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(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 licensee in the 800 MHz band, as defined in §22.877, 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 §22.879.

[70 FR 19411, Apr. 13, 2005]

§22.879 Interference resolution procedures.

This section applies only to commercial aviation ground stations transmitting in the 849–851 MHz band, other than commercial aviation ground stations operating under the authority of a license originally granted prior to January 1, 2004.

(a) *Initial notification.* Commercial aviation air-ground system licensees may receive initial notification of interference from non-cellular part 90 licensees in the 800 MHz band pursuant to §90.674(a) of this chapter.

(1) Commercial aviation air-ground system licensees shall join with part 90 ESMR licensees and Cellular Radiotelephone Service licensees in utilizing an electronic means of receiving the initial notification described in §90.674(a) of this chapter. See §22.972.

(2) Commercial aviation air-ground system 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.* Commercial aviation air-ground system 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 public safety/CII licensee. This response time may be extended to 96 hours after the initial complaint from other part 90 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.* Any commercial aviation air-ground system that is responsible for causing unacceptable interference to non-cellular part 90 licensees in the 800 MHz band shall take affirmative measures to resolve such interference.

(1) Commercial aviation air-ground system licensees found to contribute to unacceptable interference, as defined in §22.877, shall resolve such interference in the shortest time practicable. Commercial aviation air-ground 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 technical parameters that may need to be adjusted is left to the discretion of the commercial aviation air-ground system licensee, 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 commercial aviation air-ground system signal;

(iii) Modifying the commercial aviation air-ground system antenna height;

(iv) Modifying the commercial aviation air-ground system antenna characteristics;

(v) Incorporating filters into the commercial aviation air-ground system transmission equipment;

(vi) Changing commercial aviation air-ground system frequencies; and

(vii) Supplying interference-resistant receivers to the affected public safety/CII licensee(s). If this technique is

used, in all circumstances, commercial aviation air-ground system licensees shall be responsible for all costs thereof.

(2) Whenever short-term interference abatement measures prove inadequate, the affected part 90 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) When a part 90 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.

[70 FR 19311, Apr. 13, 2005, as amended at 71 FR 69038, Nov. 29, 2006]

§ 22.880 Information exchange.

(a) *Prior notification.* Public safety/CII licensees may notify a commercial aviation air-ground system licensee that they wish to receive prior notification of the activation or modification of a commercial aviation air-ground system ground station site in their area. Thereafter, the commercial aviation air-ground system licensee must provide the following information to the public safety/CII licensee at least 10 business days before a new ground station is activated or an existing ground station is modified:

(1) Location;

(2) Effective radiated power;

(3) Antenna manufacturer, model number, height above ground level and up tilt angle, as installed;

(4) Channels available for use.

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

(1) Allow a public safety licensee to advise the commercial aviation air-ground system licensee whether it believes a proposed ground station will generate unacceptable interference;

(2) Permit commercial aviation air-ground system licensee(s) to make voluntary changes in ground station parameters when a public safety licensee alerts them to possible interference; and

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

[70 FR 19312, Apr. 13, 2005]

§ 22.881 Air-Ground Radiotelephone Service subject to competitive bidding.

Mutually exclusive initial applications for general aviation Air-Ground Radiotelephone Service licenses and mutually exclusive initial applications for commercial Air-Ground Radiotelephone Service licenses 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.

[70 FR 76417, Dec. 27, 2005]