

the non-voice, non-geosynchronous mobile-satellite service by the ITU, at WRC-97 or a subsequent World Radiocommunication Conference, and by the Commission, respectively (the "Future Spectrum"). The System 2 licensee will be eligible to apply for and use the first 210 kHz of Future Spectrum plus spectrum sufficient to account for Doppler frequency shift in the Future Spectrum (the "Supplemental Spectrum") to implement its non-voice, non-geosynchronous mobile-satellite service system. The System 2 licensee's application for and use of the Supplemental Spectrum is subject to the Commission's Rules and policies, such reasonable operating conditions as may be imposed by the Commission, and international spectrum coordination requirements. For so long as the System 2 licensee is permitted by the Government of France to operate in the 400.5517-400.5983 MHz band coordinated with the French system S80-1, the Supplemental Spectrum shall be reduced to an amount equivalent to 150 kHz of Future Spectrum plus spectrum sufficient to account for Doppler frequency shift in the Future Spectrum.

(2) The System 2 licensee's priority to apply for and use the Supplemental Spectrum is conditioned on the System 2 licensee's compliance with the terms and conditions of its second processing round authorization, including, but not limited to, its system construction, launch and operation milestones, and any modifications thereto, and the Commission's Rules. The System 2 licensee's priority to apply for and use the Supplemental Spectrum shall automatically terminate upon the occurrence of any of the following events:

- (i) The System 2 licensee being permitted to operate in the Supplemental Spectrum;
- (ii) The expiration or revocation of the System 2 licensee's second processing round authorization;
- (iii) The discontinuance of use of the spectrum assigned to the System 2 licensee under its second processing round authorization; or

(iv) The surrender of the System 2 licensee's second processing round authorization to the Commission.

[58 FR 68060, Dec. 23, 1993, as amended at 62 FR 5930, Feb. 10, 1997; 62 FR 59295, Nov. 3, 1997; 68 FR 51504, Aug. 27, 2003]

§25.143 Licensing provisions for the 1.6/2.4 GHz mobile-satellite service and 2 GHz mobile-satellite service.

(a) *System license.* Applicants authorized to construct and launch a system of technically identical satellites will be awarded a single "blanket" license. In the case of non-geostationary satellites, the blanket license will cover a specified number of space stations to operate in a specified number of orbital planes. In the case of geostationary satellites, as part of a geostationary-only satellite system or a geostationary/non-geostationary hybrid satellite system, an individual license will be issued for each satellite to be located at a geostationary orbital location.

(b) *Qualification Requirements—(1) General requirements.* Each application for a space station system authorization in the 1.6/2.4 GHz Mobile-Satellite Service or 2 GHz Mobile-Satellite Service shall describe in detail the proposed satellite system, setting forth all pertinent technical and operational aspects of the system, and the technical, legal, and financial qualifications of the applicant. In particular, each application shall include the information specified in §25.114. Non-U.S. licensed systems shall comply with the provisions of §25.137. System proponents seeking authorization in the 2 GHz Mobile-Satellite Service also shall describe the design and operational strategies that they will use, if any, to mitigate orbital debris. Applicants must submit a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the spacecraft.

(2) *Technical qualifications.* In addition to providing the information specified in paragraph (b)(1) of this section, each applicant and letter of intent filer shall demonstrate the following:

- (i) That a proposed system in the 1.6/2.4 GHz MSS frequency bands employs

a non-geostationary constellation or constellations of satellites;

(ii) That a system proposed to operate using non-geostationary satellites be capable of providing mobile satellite services to all locations as far north as 70 deg. North latitude and as far south as 55 deg. South latitude for at least 75% of every 24-hour period, *i.e.*, that at least one satellite will be visible above the horizon at an elevation angle of at least 5 deg. for at least 18 hours each day within the described geographic area;

(iii) That a system proposed to operate using non-geostationary satellites be capable of providing mobile satellite services on a continuous basis throughout the fifty states, Puerto Rico and the U.S. Virgin Islands, *i.e.*, that at least one satellite will be visible above the horizon at an elevation angle of at least 5 deg. at all times within the described geographic areas; and

(iv) That a system only using geostationary orbit satellites, at a minimum, be capable of providing mobile satellite services on a continuous basis throughout the 50 states, Puerto Rico, and the U.S. Virgin Islands, if technically feasible.

