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would not occur to a two-frequency system.

(j) Frequencies other than those listed in subparts B and C of this part may be assigned in the 150–174 MHz, 421–430 MHz, 450–470 MHz, and 470–512 MHz bands, provided the following conditions are met:

(1) Such applications must be accompanied by a showing of frequency coordination in accordance with the requirements of § 90.175;

(2) The frequencies must not be available in any other rule part of this chapter; and

(3) The authorized bandwidth of any system operating in accordance with this paragraph must not overlap spectrum available in other rule parts of this chapter unless that spectrum is also allocated in part 90.

(k) This paragraph is only applicable to entities with Finder's Preference requests pending before the Commission as of July 29, 1998. Notwithstanding any other provisions of this part, any eligible person shall be given a dispositive preference for a channel assignment on an exclusive basis in the 220–222 MHz, 470–512 MHz, and 800/900 MHz (except on frequencies designated exclusively for SMR service) bands by submitting information that leads to the recovery of channels in these bands. Recovery of such channels must result from information provided regarding the failure of existing licensees to comply with the provisions of §§ 90.155, 90.157, 90.629, 90.631 (e) or (f), or 90.633 (c) or (d).

(l) In the 150–174 MHz band, except where otherwise specifically provided, authorizations for frequencies that were available prior to August 18, 1995 will be granted with channel bandwidths of 25 kHz or less. Authorizations for all other frequencies in this band will be granted with channel bandwidths of 12.5 kHz or less (*i.e.*, in the Public Safety Pool, frequencies subject to §§ 90.20 (d)(27) and (d)(44), and in the Industrial/Business Pool, frequencies subject to §§ 90.35 (c)(30) and (c)(33)).

(m) In the 421–512 MHz band, except where otherwise specifically provided, authorizations for frequencies that were available prior to August 18, 1995 will be granted with channel

bandwidths of 25 kHz or less. New authorizations for frequencies 12.5 kHz removed from these frequencies will be made for channel bandwidths of 12.5 kHz or less (*i.e.*, in the Public Safety Pool, frequencies subject to § 90.20(d)(27) and in the Industrial/Business Pool, frequencies subject to § 90.35(c)(30)). Authorizations for frequencies 6.25 kHz removed from these frequencies will be granted with channel bandwidths of 6.25 kHz or less (*i.e.*, in the Public Safety Pool, frequencies subject to § 90.20(d)(44), and in the Industrial/Business Pool, frequencies subject to § 90.35(c)(33)).

(n) Any recovered channels in the 800 MHz SMR service will revert automatically to the holder of the EA license within which such channels are included. If there is no EA licensee for recovered channels, such channels will be retained by the Commission for future licensing.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[43 FR 54791, Nov. 22, 1978, as amended at 45 FR 43419, June 27, 1980; 46 FR 55704, Nov. 12, 1981; 50 FR 13605, Apr. 5, 1985; 54 FR 39739, Sept. 28, 1989; 56 FR 65859, Dec. 19, 1991; 57 FR 24992, June 12, 1992; 58 FR 51252, Oct. 1, 1993; 60 FR 37261, July 19, 1995; 60 FR 48917, Sept. 21, 1995; 61 FR 6155, Feb. 16, 1996; 62 FR 2038, Jan. 15, 1997; 62 FR 18925, Apr. 17, 1997; 63 FR 44585, Aug. 20, 1998; 64 FR 36269, July 6, 1999]

§ 90.175 Frequency coordinator requirements.

Except for applications listed in paragraph (j) of this section, each application for a new frequency assignment, for a change in existing facilities as listed in § 90.135(a), or for operation at temporary locations in accordance with § 90.137 must include a showing of frequency coordination as set forth further.

(a) Frequency coordinators may request, and applicants are required to provide, all appropriate technical information, system requirements, and justification for requested station parameters when such information is necessary to identify and recommend the most appropriate frequency. Additionally, applicants bear the burden of proceeding and the burden of proof in requesting the Commission to overturn a coordinator's recommendation.

(b) *For frequencies between 25 and 470 MHz:* (1) A statement is required from the applicable frequency coordinator as specified in §§ 90.20(c)(2) and 90.35(b) recommending the most appropriate frequency. In addition, for frequencies above 150 MHz, if the interference contour of a proposed station would overlap the service contour of a station on a frequency formerly shared prior to radio service consolidation by licensees in the Manufacturers Radio Service, the Forest Products Radio Service, the Power Radio Service, the Petroleum Radio Service, the Motor Carrier Radio Service, the Railroad Radio Service, the Telephone Maintenance Radio Service or the Automobile Emergency Radio Service, the written concurrence of the coordinator for the industry-specific service, or the written concurrence of the licensee itself, must be obtained. Requests for concurrence must be responded to within 20 days of receipt of the request. The written request for concurrence shall advise the receiving party of the maximum 20 day response period. The coordinator's recommendation may include comments on technical factors such as power, antenna height and gain, terrain and other factors which may serve to minimize potential interference. In addition:

(2) On frequencies designated for coordination or concurrence by a specific frequency coordinator as specified in §§ 90.20(c)(3) and 90.35(b), the applicable frequency coordinator shall provide a written supporting statement in instances in which coordination or concurrence is denied. The supporting statement shall contain sufficient detail to permit discernment of the technical basis for the denial of concurrence. Concurrence may be denied only when a grant of the underlying application would have a demonstrable, material, adverse effect on safety.

