

single entity and the additional frequency pair is justified on the basis of the requirements of the proposed single user; or,

(2) The licensee's existing frequency pair(s) is loaded to prescribed levels.

(d) No licensee will be authorized frequencies for a conventional system if that licensee is operating an unloaded trunked system or has an application pending for a trunked system to serve multiple subscribers within 64 km (40 miles) of the requested conventional system.

[47 FR 41032, Sept. 16, 1982, as amended at 48 FR 44559, Sept. 29, 1983; 48 FR 51929, Nov. 15, 1983; 58 FR 44963, Aug. 25, 1993; 59 FR 59966, Nov. 21, 1994; 62 FR 18935, Apr. 17, 1997]

§ 90.625 Other criteria to be applied in assigning channels for use in conventional systems of communication.

(a) Where an applicant certifies on its application that a channel will be loaded to 70 mobile stations, that channel will be made available to that applicant for its exclusive use in the area in which it proposes to operate. If the showing made justifies the assignment of more than one channel to the applicant, additional frequencies will be authorized.

(b) Where an applicant proposes to furnish service to eligibles under subparts B or C of this part on a commercial basis using a conventional system of communication, the applicant will be considered on the same basis as that of an applicant for private or shared communication facilities.

(c) No person authorized to operate any radio facility under the provisions of this subpart shall have a right to protest proposals on grounds other than violation of or inconsistency with the provisions of this subpart. All grants are made subject to this condition and to the other conditions and standards set out in this subpart.

[47 FR 41032, Sept. 16, 1982, as amended at 62 FR 18935, Apr. 17, 1997; 63 FR 68969, Dec. 14, 1998]

§ 90.627 Limitation on the number of frequency pairs that may be assignable for trunked systems and on the number of trunked systems.

(a) The maximum number of frequency pairs that may be assigned at any one time for the operation of a trunked radio system is twenty, except as specified in § 90.621(a)(1)(iv).

(b) No non-SMR licensee will be authorized an additional trunked system within 64 kilometers (40 miles) of an existing trunked system, except where:

(1) The additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,

(2) The licensee's existing trunked system is loaded to at least 70 mobile and control stations per channel.

[47 FR 41032, Sept. 16, 1982, as amended at 48 FR 44559, Sept. 29, 1983; 48 FR 51929, Nov. 15, 1983; 49 FR 36377, Sept. 17, 1984; 51 FR 37404, Oct. 22, 1986; 53 FR 12157, Apr. 13, 1988; 58 FR 44963, Aug. 25, 1993; 59 FR 59966, Nov. 21, 1994]

§ 90.629 Extended implementation period.

Applicants requesting frequencies for either trunked or conventional operations may be authorized a period of up to five (5) years for constructing and placing a system in operation in accordance with the following:

(a) The applicant must justify an extended implementation period. The justification must describe the proposed system, state the amount of time necessary to construct and place the system in operation, identify the number of base stations to be constructed and placed in operation during each year of the extended construction period, and show that:

(1) The proposed system will require longer than twelve (12) months to construct and place in operation because of its purpose, size, or complexity; or

(2) The proposed system is to be part of a coordinated or integrated wide-area system which will require more than twelve (12) months to plan, approve, fund, purchase, construct, and place in operation; or

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(3) The applicant is required by law to follow a multi-year cycle for planning, approval, funding, and purchasing the proposed system.

(b) Where an applicant is required by law to follow a multi-year cycle for planning, approval, funding and purchasing a proposed system, the applicant must indicate whether funding approval has been obtained and if not, when such funding approval is expected.

(c) Authorizations under this section are conditioned upon the licensee constructing and placing its system in operation within the authorized implementation period and in accordance with an approved implementation plan of up to five years. Licensees must notify the Commission annually, using FCC Form 601, that they are in compliance with their yearly station construction commitments, but may request amendment to these commitments at the time they file their annual certification. If the Commission approves the requested amendments to a licensee's implementation commitments, the licensee's extended implementation authority will remain in effect. If, however, the Commission concludes, at this or any other time, that a licensee has failed to meet its commitments, the Commission will terminate authority for the extended implementation period. When the Commission terminates an extended implementation authority, the affected licensee will be given six months from the date of termination to complete system construction. At the end of any licensee's extended implementation period, authorizations for all stations not constructed and placed in operation will be cancelled. Trunked systems granted an extended implementation period must comply with the channel loading requirements of section 90.631(b). Conventional channels not loaded to 70 mobile units may be subject to shared use by the addition of other licensees.

(d) [Reserved]

(e) As of March 18, 1996, Specialized Mobile Radio systems are not eligible for extended implementation periods under this section. Additionally, all 800 MHz SMR licensees that are operating under extended implementation authority as of March 18, 1996 must, by

May 16, 1996, demonstrate that continuing to allow them to have an extended period of time to construct their facilities is warranted and furthers the public interest. If a licensee's extended implementation authority showing is approved by the Bureau, such licensee will be afforded an extended implementation of two years or the remainder of its current extended implementation period, whichever is shorter. Upon the termination of this period, the authorizations for those facilities that remain unconstructed will terminate automatically. If a licensee with a current extended implementation period fails to submit the showing mentioned above within the designated timeframe or submits an insufficient or incomplete showing, such licensee will have six months from the last day on which it could timely file such a showing or from the disapproval of its request to construct the remaining facilities covered under its implementation plan to construct any unconstructed facilities for which it is authorized. The authorizations for those facilities remaining unconstructed after this six-month period will terminate automatically.

(f) Pursuant to §90.155(b), the provisions of this section shall apply to local government entities applying for any frequency in the Public Safety Pool.

[58 FR 34379, June 25, 1993, as amended at 61 FR 6157, Feb. 16, 1996; 63 FR 68969, Dec. 14, 1998; 65 FR 60877, Oct. 13, 2000; 69 FR 67489, Nov. 22, 2004]

§90.631 Trunked systems loading, construction and authorization requirements.

(a) Non-SMR trunked systems will be authorized on the basis of a loading criteria of one hundred (100) mobile stations per channel. For purposes of determining compliance with trunked system loading requirements under this subpart, the term "mobile station" includes vehicular and portable mobile units and control stations.

(b) Each applicant for a non-SMR trunked system must certify that a minimum of seventy (70) mobiles for each channel authorized will be placed into operation within five (5) years of the initial license grant.