* If the application proposes a change in the CGSA, it must include full size and reduced maps, and supporting engineering, as described in § 22.953 (a)(1) through (a)(3).

(d) *Antenna Information.* Upon request by an applicant, licensee, or the Commission, a cellular applicant or licensee of whom the request is made shall furnish the antenna type, model, and the name of the antenna manufacturer to the requesting party within ten (10) days of receiving written notification.

[63 FR 68951, Dec. 14, 1998, as amended at 64 FR 53241, Oct. 1, 1999]

§ 22.935 Procedures for comparative renewal proceedings.

The procedures in this section apply to comparative renewal proceedings in the Cellular Radiotelephone Service.

(a) If one or more of the applications competing with an application for renewal of a cellular authorization are filed, the renewal applicant must file with the Commission its original renewal expectancy showing electronically via the ULS. This filing must be submitted no later than 60 days after the date of the Public Notice listing as acceptable for filing the renewal application and the competing applications.

(b) Interested parties may file petitions to deny any of the mutually exclusive applications. Any such petitions to deny must be filed no later than 30 days after the date that the renewal applicant submitted its renewal expectancy showing. Applicants may file replies to any petitions to deny applications that are filed. Any such replies must be filed no later than 15 days after the date that the petition(s) to deny was filed. No further pleadings will be accepted.

(c) In most instances, the renewal application and any competing applications will be designated for a two-step procedure. An Administrative Law Judge (Presiding Judge) will conduct a threshold hearing (step one), in which both the licensee and the competing applicants will be parties, to determine whether the renewal applicant deserves a renewal expectancy. If the order designating the applications for hearing specifies any basic qualifying issues against the licensee, those issues will be tried in this threshold hearing. If the Presiding Judge determines that the renewal applicant is basically qualified and due a renewal expectancy, the competing applicants will be found ineligible for further consideration and their applications will be denied. If the Presiding Judge determines that the renewal applicant does not merit a renewal expectancy but is otherwise qualified, then all of the applications will be considered in a comparative hearing (step two).

(d) Any competing applicant may request a waiver of the threshold hearing (step one), if such applicant demonstrates that its proposal so far exceeds the service already being provided that there would be no purpose in making a threshold determination as to whether the renewal applicant deserved a renewal expectancy vis-a-vis such a competing applicant. Any such waiver request must be filed at the time the requestor's application is filed. Petitions opposing such waiver requests may be filed. Any such petitions must be filed no later than 30 days after the date that the renewal applicant submitted its renewal expectancy showing. Replies to any petitions opposing such waiver requests may be filed. Any such replies must be filed no later than 15 days after the date that the petition(s) were filed. No further pleadings will be accepted. Any waiver request submitted pursuant to this paragraph will be acted upon prior to designating the applications for hearing. If a request to waive the threshold hearing (step one) is granted, the renewal expectancy issue will be designated as part of the comparative hearing (step two), and will remain the most important comparative factor in deciding the case, as provided in § 22.940(a).

(e) If the Presiding Judge issues a ruling in the threshold (step one) that

denies the licensee a renewal expectancy, all of the applicants involved in the proceeding will be allowed to file direct cases no later than 90 days after the release date of the Presiding Judge's ruling. Rebuttal cases must be filed no later than 30 days after the date that the direct cases were filed.

(f) The Presiding Judge shall use the expedited hearing procedures delineated in this paragraph in both threshold (step one) and comparative (step two) hearings conducted in comparative cellular renewal proceedings.

(1) The Presiding Judge will schedule a first hearing session as soon as practicable after the date for filing rebuttal evidence. This first session will be an evidentiary admission session at which each applicant will identify and offer its previously circulated direct and rebuttal exhibits, and each party will have an opportunity to lodge objections.

(2) After accepting the exhibits into evidence, the Presiding Judge will entertain motions to cross-examine and rule whether any sponsoring witness needs to be produced for cross-examination.

Determination of what, if any, cross-examination is necessary is within the sound judicial discretion of the Presiding Judge, the prevailing standard being whether the person requesting cross-examination has persuasively demonstrated that written evidence is ineffectual to develop proof. If cross-examination is necessary, the Presiding Judge will specify a date for the appearance of all witnesses. In addition, if the designation order points out an area where additional underlying data is needed, the Presiding Judge will have the authority to permit the limited use of discovery procedures. Finally, the Presiding Judge may find that certain additional testimony or cross-examination is needed to provide a complete record for the FCC. If so, the Presiding Judge may schedule a further session.

(3) After the hearing record is closed, the Presiding Judge may request Proposed Findings of Fact and Conclusions of Law to be filed no later than 30 days after the final hearing session. Replies are not permitted except in unusual cases and then only with respect to the specific issues named by the Presiding Judge.

(4) The Presiding Judge will then issue an Initial Decision, preferably within 60 days of receipt of the last pleadings. If mutually exclusive applications are before the Presiding Judge, the Presiding Judge will determine which applicant is best qualified. The Presiding Judge may also rank the applicants in order of merit if there are more than two.

(5) Parties will have 30 days in which to file exceptions to the Initial Decision.

[59 FR 59507, Nov. 17, 1994, as amended at 62 FR 4172, Jan. 29, 1997; 63 FR 68951, Dec. 14, 1998]

§ 22.936 Dismissal of applications in cellular renewal proceedings.

