

other than its initially authorized location. The conditions under which modifications will be granted and the procedures for applying for license modifications are described in §§90.753, 90.757 and 1.929 of this chapter. For CMRS licensees, these modifications will be treated as minor modifications in accordance with §1.929 of this chapter.

[63 FR 68973, Dec. 14, 1998]

**§ 90.753 Conditions of license modification.**

(a) Except as provided in paragraphs (b), and (c) of this section, a Phase I non nationwide licensee may modify its authorization to relocate its authorized base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 8 km.

(b) A Phase I non-nationwide licensee with an authorized base station located outside a Designated Filing Area (DFA) (see Public Notice, DA 86-173, 52 FR 1302 (January 12, 1987)) may modify its authorization to relocate its authorized base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 25 km, so long as the base station is relocated no more than 8 km inside of any DFA (i.e., no more than 8 km from the nearest DFA boundary line).

(c) A Phase I non-nationwide licensee that has been granted Special Temporary Authority (STA) to operate at an alternative base station location may modify its authorization to seek permanent authorization at that location, regardless of whether locating the station at the STA site is in strict conformance with the provisions of paragraphs (a) and (b) of this section, if the licensee certifies that such a modification is in conformance with §§90.723 and 90.729 and:

(1) It has constructed its base station and has placed it in operation, or commenced service, at the STA site on or before January 26, 1996; or

(2) It has taken delivery of its base station transceiver on or before January 26, 1996.

(d) The application for a Phase I non-nationwide licensee proposing a base station modification resulting in less

than 120 km separation from a co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a statement submitted concurrently with the licensee's application submission on FCC Form 601.

(e) The application of a Phase I non-nationwide licensee proposing a base station modification resulting in at least a 120 km separation from each co-channel licensee's initially authorized base station but more than one-half the distance over 120 km toward any co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a statement submitted concurrently with the licensee's submission on FCC Form 601.

[61 FR 3845, Feb. 2, 1996, as amended at 63 FR 68973, Dec. 14, 1998]

**§ 90.757 Construction requirements.**

(a) Except as provided in paragraph (b) of this section, a Phase I non-nationwide licensee that is granted modification of its authorization to relocate its base station must construct its base station and place it in operation, or commence service, on all authorized channels on or before August 15, 1996, or within 12 months of initial grant date, whichever is later. The authorization of a licensee that does not construct its base station and place it in operation, or commence service, by this date, cancels automatically and must be returned to the Commission.

(b) A Phase I non-nationwide licensee with a base station authorized at a location north of Line A must construct its base station and place it in operation, or commence service, on all authorized channels within 12 months of initial grant date, or within 12 months of the date of the release of the terms of an agreement between the United States and Canadian governments on the sharing of 220-222 MHz spectrum between the two countries, whichever is later. The authorization of a licensee that does not construct its base station and place it in operation, or commence

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service, by this date, cancels automatically and must be returned to the Commission.

[61 FR 3845, Feb. 2, 1996]

### POLICIES GOVERNING THE LICENSING AND USE OF PHASE II EA, REGIONAL AND NATIONWIDE SYSTEMS

SOURCE: 62 FR 15998, 15999, Apr. 3, 1997, unless otherwise noted.

#### § 90.761 EA and Regional licenses.

(a) EA licenses for spectrum blocks listed in Table 2 of § 90.721(b) are available in 175 Economic Areas (EAs) as defined in § 90.7.

(b) Regional licenses for spectrum blocks listed in Table 2 of § 90.721(b) are available in six Regional Economic Area Groupings (REAGs) as defined in § 90.7.

#### § 90.763 EA, Regional and nationwide system operations.

(a) A nationwide licensee authorized pursuant to § 90.717(a) may construct and operate any number of land mobile or paging base stations, or fixed stations, anywhere in the Nation, and transmit on any of its authorized channels, provided that the licensee complies with the requirements of § 90.733(i).

(b) An EA or Regional licensee authorized pursuant to § 90.761 may construct and operate any number of land mobile or paging base stations, or fixed stations, anywhere within its authorized EA or REAG, and transmit on any of its authorized channels, provided that:

(1) The licensee affords protection to all authorized co-channel Phase I non-nationwide base stations as follows:

(i) The EA or Regional licensee must locate its land mobile or paging base stations, or fixed stations transmitting on base station transmit frequencies, at least 120 km from the land mobile or paging base stations, or fixed stations transmitting on base station transmit frequencies, of co-channel Phase I licensees, except that separations of less than 120 km shall be considered on a case-by-case basis upon submission by the EA or Regional licensee of:

(A) A technical analysis demonstrating at least 10 dB protection to

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the predicted 38 dBu service contour of the co-channel Phase I licensee, *i.e.*, demonstrating that the predicted 28 dBu interfering contour of the EA or Regional licensee's base station or fixed station does not overlap the predicted 38 dBu service contour of the co-channel Phase I licensee's base station or fixed station; or

(B) A written letter from the co-channel Phase I licensee consenting to a separation of less than 120 km, or to less than 10 dB protection to the predicted 38 dBu service contour of the licensee's base station or fixed station.

(ii) The Phase I licensee's predicted 38 dBu service contour referred to in paragraph (a)(1)(i) of this section is calculated using the F(50,50) field strength chart for Channels 7–13 in § 73.699 (Fig. 10) of this chapter, with a 9 dB correction factor for antenna height differential, and is based on the licensee's authorized effective radiated power and antenna height-above-average-terrain. The EA or Regional licensee's predicted 28 dBu interfering contour referred to in paragraph (a)(1)(i) of this section is calculated using the F(50,10) field strength chart for Channels 7–13 in § 73.699 (Fig. 10a) of this chapter, with a 9 dB correction factor for antenna height differential.

(2) The licensee complies with the requirements of § 90.733(i).

(3) The licensee limits the field strength of its base stations, or fixed stations operating on base station transmit frequencies, in accordance with the provisions of § 90.771.

(4) Upon request by a licensee or the Commission, an EA or regional licensee shall furnish the technical parameters, location and coordinates of the completion of the addition, removal, relocation or modification of any of its facilities within the EA or region. The EA or regional licensee must provide such information within ten (10) days of receiving written notification.

(c) In the event that the authorization for a co-channel Phase I base station, or fixed station transmitting on base station transmit frequencies, within an EA or Regional licensee's border is terminated or revoked, the EA or Regional licensee's channel obligations to such stations will cease