

part thereto, all correspondence between the licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference. The documents must be retained for a period of two (2) years.

**§ 90.169 Construction prior to grant of application.**

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

(a) *When applicants may begin construction.* An applicant may begin construction of a facility thirty-five (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 Commission 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 Commission 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;

(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 Commission rules;

(4) For any construction or alteration that would exceed the requirements of §17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the Commission;

(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.

**Subpart H—Policies Governing the Assignment of Frequencies**

**§ 90.171 Scope.**

This subpart contains detailed information concerning the policies under which the Commission assigns frequencies for the use of licensees under this part, frequency coordination procedures, and procedures under which licensees may cooperatively share radio facilities.

**§ 90.173 Policies governing the assignment of frequencies.**

(a) Except as indicated in paragraph (j) of this section, the frequencies which ordinarily may be assigned to stations in the services governed by this part are listed in subparts B, C and F of this part. Except as otherwise specifically provided in this part, frequencies assigned to land mobile stations are available on a shared basis only and will not be assigned for the exclusive use of any licensee.

(b) All applicants and licensees shall cooperate in the selection and use of frequencies in order to reduce interference and make the most effective use of the authorized facilities. Licensees of stations suffering or causing harmful interference are expected to cooperate and resolve this problem by mutually satisfactory arrangements. If the licensees are unable to do so, the Commission may impose restrictions