

## § 22.853

granted an authorization for other ground station communication channels in the same area. The general policy of the FCC is to assign one ground station communication channel in an area to a carrier per application cycle, up to a maximum of six ground station communication channels per area. That is, a carrier must apply for one ground station communication channel, receive the authorization, construct the station, and notify the FCC of commencement of service before applying for an additional ground station communication channel in that area.

(a) *Air-ground transmitters in same area.* Any transmitter on any of the ground station channels listed in § 22.805 is considered to be in the same area as another transmitter on any ground station channel listed in § 22.805 if it is located less than 350 kilometers (217 miles) from that transmitter.

(b) *Initial channel.* The FCC will not assign more than one ground station communication channel for new ground stations. Ground stations are considered to be new if there are no authorized ground station transmitters on any channel listed in § 22.805 controlled by the applicant in the same area.

(c) *Additional channel.* Applications for ground transmitters to be located in the same area as an authorized ground station controlled by the applicant, but to operate on a different ground station communication channel, are considered as requesting an additional channel for the authorized station.

(d) *Amendment of pending application.* If the FCC receives and accepts for filing an application for a ground station transmitter to be located in the same area as a ground station transmitter proposed in a pending application previously filed by the applicant, but on a different ground station communication channel, the subsequent application is treated as a major amendment to change the technical proposal of the prior application. The filing date of any application so amended is the date the FCC received the subsequent application.

(e) *Dismissal of premature applications for additional channel.* If the FCC receives an application requesting an additional ground station communication

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channel for an authorized ground station prior to receiving notification that the station is providing service to subscribers on the authorized channel(s), the FCC may dismiss that application without prejudice.

(f) *Dismissal of applications for seventh channel.* If the FCC receives an application requesting an additional ground station communication channel for an authorized ground station which would, if granted, result in that station being assigned more than six ground station communication channels in the same area, the FCC may dismiss that application without prejudice.

### COMMERCIAL AVIATION AIR-GROUND SYSTEMS

#### § 22.853 Eligibility to hold interest in licenses limited to 3 MHz of spectrum.

No individual or entity may hold, directly or indirectly, a controlling interest in licenses authorizing the use of more than three megahertz of spectrum (either shared or exclusive) in the 800 MHz commercial aviation Air-Ground Radiotelephone Service frequency bands (see § 22.857). Individuals and entities with either *de jure* or *de facto* control of a licensee in these bands will be considered to have a controlling interest in its license(s). For purposes of this rule, the definitions of “controlling interests” and “affiliate” set forth in paragraphs (c)(2) and (c)(5) of § 1.2110 of this chapter shall apply.

[70 FR 19310, Apr. 13, 2005]

#### § 22.857 Channel plan for commercial aviation air-ground systems.

The 849–851 MHz and 894–896 MHz frequency bands are designated for paired nationwide exclusive assignment to the licensee or licensees of systems providing radio telecommunications service, including voice and/or data service, to persons on board aircraft. Air-ground systems operating in these frequency bands are referred to in this part as “commercial aviation” systems.

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