(3) In instances in which a frequency coordinator determines that an applicant's requested frequency or the most appropriate frequency is one designated for coordination or concurrence by a specific frequency coordinator as specified in §§ 90.20(c)(3) or 90.35(b), that frequency coordinator may forward the application directly to the appropriate frequency coordi-

nator. A frequency coordinator may only forward an application as specified above if consent is received from the applicant.

(c) *For frequencies above 800 MHz:* When frequencies are shared by more than one service, concurrence must be obtained from the other applicable certified coordinators.

(d) *For frequencies in the 450-470 MHz band:* When used for secondary fixed operations, frequencies shall be assigned and coordinated pursuant to § 90.261.

(e) *For frequencies between 470 and 512 MHz, 764-776/794-806 MHz, 806-824/851-869 MHz, and 896-901/935-940 MHz:* A recommendation of the specific frequencies that are available for assignment in accordance with the loading standards and mileage separations applicable to the specific radio service, frequency pool, or category of user involved is required from an applicable frequency coordinator.

(f) *For frequencies in the 929-930 MHz band listed in paragraph (b) of § 90.494:* A statement is required from the coordinator recommending the most appropriate frequency.

(g) *For frequencies between 1427-1432 MHz:* A statement is required from the coordinator recommending the most appropriate frequency, operating power and area of operation in accordance with the requirements of § 90.259(b).

(h) Any recommendation submitted in accordance with paragraphs (a), (c), (d), or (e) of this section is advisory in character and is not an assurance that the Commission will grant a license for operation on that frequency. Therefore, applicants are strongly advised not to purchase radio equipment operating on specific frequencies until a valid authorization has been obtained from the Commission.

(i) Applications for facilities near the Canadian border north of line A or east of line C in Alaska may require coordination with the Canadian government. See § 1.928 of this chapter.

(j) The following applications need not be accompanied by evidence of frequency coordination:

(1) Applications for frequencies below 25 MHz.

(2) Applications for a Federal Government frequency.

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(3) Applications for frequencies in the 72–76 MHz band except for mobile frequencies subject to § 90.35(c)(77).

(4) Applications for a frequency to be used for developmental purposes.

(5) Applications in the Industrial/Business Pool requesting a frequency designated for itinerant operations, and applications requesting operation on 154.570 MHz, 154.600 MHz, 151.820 MHz, 151.880 MHz, and 151.940 MHz.

(6) Applications in the Radiolocation Service.

(7) Applications filed exclusively to modify channels in accordance with band reconfiguration in the 806–824/851–869 band.

(8) Applications for SMR frequencies contained in §§ 90.617(d) Table 4A, 90.617(e), 90.617(f) and 90.619(b)(2).

(9) Applications indicating license assignments such as change in ownership, control or corporate structure if there is no change in technical parameters.

(10) Applications for mobile stations operating in the 470–512 MHz band, 764–776/794–806 MHz band, or above 800 MHz if the frequency pair is assigned to a single system on an exclusive basis in the proposed area of operation.

(11) Applications for add-on base stations in multiple licensed systems operating in the 470–512 MHz, 764–776/794–806 MHz band, or above 800 MHz if the frequency pair is assigned to a single system on an exclusive basis.

(12) Applications for control stations operating below 470 MHz, 764–776/794–806 MHz, or above 800 MHz and meeting the requirements of § 90.119(b).

(13) Except for applications for the frequencies set forth in §§ 90.719(c) and 90.720, applications for frequencies in the 220–222 MHz band.

(14) Applications for a state license under § 90.529.

(15) Applications for narrowband low power channels listed for itinerant use in § 90.531(b)(4).

(16) Applications for DSRCs licenses (as well as registrations for Roadside Units) in the 5850–5925 GHz band.

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(17) Applications for the deletion of a frequency and/or transmitter site location.

[67 FR 41858, June 20, 2002, as amended at 67 FR 63289, Oct. 11, 2002; 68 FR 38639, June 30, 2003; 69 FR 39867, July 1, 2004; 69 FR 46443, Aug. 3, 2004; 70 FR 6759, Feb. 8, 2005; 70 FR 61061, Oct. 20, 2005; 70 FR 76708, Dec. 28, 2005]

§ 90.176 Coordinator notification requirements on frequencies below 512 MHz or at 764–776/794–806 MHz.

(a) *Frequencies below 470 MHz.* Within one business day of making a frequency recommendation, each frequency coordinator must notify and provide the information indicated in paragraph (f) of this section to all other frequency coordinators who are also certified to coordinate that frequency.

(1) The applicable frequency coordinator for each frequency is specified in the coordinator column of the frequency tables of §§ 90.20(c)(3) and 90.35(b)(3).

(2) For frequencies that do not specify any frequency coordinator, all certified in-pool coordinators must be notified.

(3) For frequencies that are shared between the Public Safety Pool and the Industrial/Business Pool (frequencies subject to §§ 90.20(d)(7), (d)(25), (d)(34), or (d)(46) in the Public Safety Pool, and subject to §§ 90.35(c)(13), (c)(25), or (d)(4) in the Industrial/Business Pool), all certified coordinators of both pools must be notified.

(b) *Frequencies in the 470–512 MHz band.* Within one business day of making a frequency recommendation, each frequency coordinator must notify and provide the information indicated in paragraph (f) of this section to all other certified frequency coordinators in the Public Safety Pool and the Industrial/Business Pool.

(c) *Frequencies in the 764–776/794–806 MHz band.* Within one business day of making a frequency recommendation, each frequency coordinator must notify and provide the information indicated in paragraph (f) of this section to all other certified frequency coordinators in the Public Safety Pool.

(d) Each frequency coordinator must also notify all other certified in-pool