

§ 90.711

(d) A licensee may partially assign any authorization in accordance with § 90.1019.

(e) The assignee or transferee of a Phase II system is subject to the provisions of § 90.1017 and § 1.2111(a) of this chapter.

[56 FR 19603, Apr. 29, 1991, as amended at 57 FR 32449, July 22, 1992; 62 FR 15993, Apr. 3, 1997; 63 FR 49295, Sept. 15, 1998]

§ 90.711 Processing of Phase II applications.

(a) Phase II applications for authorizations on Channels 166 through 170 and Channels 181 through 185 will be processed on a first-come, first-served basis. When multiple applications are filed on the same day for these frequencies in the same geographic area, and insufficient frequencies are available to grant all applications (i.e., if all applications were granted, violation of the station separation provisions of § 90.723(k) of this part would result), these applications will be considered mutually exclusive.

(1) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, they will be assigned a file number and put in pending status. If not, they will be dismissed.

(2) Except as otherwise provided in this section, all applications in pending status will be processed in the order in which they are received, determined by the date on which the application was received by the Commission in its Gettysburg, Pennsylvania office (or the address set forth at § 1.1102 of this chapter for applications requiring the fees established by part 1, subpart G of this chapter).

(3) Each application that is accepted for filing will then be reviewed to determine whether it can be granted. Frequencies will be assigned by the Commission pursuant to the provisions of § 90.723.

(4) An application which is dismissed will lose its place in the processing line.

(b) All applications for Channels 161 through 165 that comply with the applicable rules of this part shall be granted. Licensees operating on such channels shall cooperate in the selection and use of frequencies and resolve

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any instances of interference in accordance with the provisions of § 90.173.

(c) Phase II applications for authorization on all non-Government channels other than Channels 161 through 170 and 181 through 185 shall be processed in accordance with the provisions of subpart W of this part.

[62 FR 15993, Apr. 3, 1997, as amended at 63 FR 32590, June 12, 1998; 63 FR 68971, Dec. 14, 1998]

§ 90.713 Entry criteria.

(a) As set forth in § 90.717, four 5-channel blocks are available for nationwide, commercial use to non-Government, Phase I applicants. Applicants for these nationwide channel blocks must comply with paragraphs (b), (c), and (d) of this section.

(b)(1) An applicant must include certification that, within ten years of receiving a license, it will construct a minimum of one base station in at least 70 different geographic areas designated in the application; that base stations will be located in a minimum of 28 of the 100 urban areas listed in § 90.741; and that each base station will have all five assigned nationwide channels constructed and placed in operation (regularly interacting with mobile and/or portable units).

(2) An applicant must include certification that it will meet the construction requirements set forth in § 90.725.

(3) An applicant must include a ten-year schedule detailing plans for construction of the proposed system.

(4) An applicant must include an itemized estimate of the cost of constructing 40 percent of the system and operating the system during the first four years of the license term.

(5) An applicant must include proof that the applicant has sufficient financial resources to construct 40 percent of the system and operate the proposed land mobile system for the first four years of the license term; i.e., that the applicant has net current assets sufficient to cover estimated costs or a firm financial commitment sufficient to cover estimated costs.

(c) An applicant relying on personal or internal resources for the showing required in paragraph (b) of this section must submit independently audited financial statements certified

within one year of the date of the application showing net current assets sufficient to meet estimated construction and operating costs. An applicant must also submit an unaudited balance sheet, current within 60 days of the date of submission, that clearly shows the continued availability of sufficient net current assets to construct and operate the proposed system, and a certification by the applicant or an officer of the applicant organization attesting to the validity of the balance sheet.

(d) An applicant submitting evidence of a firm financial commitment for the showing required in paragraph (b) of this section must obtain the commitment from a bona fide commercially acceptable source, *e.g.*, a state or federally chartered bank or savings and loan institution, other recognized financial institution, the financial arm of a capital equipment supplier, or an investment banking house. If the lender is not a state or federally chartered bank or savings and loan institution, other recognized financial institution, the financial arm of a capital equipment supplier, or an investment banking house, the lender must also demonstrate that it has funds available to cover the total commitments it has made. The lender's commitment shall contain a statement that the lender:

(1) Has examined the financial condition of the applicant including an audited financial statement, and has determined that the applicant is credit-worthy;

(2) Has examined the financial viability of the proposed system for which the applicant intends to use the commitment; and

(3) Is willing, if the applicant is seeking a Phase I, commercial nationwide license, to provide a sum to the applicant sufficient to cover the realistic and prudent estimated costs of construction of 40 percent of the system and operation of the system for the first four years of the license term.

(e) A Phase II applicant for authorization in a geographic area for Channels 166 through 170 in the public safety/mutual aid category may not have any interest in another pending application in the same geographic area for Channels 166 through 170 in the public safety/mutual aid category, and a

Phase II applicant for authorization in a geographic area for channels in the emergency medical category may not have any interest in another pending application in the same geographic area for channels in the emergency medical category.

[62 FR 15994, Apr. 3, 1997, as amended at 62 FR 18935, Apr. 17, 1997]

§ 90.715 Frequencies available.

(a) The following table indicates the channel designations of frequencies available for assignment to eligible applicants under this subpart. Frequencies shall be assigned in pairs, with base station frequencies taken from the 220–221 MHz band with corresponding mobile and control station frequencies being 1 MHz higher and taken from the 221–222 MHz band. Only the lower half of the frequency pair(s) is listed in the table. Use of these frequencies in the Mexican and Canadian border areas is subject to coordination with those countries. See paragraph (c) of this section for special provisions concerning use in the Mexico border area.

TABLE OF 220–222 MHz CHANNEL DESIGNATIONS

Channel No.	Base frequency (MHz)
1	220.0025
2 .....	.0075
3 .....	.0125
4 .....	.0175
5 .....	.0225
6 .....	.0275
7 .....	.0325
8 .....	.0375
9 .....	.0425
10 .....	.0475
11 .....	.0525
12 .....	.0575
13 .....	.0625
14 .....	.0675
15 .....	.0725
16 .....	.0775
17 .....	.0825
18 .....	.0875
19 .....	.0925
20 .....	.0975
21	220.1025
22 .....	.1075
23 .....	.1125
24 .....	.1175
25 .....	.1225
26 .....	.1275
27 .....	.1325
28 .....	.1375
29 .....	.1425
30 .....	.1475
31 .....	.1525