Any applicant that has filed an application in the Cellular Radiotelephone Service that is mutually exclusive with an application for renewal of a cellular authorization (competing application), and seeks to resolve the mutual exclusivity by requesting dismissal of its application, must obtain the approval of the FCC.

(a) If a competing applicant seeks to dismiss its application prior to the Initial Decision stage of the hearing on its application, it must submit to the Commission a request for approval of the dismissal of its application. This request for approval of the dismissal of its application must be submitted and must also include a copy of any agreement related to the withdrawal or dismissal, and an affidavit setting forth:

(1) A certification that neither the petitioner nor its principals has received or will receive any money or other consideration in excess of legitimate and prudent expenses in exchange for the withdrawal or dismissal of the application, 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.

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

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

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

(c) 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 are deemed to be pending before the FCC from the time the application is filed with the FCC until such time as an order of the FCC granting, denying or dismissing the application 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 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.

[59 FR 59507, Nov. 17, 1994, as amended at 63 FR 68951, Dec. 14, 1998]

§ 22.939 Site availability requirements for applications competing with cellular renewal applications.

In addition to the other requirements set forth in this part for initial cellular applications, any application competing against a cellular renewal application must contain, when initially filed, appropriate documentation demonstrating that its proposed antenna site(s) will be available. Competing applications that do not include such documentation will be dismissed. If the competing applicant does not own a particular site, it must, at a minimum demonstrate that the site is available to it by providing a letter from the owner of the proposed antenna site expressing the owner's intent to sell or lease the proposed site to the applicant. If any proposed antenna site is under U.S. Government control, the applicant must submit written confirmation of the site's availability from the appropriate Government agency. Applicants which file competing applications against incumbent cellular licensees may not rely on the assumption that an incumbent licensee's antenna sites are available for their use.

§ 22.940 Criteria for comparative cellular renewal proceedings.

This section sets forth criteria to be used in comparative cellular renewal proceedings. The ultimate issue in comparative renewal proceedings will be to determine, in light of the evidence adduced in the proceeding, what disposition of the applications would best serve the public interest, convenience and necessity.

(a) *Renewal expectancies.* The most important comparative factor to be considered in a comparative cellular renewal proceeding is a major preference, commonly referred to as a ''renewal expectancy.''

(1) The cellular renewal applicant involved in a comparative renewal proceeding will receive a renewal expectancy, if its past record for the relevant license period demonstrates that:

(i) The renewal applicant has provided ''substantial'' service during its past license term. ''Substantial'' service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal; and

(ii) The renewal applicant has substantially compiled with applicable FCC rules, policies and the Communications Act of 1934, as amended.

(2) In order to establish its right to a renewal expectancy, a cellular renewal

applicant involved in a comparative renewal proceeding must submit a showing explaining why it should receive a renewal expectancy. At a minimum, this showing must include.

(i) A description of its current service in terms of geographic coverage and population served, as well as the system's ability to accommodate the needs of roamers;

(ii) An explanation of its record of expansion, including a timetable of the construction of new cell sites to meet changes in demand for cellular service;

(iii) A description of its investments in its cellular system; and

(iv) Copies of all FCC orders finding the licensee to have violated the Communications Act or any FCC rule or policy; and a list of any pending proceedings that relate to any matter described in this paragraph.

(3) In making its showing of entitlement to a renewal expectancy, a renewal applicant may claim credit for any system modification applications that were pending on the date it filed its renewal application. Such credit will not be allowed if the modification application is dismissed or denied.

(b) *Additional comparative issues.* The following additional comparative issues will be included in comparative cellular renewal proceedings, if a full comparative hearing is conducted pursuant to § 22.935(c).

(1) To determine on a comparative basis the geographic areas and population that each applicant proposes to serve; to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(2) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner in order to meet anticipated increasing demand for *both* local and roamer service;

(3) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); and

(4) To determine on a comparative basis each applicant's past performance in the cellular industry or another business of comparable type and size.

(c) *Additional showings for competing applications.* With respect to evidence introduced pursuant to paragraph (b)(3) of this section, any applicant filing a competing application against a cellular renewal application (competing applicant) who claims a preference for offering any service not currently offered by the incumbent licensee must demonstrate that there is demand for that new service and also present a business plan showing that the competing applicant can operate the system economically. Any competing applicant who proposes to replace analog technology with digital technology will receive no credit for its proposal unless it submits a business plan showing how it will operate its system economically and how it will provide more comprehensive service than does the incumbent licensee with existing and implemented cellular technology.

§ 22.943 Limitations on transfer of control and assignment for authorizations issued as a result of a comparative renewal proceeding.

Except as otherwise provided in this section, the FCC does not accept applications for consent to transfer of control or for assignment of the authorization of a cellular system that has been acquired by the current licensee for the first time as a result of a comparative renewal proceeding until the system has provided service to subscribers for at least three years.

(a) The FCC may accept and grant applications for consent to transfer of control or for assignment of the authorization of a cellular system that is to be transferred as a part of a bona fide sale of an on-going business to which the cellular operation is incidental.

(b) The FCC may accept and grant applications for consent to transfer of control or for assignment of the authorization of a cellular system that is to be transferred as a result of the death of the licensee.

(c) The FCC may accept and grant applications for consent to transfer of control or for assignment of authorization if the transfer or assignment is pro forma and does not involve a change in ownership.

[67 FR 77192, Dec. 17, 2002]

§ 22.946 Service commencement and construction systems.

