

days of the license grant, a presumption of due diligence is created.

(h) An application for modification of an authorization (under construction) at the existing location does not extend the initial construction period. If additional time to commence service is required, a request for such additional time must be submitted on FCC Form 601, either separately or in conjunction with the submission of the FCC Form 601 requesting modification.

(i) DSRCS Roadside Units (RSUs) in the 5850–5925 MHz band must be placed in operation within 12 months from the date of registration (*see* § 90.375) or the authority to operate the RSUs cancels automatically (*see* § 1.955 of this chapter). Such registration date(s) do not change the overall renewal period of the single license. Licensees must notify the Commission in accordance with § 1.946 of this chapter when registered units are placed in operation within their construction period.

[65 FR 60875, Oct. 13, 2000, as amended at 68 FR 38639, June 30, 2003; 69 FR 46443, Aug. 3, 2004; 69 FR 75172, Dec. 15, 2004; 71 FR 52749, Sept. 7, 2006; 72 FR 48859, Aug. 24, 2007]

§ 90.157 Discontinuance of station operation.

(a) An authorization shall cancel automatically upon permanent discontinuance of operations. Unless stated otherwise in this part or in a station authorization, for the purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued.

(b) For DSRCS Roadside Units (RSUs) in the 5850–5925 MHz band, it is the DSRCS licensee's responsibility to delete from the registration database any RSUs that have been discontinued.

[72 FR 44423, Aug. 8, 2007]

§ 90.159 Temporary and conditional permits.

(a) An applicant for a license under this part (other than a commercial mobile radio license) utilizing an already licensed facility may operate the radio station(s) for a period of up to one hundred eighty (180) days after submitting a Form 601 application for a station license in accordance with § 90.127 of this part, provided that all the antennas

employed by control stations are 6.1 meters (20 feet) or less above ground or 6.1 meters (20 feet) or less above a man-made structure other than an antenna tower to which it is affixed. When required by § 90.175 of this part, applications must be accompanied by evidence of frequency coordination. The temporary operation of stations, other than mobile stations within the Canadian coordination zone is limited to stations with a maximum of 5 watts effective radiated power and a maximum antenna height of 6.1 meters (20 ft) above average terrain.

(b) An applicant proposing to operate a new land mobile radio station or modify an existing station below 470 MHz or in the one-way paging 929–930 MHz band (other than a commercial mobile radio service applicant or licensee on these bands) that is required to submit a frequency recommendation pursuant to paragraphs (b) through (h) of § 90.175 of this part may operate the proposed station during the pendency of its application for a period of up to one hundred eighty (180) days upon the filing of a properly completed formal Form 601 application that complies with § 90.127 of this part if the application is accompanied by evidence of frequency coordination in accordance with § 90.175 of this part and provided that the following conditions are satisfied:

(1) For applicants proposing to operate below 470 MHz, that the proposed station location is south of Line A or west of Line C as defined in § 90.7; for applicants in the one-way paging 929–930 MHz band, that the proposed station location is west of Line C as defined in § 90.7.

(2) The proposed antenna structure has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by § 17.4 of the Commission's Rules; or the proposed antenna or tower structure does not exceed 6.1 meters (20 feet) above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC.

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(3) The grant of the application does not require a waiver of the Commission's Rules.

(4) The applicant has determined that the proposed facility will not significantly affect the environment as defined in §1.1307.

(5) The applicant has determined that the proposed station affords the level of protection to radio quiet zones and radio receiving facilities as specified in §1.924 of this chapter.

(6) The applicant has submitted an application to the Commission stating the frequency the applicant intends to use and that the frequency coordination requirements specified in §90.175 for selection and use of this frequency have been met and a minimum of ten business days has passed between submission of the application to the Commission and the onset of operation.

(c) An applicant proposing to operate an itinerant station or an applicant seeking the assignment of authorization or transfer of control of a license for an existing station below 470 MHz or in the 929-930 MHz band (other than a commercial mobile radio service applicant or licensee on these bands) may operate the proposed station during the pendency of the application for a period not to exceed one hundred eighty (180) days upon the filing of a properly completed formal Form 601 application that complies with §90.127 of this part. Conditional authority ceases immediately if the application is dismissed by the Commission. All other categories of applications listed in §90.175(i) of this part that do not require evidence of frequency coordination are excluded from the provisions of this section.

(d) Conditional authorization does not prejudice any action the Commission may take on the subject application. Conditional authority is accepted with the express understanding that such authority may be modified or canceled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. Consistent with §90.175(g) of this part, the applicant assumes all risks associated with operation under conditional authority, the termination or modification of conditional authority, or the subsequent dismissal or de-

nial of its application. Authority reverts back to the original licensee if an assignee or transferee's conditional authority is canceled.

(e) The transmissions of new stations operating pursuant to conditional authority shall be identified by a temporary call sign consisting of the prefix "WT" followed by the applicant's local seven digit business telephone number as provided in §2.302. Transmissions by applicants for the modification, assignment of authorization or transfer of control of an existing station shall be identified by the station's call sign.

[51 FR 14997, Apr. 22, 1986, as amended at 54 FR 50239, Dec. 5, 1989; 58 FR 44956, Aug. 25, 1993; 58 FR 62291, Nov. 26, 1993; 59 FR 59959, Nov. 21, 1994; 62 FR 18924, Apr. 17, 1997; 63 FR 68964, Dec. 14, 1998; 69 FR 17959, Apr. 6, 2004]

SPECIAL RULES GOVERNING FACILITIES USED TO PROVIDE COMMERCIAL MOBILE RADIO SERVICES

SOURCE: 59 FR 59959, Nov. 21, 1994; 63 FR 68964, Dec. 14, 1998, unless otherwise noted.

NOTE: The following rules (§§90.165 through 90.169) govern applications, licensing, and operation of radio facilities in the 220-222 MHz (subpart T), Business Radio (subpart D), 929-930 MHz Paging (subpart P), and Specialized Mobile Radio (subpart S) services that are used to provide commercial mobile radio services (see §§20.3 and 20.9 of this chapter). Compliance with the rules relating to applications and licensing of facilities on paging-only channels in the Business Radio Service (see §90.75(c)(10)) and 929-930 MHz paging channels (see §90.494(a),(b)) is not required prior to August 10, 1996. Compliance with §90.168 is also not required prior to August 10, 1996 for reclassified commercial mobile radio service providers who are to be regulated as private carriers until August 10, 1996 as provided in the Second Report and Order in GN Docket No. 93-252, 9 FCC Rcd 2348 (1994), paras. 280-284. The licensing and operation of radio facilities in the 220-222 MHz (subpart T), Business Radio (subpart D), 929-930 MHz Paging (subpart P), and Specialized Mobile Radio (subpart S) services that are used to provide commercial mobile radio services are also subject to rules elsewhere in this part that apply generally to Private Land Mobile Radio Services. In the case of any conflict between rules set forth in §§90.165 through 90.169 and other rules in this part, §§90.165 through 90.169 apply. 14-23. New §§90.165 through 90.169 are added to subpart G to read as follows: