

systems, in order to ensure that no harmful interference occurs between adjacent geographical area licensees. MVDDS licensees shall:

(1) Engineer systems to be reasonably compatible with adjacent and co-channel operations in the adjacent areas on all its frequencies; and

(2) Cooperate fully and in good faith to resolve interference and transmission problems that are present on adjacent and co-channel operations in adjacent areas.

(b) Harmful interference to public safety stations, co-channel MVDDS stations operating in adjacent geographic areas, and stations operating on adjacent channels to MVDDS stations is prohibited. In areas where the DMAs are in close proximity, careful consideration should be given to power requirements and to the location, height, and radiation pattern of the transmitting and receiving antennas. Licensees are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(c) Licensees shall coordinate their facilities whenever the facilities have optical line-of-sight into other licensees' areas or are within the same geographic area. Licensees are encouraged to develop operational agreements with relevant licensees in the adjacent geographic areas. Incumbent public safety 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 of this part. 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.

[67 FR 43040, June 26, 2002, as amended at 68 FR 42612, July 18, 2003]

§ 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 (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 kilometers) of the border if they point within a sector of 200 degrees toward the border without coordination with Canada. MVDDS licensees 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, subpart Q of this chapter will apply unless otherwise provided.

§ 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.

[67 FR 43040, June 26, 2002, as amended at 68 FR 43002, July 21, 2003]

§ 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 deter-

mination, 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