(a) *Commencement of service.* New cellular systems must be at least partially constructed and begin providing cellular service to subscribers within the service commencement periods specified in Table H–1 of this section. Service commencement periods begin on the date of grant of the initial authorization, and are not extended by the grant of subsequent authorizations for the cellular system (such as for major modifications). The licensee must notify the FCC (FCC Form 601) after the requirements of this section are met (*see* § 1.946 of this chapter).

TABLE H–1—COMMENCEMENT OF SERVICE

Type of cellular system	Required to commence service in
The first system authorized on each channel block in markets 1–90.	36 months.
The first system authorized on each channel block in all other markets and any subsequent systems authorized pursuant to contracts in partitioned markets.	18 months.
The first system authorized on each channel block in the Gulf of Mexico Exclusive Zone.	No requirement.
All other systems	12 months.

(b) To satisfy this requirement, a cellular system must be interconnected with the public switched telephone network (PSTN) and must be providing service to mobile stations operated by its subscribers and roamers. A cellular system is considered to be providing service only if mobile stations can originate telephone calls to and receive telephone calls from wireline telephones through the PSTN.

(c) *Construction period for specific facilities.* The construction period applicable to specific new or modified cellular facilities for which a separate authorization is granted is one year, beginning on the date the authorization is granted.

[67 FR 9609, Mar. 4, 2002, as amended at 67 FR 77192, Dec. 17, 2002]

§ 22.947 Five year build-out period.

Except for systems authorized in the Gulf of Mexico Exclusive Zone, the licensee of the first cellular system authorized on each channel block in each cellular market is afforded a five year period, beginning on the date the initial authorization for the system is granted, during which it may expand the system within that market.

(a) *Exclusive right to expand within market.* Except as provided in paragraph (b) of this section, the FCC does not accept applications for authority to operate a new cellular system in any unserved area in a market on a channel block during the five year build-out period.

(b) *Partitioned markets.* During the five-year build-out period, the licensee of the first cellular system on each channel block in each market may enter into contracts with eligible parties, allowing such parties to apply by using FCC Form 601 for a new cellular system in that channel block within the market. The FCC may grant such applications if they are in compliance with the rules in this part. Markets with two or more authorized cellular systems on the same channel block during the five year build-out period are referred to (with respect to the affected channel block) as ''partitioned markets''.

(1) Partitioning contracts must define the CGSA of the subsequent cellular system in accordance with § 22.911, including any expansion rights ceded. If not exercised, any such expansion rights terminate at the end of the five year build-out period.

(2) The five year build-out period begins on the date the initial authorization for the first cellular system is granted, and is not extended or affected in any way by the initial authorization of any subsequent cellular systems pursuant to paragraph (b) of this section.

(c) *System information update.* Sixty days before the end of the five year build-out period, the licensee of each cellular system authorized on each channel block in each cellular market

must file, in triplicate, a system information update (SIU), comprising a full size map, a reduced map, and an exhibit showing technical data relevant to determination of the system's CGSA. Separate maps must be submitted for each market into which the CGSA extends, showing the extension area in the adjacent market. Maps showing extension areas must be labeled (*i.e.* marked with the market number and channel block) for the market into which the CGSA extends. SIUs must accurately depict the relevant cell locations and coverage of the system at the end of the five year build-out period. SIUs must be filed at the Federal Communications Commission, Wireless Telecommunications Bureau, Mobility Division, 445 12th Street, SW., Washington, DC 20554. If any changes to the system occur after the filing of the SIU, but before the end of the five year build-out period, the licensee must file, in triplicate, additional maps and/or data as necessary to insure that the cell locations and coverage of the system as of the end of the five year build-out period are accurately depicted.

(1) The scale of the full-size map must be 1:500,000, regardless of whether any different scale is used for the reduced map. The map must have a legend, a distance scale and correctly labeled latitude and longitude lines. The map must be clear and legible. The map must accurately show the cell sites (transmitting antenna locations) which determine the CGSA, the entire CGSA, any extension of the composite service are boundary beyond the CGSA (see § 22.911) and the relevant portions of the cellular market boundary. The date on which the map depictions are accurate must appear on the map.

(2) The reduced map must be a proportional reduction, to 8½×11 inches, of the full-size map required in paragraph (c)(1) of this section, unless it proves to be impractical to depict the entire market by reducing the full-size map. In such instance, an 8½×11 inch map of a different scale may be substituted, provided that the required features of the full-size map are clearly depicted and labeled.

[59 FR 59507, Nov. 17, 1994, as amended at 59 FR 59954, Nov. 21, 1994; 63 FR 68951, Dec. 14, 1998; 67 FR 13225, Mar. 21, 2002; 67 FR 9609, Mar. 4, 2002; 70 FR 61058, Oct. 20, 2005]

§ 22.948 Partitioning and Disaggregation.

(a) *Eligibility*—(1) *Generally*. Parties seeking approval for partitioning and disaggregation shall request an authorization for partial assignment of a license pursuant to § 1.948 of this chapter. Cellular licensees may partition or disaggregate their spectrum to other qualified entities.

(2) *Partitioning*. During the five year build-out period, as defined in § 22.947, cellular licensees may partition any portion of their cellular market to other qualified entities. After the five year build-out period, cellular licensees and unserved area licensees may partition any portion of their Cellular Geographic Service Area (CGSA), as defined by § 22.911, to other qualified entities but may not partition unserved portions of their cellular market.

