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POFS licensee(s) shall retain exclusive rights to its channel(s) within the relevant geographical areas and must be protected in accordance with the procedures in §101.103. A list of public safety incumbents is attached as Appendix I to the Memorandum Opinion and Order and Second Report and Order, Docket 98-206, released May 23, 2002. Please check with the Commission for any updates to that list.

§ 101.1423 Canadian and Mexican coordination.

Pursuant to §2.301 of this chapter, MVDDS systems in the United States within 56 km (35 miles) of the Canadian and Mexican border will be granted conditional licenses, until final international agreements are approved. These systems may not cause harmful interference to stations in Canada or Mexico. MVDDS stations must comply with the procedures outlined under §§101.147(p) and 1.928(f)(1) and (f)(2) of this chapter until final international agreements concerning MVDDS are signed. Section 1.928(f) of this chapter states that transmitting antennas can be located as close as five miles (eight kilometers) of the border if they point within a sector of 160 degrees away from the border, and as close as thirty-five miles (fifty-six km) of the border if they point within a sector of 200 degrees toward the border without coordination with Canada. MVDDS licenses shall apply this method near the Canadian and Mexican borders. No stations are allowed within 5 miles of the borders.

§ 101.1425 RF safety.

MVDDS stations in the 12.2-12.7 GHz frequency band do not operate with output powers that equal or exceed 1640 watts EIRP and therefore will not be subject to the routine environmental evaluation rules for radiation hazards, as set forth in §1.1307 of this chapter.

§ 101.1427 MVDDS licenses subject to competitive bidding.

Mutually exclusive initial applications for MVDDS licenses in the 12.2-12.7 GHz band are subject to competitive bidding. The general competitive bidding procedures set forth in part 1,

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subpart Q of this chapter will apply unless otherwise provided in this subpart.

§ 101.1429 Designated entities.

(a) *Eligibility for small business provisions.* (1) A very small business is an entity that, together with its controlling interests and affiliates, has average annual gross revenues not exceeding \$3 million for the preceding three years.

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

(3) An entrepreneur is an entity that, together with its controlling interests and affiliates, has average annual gross revenues not exceeding \$40 million for the preceding three years.

(b) *Bidding credits.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in §1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in §1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in §1.2110(f)(2)(iii) of this chapter.

§ 101.1440 MVDDS protection of DBS.

(a) An MVDDS licensee shall not begin operation unless it can ensure that the EPFD from its transmitting antenna at all DBS customers of record locations is below the values listed for the appropriate region in §101.105(a)(4)(ii). Alternatively, MVDDS licensees may obtain a signed written agreement from DBS customers of record stating that they are aware of and agree to their DBS system receiving MVDDS signal levels in excess of the appropriate EPFD limits specified in §101.105(a)(4)(ii). DBS customers of record are those who had their DBS receive antennas installed prior to or within the 30 day period after notification to the DBS operator by the MVDDS licensee of the proposed MVDDS transmitting antenna site.

(b) MVDDS licensees are required to conduct a survey of the area around its proposed transmitting antenna site to determine the location of all DBS customers of record that may potentially be affected by the introduction of its MVDDS service. The MVDDS licensee must assess whether the signal levels from its system, under its deployment plans, would exceed the appropriate EPFD levels in §101.105(a)(4)(ii) at any DBS customer of record location. Using EPFD calculations, terrain and building structure characteristics, and the survey results, an MVDDS licensee must make a determination of whether its signal level(s) will exceed the EPFD limit at any DBS customer of record sites. To assist in making this determination, the MVDDS provider can use the EPFD contour model developed by the Commission and described in Appendix J of the Memorandum Opinion and Order and Second Report and Order, ET Docket 98-206 or on the OET website at <http://www.fcc.gov/oet/dockets/et98-206>.

(c) If the MVDDS licensee determines that its signal level will exceed the EPFD limit at any DBS customer site, it shall take whatever steps are necessary, up to and including finding a new transmit site, to ensure that the EPFD limit will not be exceeded at any DBS customer location.

(d) *Coordination between MVDDS and DBS licensees.* (1) At least 90 days prior to the planned date of MVDDS commencement of operations, the MVDDS licensee shall provide the following information to the DBS licensee(s):

(i) Geographic location (including NAD 83 coordinates) of its proposed station location;

(ii) Maximum EIRP of each transmitting antenna system;

(iii) Height above ground level for each transmitting antenna;

(iv) Antenna type along with main beam azimuth and altitude orientation information, and description of the antenna radiation pattern;

(v) Description of the proposed service area; and

(vi) Survey results along with a technical description of how it determined compliance with the appropriate EPFD level at all DBS subscriber locations.