(v) That operations will not cause unacceptable interference to other authorized users of the spectrum. In particular, each application in the 1.6/2.4 GHz frequency bands shall demonstrate that the space station(s) comply with the requirements specified in § 25.213.

(3) [Reserved]

(c) *Replacement of Space Stations Within the System License Term.* Licensees of 1.6/2.4 GHz mobile-satellite systems authorized through a blanket license pursuant to paragraph (a) of this section need not file separate applications to construct, launch and operate technically identical replacement satellites within the term of the system authorization. However, the licensee shall certify to the Commission, at least thirty days prior to launch of such replacement(s) that:

(1) The licensee intends to launch a space station that is technically identical to those authorized in its system authorization, and

(2) Launch of this space station will not cause the licensee to exceed the

total number of operating space stations authorized by the Commission.

(d) *In-Orbit Spares.* Licensees need not file separate applications to operate technically identical in-orbit spares authorized as part of the blanket license pursuant to paragraph (a) of this section. However, the licensee shall certify to the Commission, within 10 days of bringing the in-orbit spare into operation, that operation of this space station did not cause the licensee to exceed the total number of operating space stations authorized by the Commission.

(e) *Reporting requirements.* (1) All operators of 1.6/2.4 GHz Mobile-Satellite Service systems and 2 GHz Mobile-Satellite Service systems shall, on October 15 of each year, file with the International Bureau and the Commission's Columbia Operations Center, Columbia, Maryland, a report containing the following information current as of September 30 of that year:

(i) Status of satellite construction and anticipated launch dates, including any major problems or delays encountered;

(ii) A listing of any non-scheduled space station outages for more than 30 minutes and the cause or causes of the outage;

(iii) A detailed description of the utilization made of the in-orbit satellite system. That description should identify the percentage of time that the system is actually used for U.S. domestic or transborder transmission, the amount of capacity (if any) sold but not in service within U.S. territorial geographic areas, and the amount of unused system capacity. 2 GHz Mobile Satellite systems receiving expansion spectrum as part of the unserved areas spectrum incentive must provide a report on the actual number of subscriber minutes originating or terminating in unserved areas as a percentage of the actual U.S. system use; and

(iv) Identification of any space stations not available for service or otherwise not performing to specifications, the cause or causes of these difficulties, and the date any space station was taken out of service or the malfunction identified.

(2) All operators of 1.6/2.4 GHz mobile-satellite systems shall, within 10

days after a required implementation milestone as specified in the system authorization, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met.

(3) All operators of 2 GHz Mobile-Satellite Service systems must begin system construction upon award of a service link license to U.S.-based applicants, or upon designation of spectrum for non-U.S.-based systems, in accordance with milestones set forth in the respective system's authorization. All operators of 2 GHz Mobile-Satellite Service systems shall, within 10 days after a required implementation milestone as specified in the system authorization, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. Failure to file timely certification of milestones, or filing disclosure of non-compliance, will result in automatic cancellation of the authorization with no further action required on the Commission's part.

(f) *Safety and distress communications.*

(1) Stations operating in the 1.6/2.4 GHz Mobile-Satellite Service and 2 GHz Mobile-Satellite Service that are voluntarily installed on a U.S. ship or are used to comply with any statute or regulatory equipment carriage requirements may also be subject to the requirements of sections 321(b) and 359 of the Communications Act of 1934. Licensees are advised that these provisions give priority to radio communications or signals relating to ships in distress and prohibits a charge for the transmission of maritime distress calls and related traffic.