(3) *Disaggregation*. After the five year build-out period, as defined in § 22.947, parties obtaining disaggregated spectrum may only use such spectrum in that portion of the cellular market encompassed by the original licensee's CGSA and may not use such spectrum to provide service to unserved portions of the cellular market.

(b) *Disaggregation*. Cellular licensees and unserved area licensees may disaggregate spectrum in any amount.

(c) *Combined partitioning and disaggregation*. The Commission will consider requests for partial assignment of cellular licenses that propose combinations of partitioning and disaggregation.

(d) *License Term*. The license term for the partitioned license area and for disaggregated spectrum shall be the remainder of the original cellular licensee's or the unserved area licensee's license term.

[65 FR 37057, June 13, 2000, as amended at 70 FR 61059, Oct. 20, 2005]

§ 22.949 Unserved area licensing process.

This section sets forth the process for licensing unserved areas in cellular markets on channel blocks for which the five year build-out period has expired. This process has two phases: Phase I and Phase II. This section also sets forth the Phase II process applicable to applications to serve the Gulf of Mexico Coastal Zone.

(a) *Phase I.* Phase I is a one-time process that provides an opportunity for eligible parties to file competing applications for authority to operate a new cellular system in or to expand an existing cellular system into unserved areas (Phase I initial applications) as soon as these areas become available. In addition, each licensee whose Phase I initial application is granted is afforded one opportunity during the Phase I process to file an application proposing major modifications to the cellular system authorized by that grant (a Phase I major modification application), without being subject to competing applications.

(1) Phase I initial applications must be filed on the 31st day after the expiration of the five year build-out period of the authorized system(s) on the channel block requested in the market containing the unserved area.

(i) Each Phase I application must request authorization for one and only one cellular geographic service area (CGSA) in one and only one cellular market.

(ii) Applicants must not file more than one Phase I initial application for any cellular market.

(iii) Phase I initial applications must not propose any *de minimis* or contract service area boundary (SAB) extensions.

(2) Only one Phase I initial application is granted on each channel block in each market. Consequently, whenever two or more acceptable Phase I initial applications are timely filed in the same market on the same channel block, such Phase I initial applications are mutually exclusive, regardless of any other considerations such as the technical proposals. In order to determine which of such mutually exclusive Phase I initial applications to grant, the Commission administers competitive bidding procedures in accordance with subpart Q of part 1 of this chapter. After such procedures, the application of the winning bidder may be granted and the applications excluded by that grant may be dismissed without prejudice.

NOTE: Notwithstanding the provisions of §22.949(a)(2), mutually exclusive Phase I initial applications that were filed between March 10, 1993 and July 25, 1993, inclusive, are to be included in a random selection process, following which the selected application may be granted and the applications excluded by that grant may be dismissed without prejudice.

(3) Phase I major modification applications (applications filed during Phase I that propose major modifications to cellular systems authorized by the grant of Phase I initial applications) must be filed no later than 90 days after the grant of the Phase I initial application. Each Phase I licensee may file only one Phase I major modification application. The FCC will not accept any competing applications in response to a Phase I major modification application. Phase I licensees may not sell to a third party any rights to apply for unserved area.

(i) Phase I major modification applications may propose *de minimis* or contract SAB extensions; provided that a contract SAB extension into an adjacent market may be proposed only if, at the time the Phase I major modification application is filed, the licensee in the adjacent market (on the requested channel block) has the right to enter into such a contract (see §22.912(c)).

(ii) Phase I major modification application may propose a CGSA that is not contiguous with the authorized or proposed CGSA, provided that the noncontiguous CGSA meets the minimum coverage requirement of §22.951.

(4) Phase I licensees may also file applications for or notifications of minor modifications to its system. However, such minor modifications may not reduce the size of the CGSA below the minimum coverage requirement of §22.951.

(b) *Phase II.* Phase II is an on-going filing process that allows eligible parties to apply for any unserved areas

that may remain in a market after the Phase I process is complete.

(1) If a Phase I initial application is granted for a market and channel block, Phase II applications (applications for authority to operate a cellular system in any remaining unserved area) for that market and channel block may be filed on or after the 121st day after the Phase I application was granted. If no Phase I initial applications are granted for a market and channel block, Phase II applications for that market and channel block may be filed on or after the 31st day after the FCC dismissed the last pending Phase I application. If no Phase I initial applications are received for a market and channel block, Phase II applications for that market and channel block may be filed on or after the 32nd day after the expiration of the relevant five-year build-out period.

(2) There is no limit to the number of Phase II applications that may be granted on each channel block in each market. Consequently, Phase II applications are mutually exclusive only if the proposed CGSAs would overlap. Mutually exclusive applications are processed using the general procedures in §22.131.

(3) Phase II applications may propose a CGSA covering more than one cellular market. Each Phase II application must request authorization for one and only one CGSA. Phase II applications may propose *de minimis* and contract SAB extensions.

(c) Settlements among some, but not all, applicants with mutually exclusive applications for unserved areas (partial settlements) are prohibited. Settlements among all applicants with mutually exclusive applications (full settlements) are allowed and must be filed no later than the date that the FCC Form 175 (short-form) is filed.

(d) *Limitations on amendments.* Notwithstanding the provisions of §1.927 of this chapter, Phase I applications are subject to the following additional limitations in regard to the filing of amendments.

(1) The Commission will not accept amendments (of any type) to mutually exclusive Phase I applications prior to the conclusion of the competitive bidding process.

(2) The FCC will not accept major amendments to Phase I applications.

