

## § 22.143

## 47 CFR Ch. I (10–1–13 Edition)

(iii) Any application requesting authorization for a new transmitter at a location more than 2 kilometers (1.2 miles) from any existing transmitters of the applicant licensee on the requested channel or channel block; or

(iv) Any application to expand the CGSA of a cellular system (as defined in § 22.911), except during the five-year build-out period.

(v) Any “short-form” application (filed on FCC Form 175) requesting a new paging geographic area authorization.

[59 FR 59954, Nov. 21, 1994, as amended at 62 FR 11629, Mar. 12, 1997; 63 FR 68943, Dec. 14, 1998]

### § 22.143 Construction prior to grant of application.

Applicants may construct facilities in the Public Mobile services prior to grant of their applications, subject to the provisions of this section, but must not operate such facilities until the FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities in the Public Mobile Services.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility 35 days after the date of the Public Notice listing the application for that facility as acceptable for filing, except that an applicant whose application to operate a new cellular system was selected in a random selection process may begin construction of that new cellular system 35 days after the date of the Public Notice listing it as the tentative selectee.

(b) *Notification to stop.* If the FCC for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

(1) Applications that are not granted;

(2) Errors or delays in issuing Public Notices;

(3) Having to alter, relocate or dismantle the facility; or

(4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or FCC rules and orders.

(d) *Conditions.* Except as indicated, all pre-grant construction is subject to the following conditions:

(1) The application is not mutually exclusive with any other application, except for successful bidders and tentative selectees in the Cellular Radiotelephone Service;

(2) No petitions to deny the application have been filed;

(3) The application does not include a request for a waiver of one or more FCC rules;

(4) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460–1), secured a valid FAA determination of “no hazard,” and received antenna height clearance and obstruction marking and lighting specifications (FCC Form 854R) from the FCC for the proposed construction or alteration.

(5) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with §§ 1.1301 through 1.1319 of this chapter; and,

(6) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required.

[59 FR 59507, Nov. 17, 1994, as amended at 70 FR 19308, Apr. 13, 2005; 77 FR 3954, Jan. 26, 2012]

### § 22.150 Standard pre-filing technical coordination procedure.

For operations on certain channels in the Public Mobile Services, carriers must attempt to coordinate the proposed use of spectrum with other spectrum users prior to filing an application for authority to operate a station. Rules requiring this procedure for specific channels and types of stations are