

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Implementation of Sections 309(j) and
337 of the Communications Act of 1934
as Amended
WT Docket No. 99-87

ERRATUM

Adopted: May 6, 2002

Released: May 8, 2002

By the Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. This Erratum corrects the first footnote in paragraph one and Appendix B, Final Rules, PART 1 – PRACTICE AND PROCEDURE, paragraph three and PART 90 – PRIVATE LAND MOBILE RADIO SERVICES, paragraph two in the Memorandum Opinion and Order (FCC 02-82) captioned above. The Commission released this Memorandum Opinion and Order on April 18, 2002.

2. In footnote one of paragraph one, the note is revised to replace “Implementation of Sections 309(j) and 337 of the Communications Act, as amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies; Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz; Petition for Rule Making of the American Mobile Telecommunications Association, Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 99-87, RM-9332, RM-9405, RM-9705, 15 FCC Rcd 22709 (1999) (“R&O and FNPRM)” with “Implementation of Sections 309(j) and 337 of the Communications Act, as amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies; Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz; Petition for Rule Making of the American Mobile Telecommunications Association, Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 99-87, RM-9332, RM-9405, RM-9705, 15 FCC Rcd 22709 (2000) (“R&O and FNPRM).”

3. APPENDIX B, PART 1 – PRACTICE AND PROCEDURE, Paragraph 3 is corrected to read as follows:

3. Section 1.227 is amended by revising (b)(3)(ii) and (b)(4) to read as follows:

§ 1.227 Consolidations.

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(b) * * * * *

(3) * * * * *

(ii) Domestic public fixed and public mobile. See Rule § 21.31 for the requirements as to mutually exclusive applications. See also Rule § 21.23 for the requirements as to amendments of applications.

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(4) This paragraph applies when mutually exclusive applications subject to section 309(b) of the Communications Act and not subject to competitive bidding procedures pursuant to § 1.2102 of this chapter are filed in the Private Radio Services, or when there are more such applications for initial licenses than can be accommodated on available frequencies. Except for applications filed under part 101, subparts H and O, Private Operational Fixed Microwave Service, and applications for high seas public coast stations (see §§ 80.122(b)(1) (first sentence), 80.357, 80.361, 80.363(a)(2), 80.371(a), (b), and (d), and 80.374 of this chapter), mutual exclusivity will occur if the later application or applications are received by the Commission's offices in Gettysburg, PA (or Pittsburgh, PA for applications requiring the fees set forth at part 1, subpart G of the rules) in a condition acceptable for filing within 30 days after the release date of public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing or within such other period as specified by the Commission. For applications in the Private Operational Fixed Microwave Service, mutual exclusivity will occur if two or more acceptable applications that are in conflict are filed on the same day. Applications for high seas public coast stations will be processed on a first come, first served basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applications. Applications for high seas public coast stations received on the same day will be treated as simultaneously filed and, if granting more than one would result in harmful interference, must be resolved through settlement or technical amendment.

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4. APPENDIX B, PART 90 – PRIVATE LAND MOBILE RADIO SERVICES, Paragraph 2 is corrected to read as follows:

2. Section 90.621 is amended by revising paragraph (e)(2) and adding paragraph (e)(3) to read as follows:

§ 90.621 Selection and assignment of frequencies.

* * * * *

(e) * * * * *

(2) Notwithstanding paragraph (e)(5) of this section, licensees of channels in the Industrial/Land Transportation and Business categories may request a modification of the license, *see* § 1.947 of this part, to authorize use of the channels for commercial operation. The licensee may also, at the same time or thereafter, seek authorization to transfer or assign the license, *see* § 1.948 of this part, to any person eligible for licensing in the General or SMR categories. Applications submitted pursuant to this paragraph must be filed in accordance with the rules governing other applications for commercial channels, and will be processed in accordance with those rules. Grant of requests submitted pursuant to this paragraph is subject to the following conditions:

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(3) Licensees granted authorizations pursuant to paragraph (e)(2) of this section may at any time request modification of the license to authorize use of the channels consistent with the rules governing the category to which they are allocated, provided that the licensee meets the applicable eligibility requirements.

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5. These errors will be corrected before publication in the Federal Register.
6. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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