(3) Minor amendments required by §1.65 of this chapter must be filed no later than thirty (30) days after public notice announcing the results of the competitive bidding process.

[59 FR 59507, Nov. 17, 1994, as amended at 59 FR 59956, Nov. 21, 1994; 61 FR 58339, Nov. 14, 1996; 67 FR 9610, Mar. 4, 2002; 70 FR 61059, Oct. 20, 2005]

§ 22.950 Provision of service in the Gulf of Mexico Service Area (GMSA)

The GMSA has been divided into two areas for licensing purposes, the Gulf of Mexico Exclusive Zone (GMEZ) and the Gulf of Mexico Coastal Zone (GMCZ). This section describes these areas and sets forth the process for licensing facilities in these two respective areas within the GMSA.

(a) The GMEZ and GMCZ are defined as follows:

(1) *Gulf of Mexico Exclusive Zone.* The geographical area within the Gulf of Mexico Service Area that lies between the coastline line and the southern demarcation line of the Gulf of Mexico Service Area, excluding the area comprising the Gulf of Mexico Coastal Zone.

(2) *Gulf of Mexico Coastal Zone.* The geographical area within the Gulf of Mexico Service Area that lies between the coast line of Florida and a line extending approximately twelve nautical miles due south from the coastline boundary of the States of Florida and Alabama, and continuing along the west coast of Florida at a distance of twelve nautical miles from the shoreline. The line is defined by Great Circle arcs connecting the following points (geographical coordinates listed as North Latitude, West Longitude) consecutively in the order listed:

(i) 30°16′49″ N 87°31′06″ W
(ii) 30°04′35″ N 87°31′06″ W
(iii) 30°10′56″ N 86°26′53″ W
(iv) 30°03′00″ N 86°00′29″ W
(v) 29°33′00″ N 85°32′49″ W
(vi) 29°23′21″ N 85°02′06″ W
(vii) 29°49′44″ N 83°59′02″ W
(viii) 28°54′00″ N 83°05′33″ W
(ix) 28°34′41″ N 82°53′38″ W
(x) 27°50′39″ N 83°04′27″ W

(xi) 26°24′22″ N 82°23′22″ W
(xii) 25°41′39″ N 81°49′40″ W
(xiii) 24°59′02″ N 81°15′04″ W
(xiv) 24°44′23″ N 81°57′04″ W
(xv) 24°32′37″ N 82°02′01″ W

(b) *Service Area Boundary Calculation.* The service area boundary of a cell site located within the Gulf of Mexico Service Area is calculated pursuant to §22.911(a)(2). Otherwise, the service area boundary is calculated pursuant to §§22.911(a)(1) or 22.911(b).

(c) Operation within the Gulf of Mexico Exclusive Zone (GMEZ). GMEZ licensees have exclusive right to provide service in the GMEZ, and may add, modify, or remove facilities anywhere within the GMEZ without prior Commission approval. There is no five-year buildout period for GMEZ licensees, no requirement to file system information update maps pursuant to §22.947, and no unserved area licensing procedure for the GMEZ.

(d) Operation within the Gulf of Mexico Coastal Zone (GMCZ). The GMCZ is subject to the Phase II unserved area licensing procedures set forth in §22.949(b).

[67 FR 9610, Mar. 4, 2002]

§22.951 Minimum coverage requirement.

Applications for authority to operate a new cellular system in an unserved area, other than those filed by the licensee of an existing system that abuts the unserved area, must propose a contiguous cellular geographical service area (CGSA) of at least 130 square kilometers (50 square miles). Area within contract SAB extensions counts toward the minimum coverage requirement. However, area within *de minimis* SAB extensions does not count toward the minimum coverage requirement. Applications for authority to operate a new cellular system in an unserved area, other than those filed by the licensee of an existing system that abuts the unserved area, must not propose coverage of water areas only (or water areas and uninhabited islands or reefs only), except for unserved areas in the Gulf of Mexico MSA.

§22.953 Content and form of applications.

Applications for authority to operate a cellular system in an unserved area must comply with the specifications in this section.

(a) Applications for authority to operate a cellular system in an unserved area must include the following information in addition to the requirements specified in §§1.919, 1.923 and 1.924. The following exhibits must be set off by tabs and numbered as follows:

(1) *Exhibit I—full-size map.* The scale of the full-size map must be 1:500,000, regardless of whether any different scale is used for the reduced map required in Exhibit II. The map must have a legend, a distance scale and correctly labeled latitude and longitude lines. The map must be clear and legible. The map must accurately show the cell sites (transmitting antenna locations), the entire CGSA, any extension of the composite service area boundary beyond the CGSA (*see* §22.911) and the relevant portions of the cellular market boundary.

(2) *Exhibit II—reduced map.* This map must be a proportional reduction, to 8½ × 11 inches, of the full-size map required for Exhibit I, unless it proves to be impractical to depict the entire cellular market by reducing the full-size map. In such instance, an 8½×11 inch map of a different scale may be substituted, provided that the required features of the full-size map are clearly depicted and labeled.

(3) *Exhibit III—engineering.* This exhibit must contain the data and methodology used to calculate the CGSA and service area boundary.

(4) *Exhibit IV—channel plan.* This exhibit must show which specific channels (or groups) are to be used at each cell site. Any necessary table for converting channel numbers to center frequencies must be provided.

(5) [Reserved]

(6) *Exhibit VI—service proposal.* This exhibit must describe the services proposed for subscribers and roamers, including the proposed method for handling complaints.

