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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.