

and remedy any alleged interference. In determining the appropriate action, the Bureau will take into account the nature and extent of the interference and act promptly to remedy the interference. The Bureau may impose restrictions on WCS licensees, including specifying the transmitter power, antenna height, or other technical or operational measures to remedy the interference, and will take into account previous measures by the licensees to mitigate the risk of interference.

[75 FR 45071, Aug. 2, 2010]

**§ 27.73 WCS, AMT, and Goldstone coordination requirements.**

This section requires Wireless Communications Services (WCS) licensees in the 2345–2360 MHz band to coordinate the deployment of base stations with Aeronautical Mobile Telemetry (AMT) facilities in the 2360–2395 MHz band; and to take all practicable steps necessary to minimize the risk of harmful interference to AMT facilities.

(a) Wireless Communications Service (WCS) licensees operating base stations in the 2345–2360 MHz band shall, prior to operation of such base stations, achieve a mutually satisfactory coordination agreement with the Aerospace and Flight Test Radio Coordinating Council (AFTRCC) for any AMT receiver facility within 45 kilometers or the radio line of sight, whichever distance is larger, of the intended WCS base station location. This coordination is necessary to protect AMT receive systems consistent with Recommendation ITU–R M.1459. The locations of the current and planned Federal and non-Federal AMT receiver sites may be obtained from AFTRCC.

(b) WCS licensees operating base stations in the 2305–2320 MHz band shall, prior to operation of such base stations, achieve a mutually satisfactory coordination agreement with the National Aeronautics and Space Administration (NASA) within 145 kilometers of the Goldstone, CA earth station site (35°25′33″ N, 116°53′23″ W).

(c) After base station operations commence, upon receipt of a complaint of harmful interference, the WCS licensee(s) receiving the complaint, no matter the distance from the NASA Goldstone, CA earth station or from an

AMT site, operating in the 2305–2320 or 2345–2360 MHz bands, respectively, shall take all practicable steps to immediately eliminate the interference.

(d) *Duty to cooperate.* WCS licensees, AFTRCC, and NASA must cooperate in good faith in the coordination and deployment of new facilities. WCS licensees must also cooperate in good faith in the selection and use of new station sites and new frequencies when within radio line of site of AMT receiver facilities to reduce the risk of harmful interference and make the most effective use of the authorized facilities. Licensees of stations suffering or causing harmful interference must cooperate in good faith and resolve such problems by mutually satisfactory arrangements. If the licensees are unable to do so, the Wireless Telecommunications Bureau, in consultation with the Office of Engineering and Technology and the National Telecommunications and Information Administration may impose restrictions including specifying the transmitter power, antenna height, or area or hours of operation of the stations.

[75 FR 45072, Aug. 2, 2010]

**Subpart D—Competitive Bidding Procedures for the 2305–2320 MHz and 2345–2360 MHz Bands**

**§ 27.201 WCS in the 2305–2320 MHz and 2345–2360 MHz bands subject to competitive bidding.**

Mutually exclusive initial applications for WCS licenses in the 2305–2320 MHz and 2345–2360 MHz bands 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.

[67 FR 45373, July 9, 2002]

**§§ 27.202–27.208 [Reserved]**

**§ 27.209 Designated entities; bidding credits; unjust enrichment.**

(a) Designated entities entitled to preferences in the WCS in the 2305–2320 and 2345–2360 bands auction are small businesses and very small businesses as

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defined in § 27.110(b). Designated entities will be eligible for bidding credits, as defined in paragraphs (b) and (c) of this section.

(b) A winning bidder that qualifies as a *small business* may use a bidding credit of 25 percent to lower the cost of its winning bid.

(c) A winning bidder that qualifies as a *very small business* may use a bidding credit of 35 percent to lower the cost of its winning bid.

[62 FR 9658, Mar. 3, 1997, as amended at 63 FR 2349, Jan. 15, 1998; 65 FR 57268, Sept. 21, 2000; 67 FR 45373, July 9, 2002]

### § 27.210 Definitions.

(a) *Scope*. The definitions in this section apply to § 27.209, unless otherwise specified in those sections.

(b) *Small and very small business*. (1) A *small business* is an entity that, together with its affiliates and controlling interests, has average annual 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 and controlling interests, has average annual gross revenues that are not more than \$15 million for the preceding three years.

[67 FR 45373, July 9, 2002, as amended at 68 FR 43000, July 21, 2003]

## Subpart E—Application, Licensing, and Processing Rules for WCS

### § 27.301 [Reserved]

### § 27.302 Eligibility.

(a) General. Authorizations will be granted upon proper application if:

(1) The applicant is qualified under the applicable laws and the regulations, policies and decisions issued under those laws, including § 27.12;

(2) There are frequencies available to provide satisfactory service; and

(3) The public interest, convenience or necessity would be served by a grant.

(b) Alien Ownership. A WCS authorization may not be granted to or held by an entity not meeting the requirements of section 310 of the Communications Act of 1934, as amended, 47 U.S.C.

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section 310 insofar as applicable to the particular service in question.

### § 27.303 Upper 700 MHz commercial and public safety coordination zone.

(a) *General*. CMRS operators are required, prior to commencing operations on fixed or base station transmitters on the 776–787 MHz and 788–793 MHz bands that are located within 500 meters of existing or planned public safety base station receivers, to submit a description of their proposed facility to a Commission-approved public safety coordinator.

(1) The description must include, at a minimum;

(i) The frequency or frequencies on which the facility will operate;

(ii) Antenna location and height;

(iii) Type of emission;

(iv) Effective radiated power;

(v) A description of the area served and the operator's name.

(2) It is the CMRS operator's responsibility to determine whether referral is required for stations constructed in its area of license. Public safety base stations are considered "planned" when public safety operators have notified, or initiated coordination with, a Commission-approved public safety coordinator.

(b) CMRS operators must wait at least 10 business days after submission of the required description before commencing operations on the referenced facility, or implementing modifications to an existing facility.

(c) The potential for harmful interference between the CMRS and public safety facilities will be evaluated by the public safety coordinator.

(1) With regard to existing public safety facilities, the coordinator's determination to disapprove a proposed CMRS facility (or modification) to be located within 500 meters of the public safety facilities will be presumed correct, but the CMRS operator may seek Commission review of such determinations. Pending Commission review, the CMRS operator will not activate the facility or implement proposed modifications.

(2) With regard to proposed public safety facilities, the coordinator's determination to disapprove a proposed