(7) *Exhibit VII—cellular design.* This exhibit must show that the proposed system design complies with cellular

system design concepts, and must describe the method proposed to expand the system in a coordinated fashion as necessary to address changing demand for cellular service.

(8) *Exhibit VIII—blocking level.* This exhibit must disclose the blocking probability or other criteria to be used to determine whether it is necessary to take measures to increase system capacity to maintain service quality.

(9) *Exhibit IX—start-up expenses.* This exhibit must disclose in detail the projected cost of construction and other initial expenses of the proposed system, and how the applicant intends to meet these expenses and the costs of operation for the first year.

(10) *Exhibit X—interconnection arrangements.* This exhibit is required for applicants that provide public landline message telephone service in any portion of the proposed CGSA. This exhibit must describe exactly how the proposed system would interconnect with the landline network. The description must be of sufficient detail to enable a competitor to connect with the landline system in exactly the same manner, if the competitor so chooses.

(b) *Existing systems—major modifications.* Licensees making major modifications pursuant to §1.929(a) and (b) of this chapter, must file FCC Form 601 and need only contain the exhibits required by paragraphs (a)(1) through (a)(3) of this section.

(c) *Existing systems—minor modifications.* Licensees making minor modifications pursuant to §1.929(k) of this chapter—in which the modification causes a change in the CGSA boundary (including the removal of a transmitter or transmitters)—must notify the FCC (using FCC Form 601) and include full-sized maps, reduced maps, and supporting engineering exhibits as described in paragraphs (a)(1) through (3) of this section. If the modification involves a contract SAB extension, it must include a statement as to whether the five-year build-out for the system on the relevant channel block in the market into which the SAB extends has elapsed, and as to whether the SAB extends into any unserved area in that market.

[59 FR 59507, Nov. 17, 1994, as amended at 59 FR 59954, Nov. 21, 1994; 63 FR 68951, Dec. 14, 1998; 64 FR 53241, Oct. 1, 1999; 70 FR 61059, Oct. 20, 2005]

§ 22.955 Canadian condition.

Pursuant to an agreement between the FCC and the Department of Communications in Canada, authorizations for cellular systems within 72 kilometers (45 miles) of the U.S.-Canadian border must have the following condition attached:

This authorization is subject to the condition that, in the event that cellular systems using the same channel block as granted herein are authorized in adjacent territory in Canada, coordination of any of your transmitter installations which are within 72 kilometers (45 miles) of the U.S.-Canadian border shall be required to eliminate any harmful interference that might otherwise exist and to insure continuance of equal access to the channel block by both countries.

§ 22.957 Mexican condition.

Pursuant to an agreement between the United States and Mexico, FCC authorizations for cellular systems within 72 kilometers (45 miles) of the United States-Mexican border must have the following condition attached:

This authorization is subject to the condition that, in the event cellular systems using the same frequencies granted herein are authorized in adjacent territory in Mexico, coordination of your transmitter installations which are within 72 kilometers (45 miles) of the United States-Mexico border shall be required to eliminate any harmful interference that might otherwise exist and to ensure continuance of equal access to the frequencies by both countries. The operator of this system shall not contract with customers in Mexico, and further, users of the system must be advised that operation of a mobile unit in Mexico is not permitted at this time without the express permission of the Mexican government. The above conditions are subject to modification pending further notice from the FCC.

§ 22.959 Rules governing processing of applications for initial systems.

Pending applications for authority to operate the first cellular system on a channel block in an MSA or RSA market continue to be processed under the rules governing the processing of such

applications that were in effect when those applications were filed, unless the Commission determines otherwise in a particular case.

§ 22.960 Cellular unserved area radiotelephone licenses subject to competitive bidding.

Mutually exclusive initial applications for cellular unserved area Phase I and Phase II licenses filed after July 26, 1993 are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

[67 FR 45367, July 9, 2002]

§§ 22.961–22.967 [Reserved]

§ 22.969 Cellular RSA licenses subject to competitive bidding.

Mutually exclusive applications for initial authorization for the following Cellular Rural Service Areas filed after the effective date of this rule are subject to competitive bidding procedures as prescribed by Sections 22.228 and 22.229: 332A—Polk, AR; 582A—Barnes, ND; 672A—Chambers, TX; and 727A—Ceiba, PR.

[67 FR 11434, Mar. 14, 2002]

§ 22.970 Unacceptable interference to part 90 non-cellular 800 MHz licensees from cellular radiotelephone or part 90–800 MHz cellular systems.

(a) *Definition.* Except as provided in 47 CFR 90.617(k), unacceptable interference to non-cellular part 90 licensees in the 800 MHz band from cellular radiotelephone or part 90–800 MHz cellular systems will be deemed to occur when the below conditions are met:

(1) A transceiver at a site at which interference is encountered:

(i) Is in good repair and operating condition, and is receiving:

(A) A median desired signal of −104 dBm or higher, as measured at the R.F. input of the receiver of a mobile unit; or

(B) A median desired signal of −101 dBm or higher, as measured at the R.F. input of the receiver of a portable *i.e.* hand-held unit; and, either

(ii) Is a voice transceiver:

(A) With manufacturer published performance specifications for the receiver section of the transceiver equal to, or exceeding, the minimum standards set out in paragraph (b) of this section, below; and;

(B) Receiving an undesired signal or signals which cause the measured Carrier to Noise plus interference (C/(I+N)) ratio of the receiver section of said transceiver to be less than 20 dB, or,

(iii) Is a non-voice transceiver receiving an undesired signal or signals which cause the measured bit error rate (BER) (or some comparable specification) of the receiver section of said transceiver to be more than the value reasonably designated by the manufacturer.

