§ 90.673 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 licensee in the 800 MHz band, as defined in this chapter, 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 this chapter. 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 licensee in the 800 MHz band, as defined in this chapter, such licensees shall be jointly and severally responsible for abating interference, with full cooperation and utmost diligence, in the shortest practicable time. 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 this chapter. This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation.

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 §90.674(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 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 67849, Nov. 22, 2004]

§ 90.674 Interference resolution procedures before, during and after band reconfiguration.

(a) Initial Notification. Any non-cellular licensee operating in the 806–824/851–869 MHz band who reasonably believes it is receiving unacceptable interference, as described in §90.672, shall provide an initial notification of the interference incident. This initial notification of an interference incident shall be sent to all part 22 of this chapter Cellular Radiotelephone licensees and ESMR licensees who operate cellular base stations (“cell sites”) within 1,524 meters (5,000 feet) of the interference incident.

1 The initial notification of interference shall include the following information on interference:

(i) The specific geographical location where the interference occurs, and the time or times at which the interference occurred or is occurring;

(ii) A description of its scope and severity, including its source, if known;

(iii) The relevant Commission licensing information of the party suffering the interference; and

(iv) A single point of contact for the party suffering the interference.

(2) ESMR licensees, in conjunction with part 22 Cellular Radiotelephone licensees, shall establish an electronic means of receiving the initial notification described in paragraph (a)(1) of this section. The electronic system must be designed so that all appropriate 800 MHz ESMR and part 22 Cellular Radiotelephone 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) ESMR licensees must respond to the initial notification described in paragraph (a)(1) of this section, as soon
as possible and no later than 24 hours
of receipt of notification from a public
safety/CII licensee. This response time
may be extended to 48 hours after re-
cipe from other non-cellular licensees
provided affected communications on
these systems are not safety related.

(b) Interference analysis. ESMR licens-
ees—who receive an initial notification
described in paragraph (a) of this sec-
tion—shall perform a timely analysis
of the interference to identify the pos-
sible source. Immediate on-site visits
may be conducted when necessary to
complete timely analysis. Interference
analysis must be completed and correc-
tive action initiated within 48 hours
of the initial complaint from a public
safety/CII licensee. This response time
may be extended to 96 hours after the
initial complaint from other non-cel-
lular licensees provided affected com-
munications on these systems are not
safety related. Corrective action may
deferred 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 800 MHz
cellular system licensees and part 22 of
this chapter Cellular Radiotelephone
licensees who are responsible for caus-
ing unacceptable interference shall
take all affirmative measures to re-
solve such interference. 800 MHz cel-
lular system licensees found to con-
tribute to harmful interference, as de-
 fined in §90.672, shall resolve such in-
terference in the shortest time prac-
ticable. 800 MHz cellular system licens-
ees and part 22 of this chapter Cellular
Radiotelephone licensees must provide
all necessary test apparatus and tech-

nical personnel skilled in the operation
of such equipment as may be necessary
to determine the most appropriate
means of timely eliminating the inter-
ference. However, the means whereby
interference is abated or the cell pa-
rameters that may need to be adjusted
is left to the discretion of involved 800
MHz cellular system licensees and/or
part 22 of this chapter Cellular Radio-
telephone licensees, whose affirmative
measures may include, but not be lim-
ted to, the following techniques:

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

(ii) Decreasing the power of the
ESMR and/or part 22 Cellular Radi-
telephone signal;

(iii) Modifying the ESMR and/or part
22 Cellular Radiotelephone systems an-
tenna height;

(iv) Modifying the ESMR and/or part
22 Cellular Radiotelephone system an-
tenna characteristics;

(v) Incorporating filters into ESMR
and/or part 22 Cellular Radiotelephone
system transmission equipment;

(vi) Permanently changing ESMR
and/or part 22 Cellular Radiotelephone
system frequencies; and

(vii) Supplying interference-resistant
receivers to the affected public safety
licensee(s). If this technique is used, in
all circumstances, the ESMR and/or
part 22 Cellular Radiotelephone licens-
ees shall be responsible for all costs
thereof.

(2) Whenever short-term interference
abatement measures prove inadequate,
the affected licensee shall, consistent
with but not compromising safety, make
all necessary concessions to ac-
cepting interference until a longer-
term remedy can be implemented.

(3) Discontinuing operations when clear
and imminent danger exists. When a pub-
lic safety licensee determines that a
continuing presence of interference
constitutes a clear and imminent dan-
ger to life or property, the licensee
causing the interference must dis-
continue the associated operation im-
mediately, until a remedy can be iden-
tified and applied. The determination
that a continuing presence exists that
constitutes a clear and imminent dan-
ger to life or property, must be made
by written statement that:

(i) Is in the form of a declaration, no-
tarized 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 dan-
ger;

(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

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(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.

§ 90.675 Information exchange.

(a) Prior coordination. Public safety/CII licensees may notify an ESMR or part 22 Cellular Radiotelephone licensee that they wish to receive prior notification of the activation or modification of ESMR or part 22 Cellular Radiotelephone cell sites in their area. Thereafter, the ESMR or part 22 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 coordination. The 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/CII licensee to advise the ESMR or part 22 Cellular Radiotelephone licensee whether it believes a proposed cell will generate unacceptable interference;
2. Permit ESMR or part 22 Cellular Radiotelephone 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.

(c) Public safety information exchange. Upon request by an ESMR or part 22 Cellular Radiotelephone licensee, public safety/CII licensees who operate radio systems in the 806–824/851–869 MHz shall provide the operating parameters of their radio system to the ESMR or part 22 Cellular Radiotelephone licensee.

§ 90.676 Transition administrator for reconfiguration of the 806–824/851–869 MHz band in order to separate cellular systems from non-cellular systems.

The Transition Administrator will be an independent party with no financial interest in any 800 MHz licensee; and will be selected by a committee representative of 800 MHz licensees. The Transition Administrator will serve both a ministerial role and a function similar to a special master in a judicial proceeding.

(a) The duties of the Transition Administrator will include, but not be limited to:

1. Obtaining estimates from licensees regarding the cost of reconfiguring their systems and ensuring that estimates contain a firm work schedule. The Transition Administrator will retain copies of all estimates and make them available to the Commission on request.
2. Mediating disputes regarding cost estimates for reconfiguring a system.
3. Issuing the Draw Certificate to authorize and instruct the Letter of Credit Trustee to draw down on the Letter of Credit to pay relocation costs in connection with reconfiguring a licensee’s system.
4. Establishing a relocation schedule on a NPSPAC region-by-region basis, prioritizing the regions on the basis of...