

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 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 upon deletion of the facility from the Commission's official licensing records, and the EA or Regional licensee then will be able to construct and operate without regard to the previous authorization.

[62 FR 15998, 15999, Apr. 3, 1997, as amended at 63 FR 68973, Dec. 14, 1998]

**§ 90.765 Licenses term for Phase II licenses.**

Nationwide licenses authorized pursuant to § 90.717(a), EA and Regional licenses authorized pursuant to § 90.761, and non-nationwide licenses authorized pursuant to §§ 90.720 and 90.719(c) will be issued for a term not to exceed ten years.

**§ 90.767 Construction and implementation of EA and Regional licenses.**

(a) An EA or Regional licensee must construct a sufficient number of base stations (*i.e.*, base stations for land mobile and/or paging operations) to provide coverage to at least one-third of the population of its EA or REAG within five years of the issuance of its initial license and at least two-thirds of the population of its EA or REAG within ten years of the issuance of its initial license. Licensees may, in the alternative, provide substantial service to their licensed areas at the appropriate five- and ten-year benchmarks.

(b) Licensees must notify the Commission in accordance with § 1.946 of this chapter of compliance with the Construction requirements of paragraph (a) of this section.

(c) Failure by an EA or Regional licensee to meet the construction requirements of paragraph (a) of this section, as applicable, will result in automatic cancellation of its entire EA or Regional license. In such instances, EA or Regional licenses will not be converted to individual, site-by-site authorizations for already constructed stations.

(d) EA and Regional licensees will not be permitted to count the resale of the services of other providers in their EA or REAG, *e.g.*, incumbent, Phase I licensees, to meet the construction requirement of paragraph (a) of this section, as applicable.

(e) EA and Regional licensees will not be required to construct and place in operation, or commence service on, all of their authorized channels at all of their base stations or fixed stations.

[69 FR 75172, Dec. 15, 2004]

**§ 90.769 Construction and implementation of Phase II nationwide licenses.**

(a) A nationwide licensee must construct a sufficient number of base stations (*i.e.*, base stations for land mobile and/or paging operations) to provide coverage to a composite area of at least 750,000 square kilometers or 37.5 percent of the United States population within five years of the issuance of its initial license and a composite area of at least 1,500,000 square kilometers or 75 percent of the United States population within ten years of the issuance of its initial license. Licensees may, in the alternative, provide substantial service to their licensed areas at the appropriate five- and ten-year benchmarks.

(b) Licensees must notify the Commission in accordance with § 1.946 of this chapter of compliance with the Construction requirements of paragraph (a) of this section.

(c) Failure by a nationwide licensee to meet the construction requirements of paragraph (a) of this section, as applicable, will result in automatic cancellation of its entire nationwide license. In such instances, nationwide licenses will not be converted to individual, site-by-site authorizations for already constructed stations.

(d) Nationwide licensees will not be required to construct and place in operation, or commence service on, all of their authorized channels at all of their base stations or fixed stations.

[69 FR 75173, Dec. 15, 2004]

**§ 90.771 Field strength limits.**

(a) The transmissions from base stations, or fixed stations transmitting on

base station transmit frequencies, of EA and Regional licensees may not exceed a predicted 38 dBu field strength at their EA or REAG border. The predicted 38 dBu field strength 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.

(b) Licensees will be permitted to exceed the predicted 38 dBu field strength required in paragraph (a) of this section if all affected, co-channel EA and Regional licensees agree to the higher field strength.

(c) EA and Regional licensees must coordinate to minimize interference at or near their EA and REAG borders, and must cooperate to resolve any instances of interference in accordance with the provisions of § 90.173(b).

**Subpart U—Competitive Bidding Procedures for 900 MHz Specialized Mobile Radio Service**

SOURCE: 60 FR 48919, Sept. 21, 1995, unless otherwise noted.

**§ 90.801 900 MHz SMR spectrum subject to competitive bidding.**

Mutually exclusive initial applications for 900 MHz SMR service licenses are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

[67 FR 43575, July 9, 2002]

**§§ 90.802–90.803 [Reserved]**

**§ 90.804 Aggregation of 900 MHz SMR licenses.**

The Commission will license each 10-channel block in the 900 MHz SMR spectrum separately. Applicants may aggregate across spectrum blocks within the limitation specified in § 20.6(b) of this chapter.