

(4) Responsible parties must submit supporting documents showing compliance with the respective construction requirements within the appropriate construction benchmarks set forth in § 101.1325.

(d) *License term.* The license term for a partitioned license area and for disaggregated spectrum shall be the remainder of the original licensee's license term as provided for in § 101.1313.

[65 FR 17450, Apr. 3, 2000, as amended at 67 FR 45380, July 9, 2002]

SYSTEM REQUIREMENTS

§ 101.1325 Construction requirements.

(a) Incumbent and site-based licenses are subject to the construction requirements set forth in § 101.63.

(b) Each MAS EA licensee must provide service to at least one-fifth of the population in its service area or "substantial service" within five years of the license grant. In addition, MAS EA licensees must make a showing of continued "substantial service" within ten years of the license grant. Licensees must file maps and other supporting documents showing compliance with the respective construction requirements within the appropriate five- and ten-year benchmarks of the date of their initial licenses.

(c) Failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the initial license, and the licensee will be ineligible to regain it.

[65 FR 17450, Apr. 3, 2000, as amended at 68 FR 4961, Jan. 31, 2003]

§ 101.1327 Renewal expectancy for EA licensees.

(a) A renewal applicant shall receive a renewal expectancy at the end of the license period as long as the applicant:

(1) Demonstrates that the licensee has provided continued "substantial service," *i.e.*, service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal, during its past license term;

(2) Demonstrates that the licensee has substantially complied with applicable Commission Rules, policies, and the Communications Act of 1934, as amended;

(3) Provides an explanation of the licensee's record of expansion, including a timetable of the construction of new facilities to meet changes in demand for services provided by the licensee; and (4) Provides a description of investments made by the licensee in its system.

(b) In determining whether a renewal applicant has complied with the "substantial service" requirement by the end of the ten-year initial license term, the Commission may consider factors such as:

(1) Whether the licensee is offering a specialized or technologically sophisticated service that does not require a high level of coverage to be of benefit to customers; and

(2) Whether the licensee's operations service niche markets or focus on serving populations outside of areas served by other licensees. The "substantial service" requirement can, however, be met in other ways, and the Commission will review each licensee's showing on a case-by-case basis.

(c) A "substantial service" assessment will be made at renewal pursuant to the procedures contained in § 1.949 of this chapter.

[65 FR 17450, Apr. 3, 2000]

§ 101.1329 EA Station license, location, modifications.

EA licensees may construct master and remote stations anywhere inside the area authorized in their licenses, without prior approval, so long as the Commission's technical and other Rules are complied with, except that individual licenses are required for any master station that:

(a) Requires the submission of an environmental assessment under § 1.1307 of this chapter;

(b) Requires international coordination; or

(c) The station would affect areas identified in § 1.924 of this chapter.

[65 FR 17450, Apr. 3, 2000, as amended at 69 FR 17959, Apr. 6, 2004]

§ 101.1331 Treatment of incumbents.

(a) Any MAS station licensed by the Commission prior to July 1, 1999 in the 928.0–928.85 MHz/952.0–952.85 MHz/956.25–956.45 MHz and 928.85–929.0 MHz/959.85–

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960.0 MHz bands, as well as assignments or transfers of such stations approved by the Commission and consummated as of January 19, 2000, shall be considered incumbent.

(b) Incumbent operators in the 928.0–928.85 MHz/952.0–952.85 MHz/956.25–956.45 MHz bands are grandfathered as of January 19, 2000, and may continue to operate and expand their systems pursuant to the interference protection and co-channel spacing criteria contained in § 101.105.

(1) MAS operators are prohibited from acquiring additional frequencies in the 928.0–928.85 MHz/952.0–952.85 MHz/956.25–956.45 MHz bands and the 932.25625–932.49375 MHz/941.25625–941.49375 MHz bands for the purpose of expanding private carrier service and from changing the use of their frequencies in any manner that is inconsistent with this part. Refer to § 101.147 for designated uses.

(2) Incumbent operators in the 928.0–928.85 MHz/952.0–952.85 MHz/956.25–956.45 MHz bands will include incumbents as defined in § 101.1331(a), as well as, their transferees and/or assignees and the successors of the transferees and/or assignees and retain their grandfathered status, provided that the use of the MAS frequencies remains unchanged from that of the transferor and/or assignor of the license.

[65 FR 17450, Apr. 3, 2000 as amended at 66 FR 35111, July 3, 2001]

(c) Incumbent operators in the 928.85–929.0/959.85–960.0 MHz bands are grandfathered as of January 19, 2000, and may expand their systems provided that the signal level of the additional transmitter(s) does not increase the composite contour that occurs at a 40.2 kilometer (25-mile) radius from the center of each master station transmitter site. Incumbent operators and geographic area licensees may negotiate alternative criteria.

(d) The frequencies associated with incumbent authorizations in the 928/959 MHz bands that have cancelled automatically or otherwise been recovered by the Commission will automatically revert to the applicable EA licensee.

(e) The frequencies associated with incumbent authorizations in the 928/952/956 MHz bands that have cancelled

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automatically will revert to the Commission.

[65 FR 17450, Apr. 3, 2000, as amended at 66 FR 35111, July 3, 2001]

§ 101.1333 Interference protection criteria.

(a) *Frequency coordination.* All EA licensees are required to coordinate their frequency usage with co-channel adjacent area licensees and all other affected parties.

(b) EA licensees are prohibited from exceeding a signal strength of 40 dB μ V/m at their service area boundaries, unless a higher signal strength is agreed to by all affected co-channel, adjacent area licensees.

(c) EA licensees are prohibited from exceeding a signal strength of 40 dB μ V/m at incumbent licensees' 40.2 kilometer (25-mile) radius composite contour specified in § 101.1331(c).

(d) In general, licensees shall comply with the appropriate coordination agreements between the United States and Canada and the United States and Mexico concerning cross-border sharing and use of the applicable MAS frequencies.

(1) *Canada—932.0–932.25 MHz and 941.0–941.25 MHz:*

(i) Within Lines A, B, C, and D, as defined in § 1.928(e) of this chapter, along the U.S./Canada border, U.S. stations operating in the 932.0–932.25 MHz and 941.0–941.25 MHz bands are on a secondary basis and may operate provided that they shall not transmit a power flux density (PFD) at the border greater than -100 dBW/m² nor -94 dBW/m², respectively. The U.S. has full use of the frequencies in these regions up to the border in the bands 932.25–932.50 MHz and 941.25–941.50 MHz, and Canadian stations may operate on a secondary basis provided they do not exceed the respective PFDs shown above. PFD can be determined using the following formula: PFD (dBW/m²) = 10 log [EIRP/4 π (D²)], where EIRP is in watts, D is in meters, and the power is relative to an isotropic radiator. The technical parameters are also limited by tables 1 and 2: