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is in another frequency block or outside of its market area), is entitled to *pro rata* reimbursement from non-notifying EA licensees who subsequently exercise their right to the channels based on the following formula:

$$C_i = T_c \times \frac{C_{hj}}{T_{Ch}}$$

C_i equals the amount of reimbursement
 T_c equals the actual cost of relocating the incumbent
 T_{Ch} equals the total number of channels that are being relocated
 C_{hj} equals the number of channels that each respective EA licensee will benefit from

(4) *Payment issues.* EA licensees who benefit from the relocation of the incumbent will be required to submit their *pro rata* share of the relocation expense to EA licensees who have triggered a reimbursement right and have incurred relocation costs as follows:

(i) For an EA licensee who, within 90 days of the release of the Public Notice announcing the commencement of the voluntary negotiation period, provides notice of its intention to relocate the incumbent, but does not participate or incur relocation costs in the relocation process, will be required to reimburse those EA licensees who have triggered a reimbursement right and have incurred relocation costs during the relocation process, its *pro rata* share when the channels of the incumbent have been cleared (*i.e.*, the incumbent has been fully relocated and the channels are free and clear).

(ii) For an EA licensee who does not, within 90 days of the release of the Public Notice announcing the commencement of the voluntary negotiation period, provide notice to the incumbent of its intention to relocate and does not incur relocation costs during the relocation process, but subsequently decides to use the channels in its EA, will be required to submit its *pro rata* share payment to those EA licensees who have triggered a reimbursement right and have incurred relocation costs during the relocation process prior to commencing testing of its system.

(5) *Sunset of reimbursement rights.* EA licensees who do not trigger a reimbursement obligation as set forth in

paragraph (f)(2) of this section, shall not be required to reimburse EA licensees who have triggered a reimbursement right as set forth in paragraph (f)(3) of this section ten (10) years after the voluntary negotiation period begins for EA licensees (*i.e.*, ten (10) years after the Commission releases the Public Notice commencing the voluntary negotiation period).

(6) *Resolution of disputes that arise during relocation.* Disputes arising out of the costs of relocation, such as disputes over the amount of reimbursement required, will be encouraged to use expedited ADR procedures. ADR procedures provide several alternative methods such as binding arbitration, mediation, or other ADR techniques.

(7) *Administration of the cost-sharing plan.* We will allow for an industry supported, not-for-profit clearinghouse to be established for purposes of administering the cost-sharing plan adopted for the 800 MHz SMR relocation procedures.

[62 FR 41217, July 31, 1997]

Subpart T—Regulations Governing Licensing and Use of Frequencies in the 220–222 MHz Band

SOURCE: 56 FR 19603, Apr. 29, 1991, unless otherwise noted.

§ 90.701 Scope.

(a) Frequencies in the 220–222 MHz band are available for land mobile and fixed use for both Government and non-Government operations. This subpart supplements part 1, subpart F of this chapter which establishes the requirements and conditions under which commercial and private radio stations may be licensed in the Wireless Telecommunications Services. The provisions of this subpart contain additional pertinent information for current and prospective licensees specific to the 220–222 MHz band.

(b)(1) Licensees granted initial authorizations for operations in the 220–222 MHz band from among applications filed on or before May 24, 1991 are referred to in this subpart as “Phase I” licensees;

(2) Applicants that filed initial applications for operations in the 220–222 MHz band on or before May 24, 1991 are referred to in this subpart as “Phase I” applicants; and

(3) All assignments, operations, stations, and systems of licensees granted authorizations from among applications filed for operations in the 220–222 MHz band on or before May 24, 1991 are referred to in this subpart as “Phase I” assignments, operations, stations, and systems, respectively.

(c)(1) Licensees granted initial authorizations for operations in the 220–222 MHz band from among applications filed after May 24, 1991 are referred to in this subpart as “Phase II” licensees;

(2) Applicants that filed initial applications for operations in the 220–222 MHz band after May 24, 1991 are referred to in this subpart as “Phase II” applicants; and

(3) All assignments, operations, stations, and systems of licensees granted authorizations from among applications filed for operations in the 220–222 MHz band after May 24, 1991 are referred to in this subpart as “Phase II” assignments, operations, stations, and systems, respectively.

(d) The rules in this subpart apply to both Phase I and Phase II licensees, applicants, assignments, operations, stations, and systems, unless otherwise specified.

[62 FR 15993, Apr. 3, 1997, as amended at 63 FR 68971, Dec. 14, 1998]

§ 90.703 Eligibility.

The following persons are eligible for licensing in the 220–222 MHz band.

(a) Any person eligible for licensing under subparts B or C of this part.

(b) Any person proposing to provide communications service to any person eligible for licensing under subparts B or C of this part, on a not-for-profit, cost-shared basis.

(c) Any person eligible under this part proposing to provide on a commercial basis, station and ancillary facilities for the use of individuals, federal government agencies and persons eligible for licensing under subparts B or C of this part.

[56 FR 19603, Apr. 29, 1991, as amended at 60 FR 15495, Mar. 24, 1995; 62 FR 18935, Apr. 17, 1997]

§ 90.705 Forms to be used.

Phase II applications for EA, Regional, or Nationwide radio facilities under this subpart must be prepared in accordance with §§ 1.2105 and 1.2107 of this chapter. Phase II applications for radio facilities operating on public safety/mutual aid channels (Channels 161 through 170) or emergency medical channels (Channels 181 through 185) under this subpart must be prepared on FCC Form 601 and submitted or filed in accordance with § 1.913 of this chapter.

[63 FR 68971, Dec. 14, 1998, as amended at 67 FR 45375, July 9, 2002]

§ 90.709 Special limitations on amendment of applications and on assignment or transfer of authorizations licensed under this subpart.

(a) Except as indicated in paragraph (b) of this section, the Commission will not consent to the following:

(1) Any request to amend an application so as to substitute a new entity as the applicant;

(2) Any application to assign or transfer a license for a Phase I, non-nationwide system prior to the completion of construction of facilities; or

(3) Any application to transfer or assign a license for a Phase I nationwide system before the licensee has constructed at least 40 percent of the proposed system pursuant to the provisions of § 90.725(a) or § 90.725(h), as applicable.

(b) The Commission will grant the applications described in paragraph (a) of this section if:

(1) the request to amend an application or to transfer or assign a license does not involve a substantial change in the ownership or control or the applicant; or

(2) The changes in the ownership or control of the applicant are involuntary due to the original applicant's insolvency, bankruptcy, incapacity, or death.

(c) The assignee or transferee of a Phase I nationwide system is subject to the construction benchmarks and reporting requirements of § 90.725. The assignee or transferee of a Phase I nationwide system is not subject to the entry criteria described in § 90.713.