(2) Provided, however, that if the receiver section of the mobile or portable voice transceiver does not conform to the standards set out in paragraph (b) of this section, then that transceiver shall be deemed subject to unacceptable interference only at sites where the median desired signal satisfies the applicable threshold measured signal power in paragraph (a)(1)(i) of this section after an upward adjustment to account for the difference in receiver section performance. The upward adjustment shall be equal to the increase in the desired signal required to restore the receiver section of the subject transceiver to the 20 dB C/(I+N) ratio of paragraph (a)(1)(ii)(B) of this section. The adjusted threshold levels shall then define the minimum measured signal power(s) in lieu of paragraphs (a)(1)(i) of this section at which the licensee using such non-compliant transceiver is entitled to interference protection.

(b) *Minimum receiver requirements.* Voice transceivers capable of operating in the 806–824 MHz portion of the 800 MHz band shall have the following minimum performance specifications in order for the system in which such transceivers are used to claim entitlement to full protection against unacceptable interference (See paragraph (a) (2) of this section).

(1) Voice units intended for mobile use: 75 dB intermodulation rejection ratio; 75 dB adjacent channel rejection ratio; −116 dBm reference sensitivity.

(2) Voice units intended for portable use: 70 dB intermodulation rejection

ratio; 70 dB adjacent channel rejection ratio; −116 dBm reference sensitivity.

[69 FR 67834, Nov. 22, 2004, as amended at 70 FR 76707, Dec. 28, 2005]

§ 22.971 Obligation to abate unacceptable interference.

(a) *Strict Responsibility*. Any licensee who, knowingly or unknowingly, directly or indirectly, causes or contributes to causing unacceptable interference to a non-cellular part 90 of this chapter licensee in the 800 MHz band, as defined in § 22.970, shall be strictly accountable to abate the interference, with full cooperation and utmost diligence, in the shortest time practicable. Interfering licensees shall consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in § 22.972(c). This strict responsibility obligation applies to all forms of interference, including out-of-band emissions and intermodulation.

(b) *Joint and several responsibility*. If two or more licensees knowingly or unknowingly, directly or indirectly, cause or contribute to causing unacceptable interference to a non-cellular part 90 of this chapter licensee in the 800 MHz band, as defined in § 22.970, such licensees shall be jointly and severally responsible for abating interference, with full cooperation and utmost diligence, in the shortest practicable time.

(1) This joint and several responsibility rule requires interfering licensees to consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in § 22.972(c). This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation.

(2) Any licensee that can show that its signal does not directly or indirectly, cause or contribute to causing unacceptable interference to a non-cellular part 90 of this chapter licensee in the 800 MHz band, as defined in this chapter, shall not be held responsible for resolving unacceptable interference. Notwithstanding, any licensee that receives an interference complaint from a public safety/CII licensee shall respond to such complaint consistent with the interference resolution procedures set forth in this chapter.

[69 FR 67834, Nov. 22, 2004, as amended at 70 FR 76707, Dec. 28, 2005]

§ 22.972 Interference resolution procedures.

(a) *Initial notification*. (1) Cellular Radiotelephone licensees may receive initial notification of interference from non-cellular part 90 of this chapter licensees in the 800 MHz band pursuant to § 90.674(a) of this chapter.

(2) Cellular Radiotelephone licensees, in conjunction with part 90 ESMR licensees, shall establish an electronic means of receiving the initial notification described in § 90.674(a) of this chapter. The electronic system must be designed so that all appropriate Cellular Radiotelephone licensees and part 90 ESMR licensees can be contacted about the interference incident with a single notification. The electronic system for receipt of initial notification of interference complaints must be operating no later than February 22, 2005.

(3) Cellular Radiotelephone licensees must respond to the initial notification described in § 90.674(a) of this chapter, as soon as possible and no later than 24 hours after receipt of notification from a part 90 public safety/CII licensee. This response time may be extended to 48 hours after receipt from other part 90 non-cellular licensees provided affected communications on these systems are not safety related.

(b) *Interference analysis*. Cellular Radiotelephone licensees—who receive an initial notification described in § 90.674(a) of this chapter—shall perform a timely analysis of the interference to identify the possible source. Immediate on-site visits may be conducted when necessary to complete timely analysis. Interference analysis must be completed and corrective action initiated within 48 hours of the initial complaint from a part 90 of this chapter public safety/CII licensee. This response time may be extended to 96 hours after the initial complaint from other part 90 of this chapter non-cellular licensees provided affected communications on these systems are not safety related. Corrective action may

be delayed if the affected licensee agrees in writing (which may be, but is not required to be, recorded via e-mail or other electronic means) to a longer period.

