

other part 90 non-cellular licensees provided affected communications on these systems are not safety related. Corrective action may be delayed if the affected licensee agrees in writing (which may be, but is not required to be, recorded via e-mail or other electronic means) to a longer period.

(c) *Mitigation steps.* Any commercial aviation air-ground system that is responsible for causing unacceptable interference to non-cellular part 90 licensees in the 800 MHz band shall take affirmative measures to resolve such interference.

(1) Commercial aviation air-ground system licensees found to contribute to unacceptable interference, as defined in § 22.877, shall resolve such interference in the shortest time practicable. Commercial aviation air-ground system licensees must provide all necessary test apparatus and technical personnel skilled in the operation of such equipment as may be necessary to determine the most appropriate means of timely eliminating the interference. However, the means whereby interference is abated or the technical parameters that may need to be adjusted is left to the discretion of the commercial aviation air-ground system licensee, whose affirmative measures may include, but not be limited to, the following techniques:

- (i) Increasing the desired power of the public safety/CII signal;
- (ii) Decreasing the power of the commercial aviation air-ground system signal;
- (iii) Modifying the commercial aviation air-ground system antenna height;
- (iv) Modifying the commercial aviation air-ground system antenna characteristics;
- (v) Incorporating filters into the commercial aviation air-ground system transmission equipment;
- (vi) Changing commercial aviation air-ground system frequencies; and
- (vii) Supplying interference-resistant receivers to the affected public safety/CII licensee(s). If this technique is used, in all circumstances, commercial aviation air-ground system licensees shall be responsible for all costs thereof.

(2) Whenever short-term interference abatement measures prove inadequate,

the affected part 90 non-cellular licensee shall, consistent with but not compromising safety, make all necessary concessions to accepting interference until a longer-term remedy can be implemented.

(3) When a part 90 public safety licensee determines that a continuing presence of interference constitutes a clear and imminent danger to life or property, the licensee causing the interference must discontinue the associated operation immediately, until a remedy can be identified and applied. The determination that a continuing presence exists that constitutes a clear and imminent danger to life or property, must be made by written statement that:

- (i) Is in the form of a declaration, notarized affidavit, or statement under penalty or perjury, from an officer or executive of the affected public safety licensee;
- (ii) Thoroughly describes the basis of the claim of clear and imminent danger;
- (iii) Was formulated on the basis of either personal knowledge or belief after due diligence;
- (iv) Is not proffered by a contractor or other third party; and,
- (v) Has been approved by the Chief of the Public Safety and Homeland Security Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, DC office of the Commission's Public Safety and Homeland Security Bureau.

[70 FR 19311, Apr. 13, 2005, as amended at 71 FR 69038, Nov. 29, 2006]

#### § 22.880 Information exchange.

(a) *Prior notification.* Public safety/CII licensees may notify a commercial aviation air-ground system licensee that they wish to receive prior notification of the activation or modification of a commercial aviation air-ground system ground station site in their area. Thereafter, the commercial aviation air-ground system licensee

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must provide the following information to the public safety/CII licensee at least 10 business days before a new ground station is activated or an existing ground station is modified:

- (1) Location;
- (2) Effective radiated power;
- (3) Antenna manufacturer, model number, height above ground level and up tilt angle, as installed;
- (4) Channels available for use.

(b) *Purpose of prior notification.* The prior notification of ground station activation or modification is for informational purposes only: public safety/CII licensees are not afforded the right to accept or reject the activation of a proposed ground station or to unilaterally require changes in its operating parameters. The principal purposes of prior notification are to:

- (1) Allow a public safety licensee to advise the commercial aviation air-ground system licensee whether it believes a proposed ground station will generate unacceptable interference;
- (2) Permit commercial aviation air-ground system licensee(s) to make voluntary changes in ground station parameters when a public safety licensee alerts them to possible interference; and
- (3) Rapidly identify the source if interference is encountered when the ground station is activated.

[70 FR 19312, Apr. 13, 2005]

## § 22.881 Air-Ground Radiotelephone Service subject to competitive bidding.

Mutually exclusive initial applications for general aviation Air-Ground Radiotelephone Service licenses and mutually exclusive initial applications for commercial Air-Ground Radiotelephone 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.

[70 FR 76417, Dec. 27, 2005]

## § 22.882 Designated entities.

(a) Eligibility for small business provisions in the commercial Air-Ground Radiotelephone Service.

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(1) A small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$40 million for the preceding three years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$15 million for the preceding three years.

(b) Bidding credits in the commercial Air-Ground Radiotelephone Service.

(1) A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use a bidding credit of 15 percent, as specified in § 1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid on a commercial Air-Ground Radiotelephone Service license.

(2) A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use a bidding credit of 25 percent, as specified in § 1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid on a commercial Air-Ground Radiotelephone Service license.

[70 FR 76417, Dec. 27, 2005]

## Subpart H—Cellular Radiotelephone Service

### § 22.900 Scope.

The rules in this subpart govern the licensing and operation of cellular radiotelephone systems. Licensing and operation of these systems are also subject to rules elsewhere in this part that apply generally to the Public Mobile Services. In case of conflict, however, the rules in this subpart govern.

### § 22.901 Cellular service requirements and limitations.

The licensee of each Cellular system is responsible for ensuring that its Cellular system operates in compliance with this section. Each Cellular system must provide either mobile service, fixed service, or a combination of mobile and fixed service, subject to the requirements, limitations and exceptions