

remedies specified in the interference resolution procedures set forth in this chapter. This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation.

(1) This joint and several responsibility rule requires interfering licensees to consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in § 90.674(c). This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation.

(2) Any licensee that can show that its signal does not directly or indirectly, cause or contribute to causing unacceptable interference to a non-cellular licensee in the 800 MHz band, as defined in this chapter, shall not be held responsible for resolving unacceptable interference. Notwithstanding, any licensee that receives an interference complaint from a public safety/CII licensee shall respond to such complaint consistent with the interference resolution procedures set forth in this chapter.

[69 FR 67849, Nov. 22, 2004]

**§ 90.674 Interference resolution procedures before, during and after band reconfiguration.**

(a) *Initial Notification.* Any non-cellular licensee operating in the 806–824/851–869 MHz band who reasonably believes it is receiving unacceptable interference, as described in § 90.672, shall provide an initial notification of the interference incident. This initial notification of an interference incident shall be sent to all part 22 of this chapter Cellular Radiotelephone licensees and ESMR licensees who operate cellular base stations (“cell sites”) within 1,524 meters (5,000 feet) of the interference incident.

(1) The initial notification of interference shall include the following information on interference:

(i) The specific geographical location where the interference occurs, and the time or times at which the interference occurred or is occurring;

(ii) A description of its scope and severity, including its source, if known;

(iii) The relevant Commission licensing information of the party suffering the interference; and

(iv) A single point of contact for the party suffering the interference.

(2) ESMR licensees, in conjunction with part 22 Cellular Radiotelephone licensees, shall establish an electronic means of receiving the initial notification described in paragraph (a)(1) of this section. The electronic system must be designed so that all appropriate 800 MHz ESMR and part 22 Cellular Radiotelephone licensees can be contacted about the interference incident with a single notification. The electronic system for receipt of initial notification of interference complaints must be operating no later than February 22, 2005.

(3) ESMR licensees must respond to the initial notification described in paragraph (a)(1) of this section, as soon as possible and no later than 24 hours of receipt of notification from a public safety/CII licensee. This response time may be extended to 48 hours after receipt from other non-cellular licensees provided affected communications on these systems are not safety related.

(b) *Interference analysis.* ESMR licensees—who receive an initial notification described in paragraph (a) of this section—shall perform a timely analysis of the interference to identify the possible source. Immediate on-site visits may be conducted when necessary to complete timely analysis. Interference analysis must be completed and corrective action initiated within 48 hours of the initial complaint from a public safety/CII licensee. This response time may be extended to 96 hours after the initial complaint from other non-cellular licensees provided affected communications on these systems are not safety related. Corrective action may be delayed if the affected licensee agrees in writing (which may be, but is not required to be, recorded via e-mail or other electronic means) to a longer period.

(c) *Mitigation Steps.* (1) All 800 MHz cellular system licensees and part 22 of this chapter Cellular Radiotelephone licensees who are responsible for causing unacceptable interference shall

take all affirmative measures to resolve such interference. 800 MHz cellular system licensees found to contribute to harmful interference, as defined in § 90.672, shall resolve such interference in the shortest time practicable. 800 MHz cellular system licensees and part 22 of this chapter Cellular Radiotelephone licensees must provide all necessary test apparatus and technical personnel skilled in the operation of such equipment as may be necessary to determine the most appropriate means of timely eliminating the interference. However, the means whereby interference is abated or the cell parameters that may need to be adjusted is left to the discretion of involved 800 MHz cellular system licensees and/or part 22 of this chapter Cellular Radiotelephone licensees, whose affirmative measures may include, but not be limited to, the following techniques:

- (i) Increasing the desired power of the public safety signal;
- (ii) Decreasing the power of the ESMR and/or part 22 Cellular Radiotelephone signal;
- (iii) Modifying the ESMR and/or part 22 Cellular Radiotelephone systems antenna height;
- (iv) Modifying the ESMR and/or part 22 Cellular Radiotelephone system antenna characteristics;
- (v) Incorporating filters into ESMR and/or part 22 Cellular Radiotelephone system transmission equipment;
- (vi) Permanently changing ESMR and/or part 22 Cellular Radiotelephone system frequencies; and
- (vii) Supplying interference-resistant receivers to the affected public safety licensee(s). If this technique is used, in all circumstances, the ESMR and/or part 22 Cellular Radiotelephone licensees shall be responsible for all costs thereof.

(2) Whenever short-term interference abatement measures prove inadequate, the affected licensee shall, consistent with but not compromising safety, make all necessary concessions to accepting interference until a longer-term remedy can be implemented.

(3) *Discontinuing operations when clear and imminent danger exists.* When a public safety licensee determines that a continuing presence of interference constitutes a clear and imminent dan-

ger to life or property, the licensee causing the interference must discontinue the associated operation immediately, until a remedy can be identified and applied. The determination that a continuing presence exists that constitutes a clear and imminent danger to life or property, must be made by written statement that:

- (i) Is in the form of a declaration, notarized affidavit, or statement under penalty or perjury, from an officer or executive of the affected public safety licensee;
- (ii) Thoroughly describes the basis of the claim of clear and imminent danger;
- (iii) Was formulated on the basis of either personal knowledge or belief after due diligence;
- (iv) Is not proffered by a contractor or other third party; and
- (v) Has been approved by the Chief of the Public Safety and Homeland Security Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, DC office of the Commission's Public Safety and Homeland Security Bureau.

[69 FR 67849, Nov. 22, 2004, as amended at 70 FR 76711, Dec. 28, 2005; 71 FR 69038, Nov. 29, 2006]

#### § 90.675 Information exchange.

(a) *Prior Coordination.* Public safety/CII licensees may notify an ESMR or part 22 Cellular Radiotelephone licensee that they wish to receive prior notification of the activation or modification of ESMR or part 22 Cellular Radiotelephone cell sites in their area. Thereafter, the ESMR or part 22 Cellular Radiotelephone licensee must provide the following information to the public safety/CII licensee at least 10 business days before a new cell site is activated or an existing cell site is modified:

- (1) Location;
- (2) Effective radiated power;
- (3) Antenna height;
- (4) Channels available for use.