(c) *Mitigation steps.* (1) All Cellular Radiotelephone and part 90 of this chapter—800 MHz cellular system licensees who are responsible for causing unacceptable interference shall take all affirmative measures to resolve such interference. Cellular Radiotelephone licensees found to contribute to unacceptable interference, as defined in §22.970, shall resolve such interference in the shortest time practicable. Cellular Radiotelephone licensees and part 90 of this chapter—800 MHz cellular system licensees must provide all necessary test apparatus and technical personnel skilled in the operation of such equipment as may be necessary to determine the most appropriate means of timely eliminating the interference. However, the means whereby interference is abated or the cell parameters that may need to be adjusted is left to the discretion of the Cellular Radiotelephone and/or part 90 of this chapter—800 MHz cellular system licensees, whose affirmative measures may include, but not be limited to, the following techniques:

(i) Increasing the desired power of the public safety/CII signal;

(ii) Decreasing the power of the part 90 ESMR and/or Cellular Radiotelephone system signal;

(iii) Modifying the part 90 ESMR and/or Cellular Radiotelephone system antenna height;

(iv) Modifying the part 90 ESMR and/or Cellular Radiotelephone system antenna characteristics;

(v) Incorporating filters into part 90 ESMR and/or Cellular Radiotelephone transmission equipment;

(vi) Permanently changing part 90 ESMR and/or Cellular Radiotelephone frequencies; and

(vii) Supplying interference-resistant receivers to the affected public safety/CII licensee(s). If this technique is used, in all circumstances, Cellular Radiotelephone and/or part 90 of this chapter ESMR licensees shall be responsible for all costs thereof.

(2) Whenever short-term interference abatement measures prove inadequate, the affected part 90 of this chapter non-cellular licensee shall, consistent with but not compromising safety, make all necessary concessions to accepting interference until a longer-term remedy can be implemented.

(3) *Discontinuing operations when clear imminent danger exists.* When a part 90 of this chapter public safety licensee determines that a continuing presence of interference constitutes a clear and imminent danger to life or property, the licensee causing the interference must discontinue the associated operation immediately, until a remedy can be identified and applied. The determination that a continuing presence exists that constitutes a clear and imminent danger to life or property, must be made by written statement that:

(i) Is in the form of a declaration, notarized affidavit, or statement under penalty or perjury, from an officer or executive of the affected public safety licensee;

(ii) Thoroughly describes the basis of the claim of clear and imminent danger;

(iii) Was formulated on the basis of either personal knowledge or belief after due diligence;

(iv) Is not proffered by a contractor or other third party; and

(v) Has been approved by the Chief of the Public Safety and Homeland Security Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, DC office of the Commission's Public Safety and Homeland Security Bureau.

[69 FR 67834, Nov. 22, 2004, as amended at 70 FR 76707, Dec. 28, 2005; 71 FR 69038, Nov. 29, 2006]

§22.973 Information exchange.

(a) *Prior notification.* Public safety/CII licensees may notify a part 90 ESMR or cellular radiotelephone licensee that they wish to receive prior notification of the activation or modification of part 90 ESMR or cellular radiotelephone cell sites in their area.

Thereafter, the part 90 ESMR or cellular radiotelephone licensee must provide the following information to the public safety/CII licensee at least 10 business days before a new cell site is activated or an existing cell site is modified:

(1) Location;

(2) Effective radiated power;

(3) Antenna height;

(4) Channels available for use.

(b) *Purpose of prior notification.* The prior coordination of cell sites is for informational purposes only. Public safety/CII licensees are not afforded the right to accept or reject the activation of a proposed cell or to unilaterally require changes in its operating parameters. The principal purposes of notification are to:

(1) Allow a public safety licensee to advise the part 90 of this chapter ESMR or Cellular Radiotelephone licensee whether it believes a proposed cell will generate unacceptable interference;

(2) Permit Cellular Radiotelephone or part 90 of this chapter ESMR licensees to make voluntary changes in cell parameters when a public safety licensee alerts them to possible interference; and

(3) Rapidly identify the source if interference is encountered when the cell is activated.

[69 FR 67834, Nov. 22, 2004]

Subpart I—Offshore Radiotelephone Service

§ 22.1001 Scope.

The rules in this subpart govern the licensing and operation of offshore radiotelephone stations. The licensing and operation of these stations and systems is also subject to rules elsewhere in this part that apply generally to the public mobile services. However, in case of conflict, the rules in this subpart govern.

§ 22.1003 Eligibility.

Any eligible entity (see § 22.7) may apply for central station license(s) and/or offshore subscriber licenses under this subpart.

[70 FR 19312, Apr. 13, 2005]

§ 22.1005 Priority of service.

Facilities in the Offshore Radiotelephone Service are intended primarily for rendition of public message service between offshore subscriber and central stations. However, they may also be used to render private leased line communication service, provided that such usage does not reduce or impair the extent or quality of communication service which would be available, in the absence of private leased line service, to the general public receiving or subsequently requesting public message service from an offshore central station.

§ 22.1007 Channels for offshore radiotelephone systems.

The channels listed in this section are allocated for paired assignment to transmitters located in the specified geographical zones that provide offshore radiotelephone service. All channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

(a) *Zone A—Southern Louisiana.* The geographical area in Zone A is bounded as follows:

From longitude W.87°45′ on the East to longitude W.94°00′ on the West and from the 4.8 kilometer (3 mile) limit along the Gulf of Mexico shoreline on the North to the limit of the Outer Continental Shelf on the South.

(1) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for voice-grade general communications:

Central	Subscriber	Central	Subscriber
488.025	491.025	488.225	491.225
488.050	491.050	488.250	491.250
488.075	491.075	488.275	491.275
488.100	491.100	488.300	491.300
488.125	491.125	488.325	491.325
488.150	491.150	488.350	491.350
488.175	491.175	488.375	491.375
488.200	491.200	488.400	491.400

(2) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for voice-grade general communications and private line service: