

Federal Communications Commission.

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Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Parts 22, 24, and 90 as follows:

PART 22—PUBLIC MOBILE SERVICES

1. The authority citation for Part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309 and 332.

2. Section 22.702 is revised to read as follows:

§ 22.702 Eligibility.

Existing and proposed communications common carriers are eligible to hold authorizations to operate conventional central office, interoffice and rural stations in the Rural Radiotelephone Service. Subscribers are also eligible to hold authorizations to operate rural subscriber stations in the Rural Radiotelephone Service.

PART 24—PERSONAL COMMUNICATIONS SERVICES

3. The authority citation for Part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332.

4. Section 24.203(a) is revised to read as follows:

§ 24.203 Construction requirements.

(a) Licensees of 30 MHz blocks must serve with a signal level sufficient to provide adequate service to at least one-third of the population in their licensed area within five years of being licensed and two-thirds of the population in their licensed area within ten years of being licensed. Alternatively, licensees may provide "substantial service" to their licensed area within ten years. Licensees may choose to define population using the 1990 census or the 2000 census. Failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the license and the licensee will be ineligible to regain it.

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PART 90—PRIVATE LAND MOBILE RADIO SERVICES

5. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

6. Section 90.155(d) is revised to read as follows:

§ 90.155 Time in which station must be placed in operation.

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(d) Multilateration LMS EA-licensees, authorized in accordance with § 90.353, must construct and place in operation a sufficient number of base stations that utilize multilateration technology (*see* paragraph (e) of this section) to provide multilateration location service to one-third of the EA's population within five years of initial license grant, and two-thirds of the population within ten years. Alternatively, licensees may provide "substantial service" to their licensed area within ten years. In demonstrating compliance with the construction and coverage requirements, the Commission will allow licensees to individually determine an appropriate field strength for reliable service, taking into account the technologies employed in their system design and other relevant technical factors. At the five and ten year benchmarks, licensees will be required to file a map and FCC Form 601 showing compliance with the coverage requirements (*see* § 1.946 of this chapter).

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7. Section 90.685(b) is revised to read as follows:

§ 90.685 Authorization, construction and implementation of EA licenses.

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(b) EA licensees in the 806–821/851–866 MHz band must, within three years of the grant of their initial license, construct and place into operation a sufficient number of base stations to provide coverage to at least one-third of the population of its EA-based service area. Further, each EA licensee must provide coverage to at least two-thirds of the population of the EA-based service area within five years of the grant of their initial license. Alternatively, EA-based licensees may provide substantial service to their markets within five years of the grant of their initial license. Substantial service shall be defined as: "Service which is sound, favorable, and substantially above a level of mediocre service."

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8. Section 90.767 is revised to read as follows:

§ 90.767 Construction and implementation of EA and Regional licenses.

(a) An EA or Regional licensee must construct a sufficient number of base stations (*i.e.*, base stations for land mobile and/or paging operations) to provide coverage to at least one-third of

the population of its EA or REAG within five years of the issuance of its initial license and at least two-thirds of the population of its EA or REAG within ten years of the issuance of its initial license. Alternatively, licensees may provide "substantial service" to their licensed area at their five- and ten-year benchmarks.

(b) Licensees must notify the Commission in accordance with § 1.946 of this chapter of compliance with the Construction requirements of paragraph (a) of this section.

(c) Failure by an EA or Regional licensee to meet the construction requirements of paragraph (a) of this section, as applicable, will result in automatic cancellation of its entire EA or Regional license. In such instances, EA or Regional licenses will not be converted to individual, site-by-site authorizations for already constructed stations.

(d) EA and Regional licensees will not be permitted to count the resale of the services of other providers in their EA or REAG, *e.g.*, incumbent, Phase I licensees, to meet the construction requirement of paragraph (a) or (b) of this section, as applicable.

(e) EA and Regional licensees will not be required to construct and place in operation, or commence service on, all of their authorized channels at all of their base stations or fixed stations.

9. Section 90.769 is revised to read as follows:

§ 90.769 Construction and implementation of Phase II nationwide licenses.

(a) A nationwide licensee must construct a sufficient number of base stations (*i.e.*, base stations for land mobile and/or paging operations) to provide coverage to a composite area of at least 750,000 square kilometers or 37.5 percent of the United States population within five years of the issuance of its initial license and a composite area of at least 1,500,000 square kilometers or 75 percent of the United States population within ten years of the issuance of its initial license. Alternatively, licensees may provide "substantial service" to their licensed area at their five- and ten-year benchmarks.

(b) Licensees must notify the Commission in accordance with § 1.946 of this chapter of compliance with the Construction requirements of paragraph (a) of this section.

(c) Failure by a nationwide licensee to meet the construction requirements of paragraph (a) of this section, as applicable, will result in automatic cancellation of its entire nationwide license. In such instances, nationwide