

30 days. When the notifying party believes a shorter response time is reasonable and appropriate, it may be helpful for that party to so indicate in the notice and perhaps suggest a response date;

(ix) If, after coordination is successfully completed, it is determined that a subsequent change could have no impact on some parties receiving the original notification, these parties must be notified of the change and of the coordinator's opinion that no response is required;

(x) Applicants, permittees and licensees should supply to all other applicants, permittees and licensees within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating applicants, permittees and licensees, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation;

(xi) Parties should keep other parties with whom they are coordinating advised of changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was initiated, parties may assume that such frequency use is no longer desired unless a second notification has been received within 10 days of the end of the 6 month period. Renewal notifications are to be sent to all originally notified parties, even if coordination has not been successfully completed with those parties; and

(xii) Any frequency reserved by a licensee for future use in the bands subject to this part must be released for use by another licensee, permittee, or applicant upon a showing by the latter that it requires an additional frequency and cannot coordinate one that is not reserved for future use.

(c) For each frequency coordinated under this part, the following frequency usage coordination procedures will apply:

(1) *General requirements.* Applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area.

Applicants may consult local frequency coordination committees, where they exist, for information on frequencies available in the area. Proposed frequency usage must be coordinated with existing licensees and applicants in the area whose facilities could affect or be affected by the new proposal in terms of frequency interference on active channels, applied-for channels, or channels coordinated for future growth. Coordination must be completed prior to filing an application for regular authorization, for major amendment to a pending application, or for major modification to a license.

(2) To be acceptable for filing, all applications for regular authorization, or major amendment to a pending application, or major modification to a license, must include a certification attesting that all co-channel and adjacent-channel licensees and applicants potentially affected by the proposed fixed use of the frequency(ies) have been notified and are in agreement that the proposed facilities can be installed without causing harmful interference to those other licensees and applicants.

(d) For each frequency coordinated under this part, applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants may consult local frequency coordination committees, where they exist, for information on frequencies available in the area. In selecting frequencies, consideration should be given to the relative location of receive points, normal transmission paths, and the nature of the contemplated operation.

[68 FR 12774, Mar. 17, 2003, as amended at 75 FR 17061, Apr. 5, 2010]

**§ 78.40 Transition of the 1990-2025 MHz band from the Cable Television Relay Service to emerging technologies.**

(a) New Entrants are collectively defined as those licensees proposing to use emerging technologies to implement Mobile Satellite Services in the 2000-2020 MHz band (MSS licensees), those licensees authorized after July 1, 2004 to implement new Fixed and Mobile services in the 1990-1995 MHz band,

and those licensees authorized after September 9, 2004 in the 1995–2000 MHz and 2020–2025 MHz bands. New entrants may negotiate with Cable Television Relay Service licensees operating on a primary basis and fixed service licensees operating on a primary basis in the 1990–2025 MHz band (Existing Licensees) for the purpose of agreeing to terms under which the Existing Licensees would relocate their operations to the 2025–2110 MHz band, to other authorized bands, or to other media; or, alternatively, would accept a sharing arrangement with the New Entrants that may result in an otherwise impermissible level of interference to the Existing Licensee's operations. New licensees in the 1995–2000 MHz and 2020–2025 MHz bands are subject to the specific relocation procedures adopted in WT Docket 04–356.

(b) Existing Licensees in the 1990–2025 MHz band allocated for licensed emerging technology services will maintain primary status in the band until a New Entrant completes relocation of the Existing Licensee's operations or the Existing Licensee indicates to a New Entrant that it declines to be relocated.

(c) The Commission will amend the operating license of the Existing Licensee to secondary status only if the following requirements are met:

(1) The service applicant, provider, licensee, or representative using an emerging technology guarantees payment of all relocation costs, including all engineering, equipment, site and FCC fees, as well as any reasonable additional costs that the relocated Existing Licensee might incur as a result of operation in another authorized band or migration to another medium;

(2) The New Entrant completes all activities necessary for implementing the replacement facilities, including engineering and cost analysis of the relocation procedure and, if radio facilities are used, identifying and obtaining, on the incumbents' behalf, new microwave or Cable Television Relay Service frequencies and frequency coordination.

(3) The New Entrant builds the replacement system and tests it for comparability with the existing system.

(d) The Existing Licensee is not required to relocate until the alternative facilities are available to it for a reasonable time to make adjustments, determine comparability, and ensure a seamless handoff.

(e) If, within one year after the relocation to new facilities the Existing Licensee demonstrates that the new facilities are not comparable to the former facilities, the New Entrant must remedy the defect.