(2) No later than forty-five days after receipt of the MVDDS system information in paragraph (d)(1) of this section, the DBS licensee(s) shall provide the MVDDS licensee with a list of only those new DBS customer locations that have been installed in the 30-day period following the MVDDS notification and that the DBS licensee believes may receive harmful interference or where the prescribed EPFD limits may be exceeded. In addition, the DBS licensee(s) could indicate agreement with the MVDDS licensee's technical assessment, or identify DBS customer locations that the MVDDS licensee failed to consider or DBS customer locations where they believe the MVDDS licensee erred in its analysis and could exceed the prescribed EPFD limit.

(3) Prior to commencement of operation, the MVDDS licensee must take into account any new DBS customers or other relevant information provided by DBS licensees in response to the notification in paragraph (d)(1) of this section.

(e) Beginning thirty days after the DBS licensees are notified of a potential MVDDS site in paragraph (d)(1) of this section, the DBS licensees are responsible for providing information they deem necessary for those entities who install all future DBS receive antennas on its system to take into account the presence of MVDDS operations so that these DBS receive antennas can be located in such a way as to avoid the MVDDS signal. These later installed DBS receive antennas shall have no further rights of complaint against the notified MVDDS transmitting antenna(s).

(f) In the event of either an increase in the EPFD contour in any direction or a major modification as defined in §1.929 of this chapter, such as the addition of an antenna, to an MVDDS station, the procedures of paragraphs (d) and (e) of this section and rights of complaint begin anew. Exceptions to this are renewal, transfer of control, and assignment of license applications.

(g) *Interference complaints.* The MVDDS licensee must satisfy all complaints of interference to DBS customers of record which are received

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during a one year period after commencement of operation of the transmitting facility. Specifically, the MVDDS licensee must correct interference caused to a DBS customer of record or cease operation if it is demonstrated that the DBS customer is receiving harmful interference from the MVDDS system or that the MVDDS signal exceeds the permitted EPFD level at the DBS customer location.

Subpart Q—Service and Technical Rules for the 70/80/90 GHz Bands

SOURCE: 69 FR 3267, Jan. 23, 2004, unless otherwise noted.

§ 101.1501 Service areas.

The 70/80/90 GHz bands are licensed on the basis of non-exclusive nationwide licenses. There is no limit to the number of non-exclusive nationwide licenses that may be granted for these bands, and these licenses will serve as a prerequisite for registering individual links.

§ 101.1505 Segmentation plan.

(a) An entity may request any portion of the 71–76 GHz and 81–86 GHz bands, up to 5 gigahertz in each segment for a total of 10 gigahertz. Licensees are also permitted to register smaller segments.

(b) The 92–95 GHz band is divided into three segments: 92.0–94.0 GHz and 94.1–95.0 GHz for non-government and government users, and 94.0–94.1 GHz for Federal Government use. Pairing is allowed and segments may be aggregated without limit. The bands in paragraph (a) of this section can be included for a possible 12.9 gigahertz maximum aggregation. Licensees are also permitted to register smaller segments than provided here.

[70 FR 29998, May 25, 2005]

§ 101.1507 Permissible operations.

Licensees may use the 70 GHz, 80 GHz and 90 GHz bands for any point-to-point, non-broadcast service. The segments may be unpaired or paired, but pairing will be permitted only in a standardized manner (*e.g.*, 71–72.25 GHz may be paired only with 81–82.25 GHz,

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and so on). The segments may be aggregated without limit.

§ 101.1511 Regulatory status and eligibility.

(a) Licensees are permitted to provide services on a non-common carrier and/or on a common carrier basis.

(b) Licensees are subject to the requirements set forth in § 101.7.

(c) Any entity, other than one precluded by § 101.7, is eligible for authorization to provide service under this part. Authorization will be granted upon proper application filing and link coordination in accordance with the Commission's rules.

§ 101.1513 License term and renewal expectancy.

The license term is ten years, beginning on the date of the initial authorization (nationwide license) grant. Registering links will not change the overall renewal period of the license.

[70 FR 29998, May 25, 2005]

§ 101.1523 Sharing and coordination among non-government licensees and between non-government and government services.

(a) Registration of each link in the 71–76 GHz, 81–86 GHz, and 92–95 GHz bands will be in the Universal Licensing System until the Wireless Telecommunications Bureau announces by public notice the implementation of a third-party database.

(b) The licensee or applicant shall:

(1) Complete coordination with Federal Government links according to the coordination standards and procedures adopted in Report and Order, FCC 03–248, and as further detailed in subsequent implementation public notices issued consistent with that order;

(2) Provide an electronic copy of an interference analysis to the third-party database manager which demonstrates that the potential for harmful interference to or from all previously registered non-government links has been analyzed according to the standards of section 101.105 and generally accepted good engineering practice, and that the proposed non-government link will neither cause harmful interference to, nor receive harmful interference from, any