

§ 22.143 Construction prior to grant of application.

Applicants may construct facilities in the Public Mobile services prior to grant of their applications, subject to the provisions of this section, but must not operate such facilities until the FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities in the Public Mobile Services.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility 35 days after the date of the Public Notice listing the application for that facility as acceptable for filing.

(b) *Notification to stop.* If the FCC for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

- (1) Applications that are not granted;
- (2) Errors or delays in issuing Public Notices;
- (3) Having to alter, relocate or dismantle the facility; or
- (4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or FCC rules and orders.

(d) *Conditions.* Except as indicated, all pre-grant construction is subject to the following conditions:

- (1) The application is not mutually exclusive with any other application, except for successful bidders and tentative selectees in the Cellular Radiotelephone Service;
- (2) No petitions to deny the application have been filed;
- (3) The application does not include a request for a waiver of one or more FCC rules;
- (4) For any construction or alteration that would exceed the requirements of §17.7 of this chapter, the li-

censee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1), secured a valid FAA determination of “no hazard,” and received antenna height clearance and obstruction marking and lighting specifications (FCC Form 854R) from the FCC for the proposed construction or alteration.

(5) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with §§1.1301 through 1.1319 of this chapter; and,

(6) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required.

[59 FR 59507, Nov. 17, 1994, as amended at 70 FR 19308, Apr. 13, 2005; 77 FR 3954, Jan. 26, 2012; 79 FR 72151, Dec. 5, 2014]

§ 22.150 Standard pre-filing technical coordination procedure.

For operations on certain channels in the Public Mobile Services, carriers must attempt to coordinate the proposed use of spectrum with other spectrum users prior to filing an application for authority to operate a station. Rules requiring this procedure for specific channels and types of stations are contained in the subparts governing the individual Public Mobile Services.

(a) Coordination comprises two steps—notification and response. Each step may be accomplished orally or in writing.

(b) Notification must include relevant technical details of the proposal. At minimum, this should include the following:

- (1) Geographical coordinates of the antenna site(s).
- (2) Transmitting and receiving channels to be added or changed.
- (3) Transmitting power, emission type and polarization.
- (4) Transmitting antenna pattern and maximum gain.
- (5) Transmitting antenna height above ground level.

(c) Applicants and licensees receiving notification must respond promptly, even if no channel usage conflicts are anticipated. If any notified party fails

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to respond within 30 days, the applicant may file the application without a response from that party.

(d) The 30-day period begins on the date the notification is submitted to the Commission via the ULS. If the notification is by mail, this date may be ascertained by:

(1) The return receipt on certified mail,

(2) The enclosure of a card to be dated and returned by the party being notified, or

(3) A reasonable estimate of the time required for the mail to reach its destination. In this case, the date when the 30-day period will expire must be stated in the notification.

(e) All channel usage conflicts discovered during the coordination process should be resolved prior to filing of the application. If the applicant is unable or unwilling to resolve a particular conflict, the application may be accepted for filing if it contains a statement describing the unresolved conflict and a brief explanation of the reasons why a resolution was not achieved.

(f) If a number of changes in the technical parameters of a proposed facility become necessary during the course of the coordination process, an attempt should be made to minimize the number of separate notifications. If the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified.

(g) In situations where subsequent changes are not numerous or complex, the party receiving the changed notification should make an effort to respond in less than 30 days. If the applicant believes a shorter response time is reasonable and appropriate, it should so indicate in the notice and suggest a response date.

(h) If a subsequent change in the technical parameters of a proposed facility could not affect the facilities of one or more of the parties that received an initial notification, the applicant is not required to coordinate that change with these parties. However, these parties must be advised of

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the change and of the opinion that coordination is not required.

[59 FR 59507, Nov. 17, 1994, as amended at 63 FR 68944, Dec. 14, 1998]

§ 22.165 Additional transmitters for existing systems.

A licensee may operate additional transmitters at additional locations on the same channel or channel block as its existing system without obtaining prior Commission approval provided:

(a) *International coordination.* The locations and/or technical parameters of the additional transmitters are such that individual coordination of the channel assignment(s) with a foreign administration, under applicable international agreements and rules in this part, is not required.

(b) *Antenna structure registration.* Certain antenna structures must be registered with the Commission prior to construction or alteration. Registration requirements are contained in part 17 of this chapter.

(c) *Environmental.* The additional transmitters must not have a significant environmental effect as defined by §§ 1.1301 through 1.1319 of this chapter.

(d) *Paging and Radiotelephone Service.* The provisions in this paragraph apply for stations in the Paging and Radiotelephone Service.

(1) The interfering contours of the additional transmitter(s) must be totally encompassed by the composite interfering contour of the existing station (or stations under common control of the applicant) on the same channel, except that this limitation does not apply to nationwide network paging stations or in-building radiation systems.

(2) [Reserved]

(3) The additional transmitters must not operate on control channels in the 72–76 MHz, 470–512 MHz, 928 MHz, 932 MHz, 941 MHz or 959 MHz frequency ranges.

(e) *Cellular Radiotelephone Service.* The service area boundaries (SABs) of the additional transmitters, as calculated by the method set forth in § 22.911(a), must not cause an expansion of the Cellular Geographic Service Area (CGSA), and must not extend outside the CGSA boundary into Unserved Area unless such extension is less than