(f) Subject to the terms of this paragraph (f), the relocation of Existing Licensees will be carried out by MSS licensees in the following manner:

(1) Existing Licensees and MSS licensees may negotiate individually or collectively for relocation of Existing Licensees to one of the channel plans specified in § 74.602(a)(3) of this part. Parties may not decline to negotiate, though Existing Licensees may decline to be relocated.

(i) MSS licensees may relocate all Existing Licensees in Nielsen Designated Market Areas (DMAs) 1–30, as such DMAs existed on September 6, 2000, except those Existing Licensees that decline relocation. Such relocation negotiations shall be conducted as “mandatory negotiations,” as that term is used in § 101.73 of this chapter. If these parties are unable to reach a negotiated agreement, MSS Licensees may involuntarily relocate such Existing Licensees after December 8, 2004.

(ii) [Reserved]

(iii) On the date that the first MSS licensee begins operations in the 2000–2020 MHz band, a one-year mandatory negotiation period begins between MSS licensees and Existing Licensees in DMAs 31–210, as such DMAs existed on September 6, 2000. After the end of the mandatory negotiation period, MSS licensees may involuntary relocate any Existing Licensees with which they have been unable to reach a negotiated agreement. As described elsewhere in this paragraph (f), MSS Licensees are obligated to relocate these Existing Licensees within the specified three- and five-year time periods.

(2) Before negotiating with MSS licensees, Existing Licensees in Nielsen Designated Market Areas where there is a BAS frequency coordinator must coordinate and select a band plan for

the market area. If an Existing Licensee wishes to operate in the 2025–2110 MHz band using the channel plan specified in § 78.18(a)(6)(i) of this part, then all licensees within that Existing Licensee's market must agree to such operation and all must operate on a secondary basis to any licensee operating on the channel plan specified in § 78.18(a)(6)(ii). All negotiations must produce solutions that adhere to the market area's band plan.

(3)–(4) [Reserved]

(5) As of the date the first MSS Licensee begins operations in the 1990–2025 MHz band, MSS Licensees must relocate Existing Licensees in DMAs 31–100, as they existed as of September 6, 2000, within three years, and in the remaining DMAs, as they existed as of September 6, 2000, within five years.

(6) On December 9, 2013, all Existing Licensees will become secondary in the 1990–2025 MHz band. Upon written demand by any MSS Licensee, Existing Licensees must cease operations in the 1990–2025 MHz band within six months.

[65 FR 48181, Aug. 7, 2000, as amended at 67 FR 53756, Aug. 19, 2002; 68 FR 68253, Dec. 8, 2003; 69 FR 62622, Oct. 27, 2004; 69 FR 67836, Nov. 22, 2004; 74 FR 29613, June 23, 2009]

### Subpart C—General Operating Requirements

#### § 78.51 Remote control operation.

(a) A CARS station may be operated by remote control: *Provided*, That such operation is conducted in accordance with the conditions listed below: *And provided further*, That the Commission, in Washington, DC, is notified at least 10 days prior to the beginning of such operation and that such notification is accompanied by a detailed description showing the manner of compliance with the following conditions:

(1) The transmitter and associated control system shall be installed and protected in a manner designed to prevent tampering or operation by unauthorized persons.

(2) An operator shall be on duty at the remote control position and in actual charge thereof at all times when the station is in operation.

(3) Facilities shall be provided at the control position which will permit the operator to turn the transmitter on

and off at will. The control position shall also be equipped with suitable devices for observing the overall characteristics of the transmissions and a carrier operated device which will give a continuous visual indication whenever the transmitting antenna is radiating a signal. The transmitting apparatus shall be inspected as often as may be necessary to insure proper operation.

(4) The control circuits shall be so designed and installed that short circuits, open circuits, other line faults, or any other cause which would result in loss of control of the transmitter will automatically cause the transmitter to cease radiating.

(b) An application for authority to construct a new station or to make changes in the facilities of an existing station and which proposes operation by remote control shall include an adequate showing of the manner of compliance with the requirements of this section.

(c) The Commission may notify the licensee not to commence remote control operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessity.

[37 FR 3292, Feb. 12, 1972, as amended at 41 FR 29695, July 19, 1976; 49 FR 20671, May 16, 1984; 50 FR 23421, June 4, 1985]

#### § 78.53 Unattended operation.

(a) A CARS station may be operated unattended: *Provided*, That such operation is conducted in accordance with the conditions listed below: *And provided further*, That the Commission, in Washington, DC, is notified at least 10 days prior to the beginning of unattended operation if such operation is not indicated on the station authorization.

(1) The transmitter and associated control circuits shall be installed and protected in a manner designed to prevent tampering or operation by unauthorized persons.

(2) If the transmitting apparatus is located at a site which is not readily accessible at all hours and in all seasons, means shall be provided for turning the transmitter on and off at will from a location which can be reached