(2) Licensees offering distress and safety services should coordinate with the appropriate search and rescue orga-

nizations responsible for the licensee's service area.

(g) [Reserved]

(h) *Prohibition of certain agreements.*

No license shall be granted to any applicant for a space station in the mobile satellite service operating at 1610-1626.5/2483.5-2500 MHz if that applicant, or any persons or companies controlling or controlled by the applicant, shall acquire or enjoy any right, for the purpose of handling traffic to or from the United States, its territories or possession, to construct or operate space segment or earth stations, or to interchange traffic, which is denied to any other United States company by reason of any concession, contract, understanding, or working arrangement to which the Licensee or any persons or companies controlling or controlled by the Licensee are parties.

(i) *Incorporation of ancillary terrestrial component base stations into a 1.6/2.4 GHz mobile-satellite service network or a 2 GHz mobile-satellite service network.* Any licensee authorized to construct and launch a 1.6/2.4 GHz or a 2 GHz mobile-satellite system may construct ancillary terrestrial component (ATC) base stations as defined in §25.201 at its own risk and subject to the conditions specified in this subpart any time after commencing construction of the mobile-satellite service system.

(j) *Pre-operational build-out and testing.* An MSS licensee may, without further authority from the Commission and at its own risk, engage in pre-operational build-out and conduct equipment tests for the purpose of making such adjustments and measurements as may be necessary to assure compliance with the terms of the technical provisions of its MSS license, ATC operation requirements, the rules and regulations in this Part and the applicable engineering standards. Prior to engaging in such pre-operational build-out and testing, an MSS licensee must notify the Commission concerning the initiation of MSS system satellite construction and the MSS operator's intent to construct and test ATC facilities. This notification must take the form of a letter formally filed with the Commission in the appropriate MSS license docket. Such letter shall specify

the frequencies on which the MSS licensee proposes to engage in pre-operational testing and shall specify the name, address, telephone number and other such information as may be necessary to contact a MSS licensee representative for the reporting and mitigation of any interference that may occur as a result of such pre-operational testing and build-out. MSS licensees engaging in pre-operational build-out and testing must also comply with §§ 5.83, 5.85(c), 5.111, and 5.117 of this chapter relating to experimental operations. An MSS licensee may not offer ATC service to the public for compensation during pre-operational testing. In order to operate any ATC base stations, such a licensee must meet all the requirements set forth in § 25.149 and must have been granted ATC authority.

(k) *Aircraft.* ATC mobile terminals must be operated in accordance with 25.136(a). All portable or hand-held transceiver units (including transceiver units installed in other devices that are themselves portable or hand-held) having operating capabilities in the 2000–2020/2180–2200 MHz or 1610–1626.5 MHz/2483.5–2500 MHz bands shall bear the following statement in a conspicuous location on the device: “This device may not be operated while on board aircraft. It must be turned off at all times while on board aircraft.”

[59 FR 53328, Oct. 21, 1994, as amended at 61 FR 9945, Mar. 12, 1996; 62 FR 5930, Feb. 10, 1997; 65 FR 59143, Oct. 4, 2000; 68 FR 33649, June 5, 2003; 68 FR 47858, Aug. 12, 2003; 68 FR 51504, Aug. 27, 2003]

§ 25.144 Licensing provisions for the 2.3 GHz satellite digital audio radio service.

(a) Qualification Requirements:

(1) Satellite CD Radio, Primosphere Limited Partnership, Digital Satellite Broadcasting Corporation, and American Mobile Radio Corporation are the applicants eligible for licensing in the satellite digital audio radio service.

(2) General Requirements: Each application for a system authorization in the satellite digital audio radio service in the 2310–2360 MHz band shall describe in detail the proposed satellite digital audio radio system, setting forth all pertinent technical and oper-

ational aspects of the system, and the technical, legal, and financial qualifications of the applicant. In particular, applicants must file information demonstrating compliance with § 25.114 and all of the requirements of this section.

(3) Technical Qualifications: In addition to the information specified in paragraph (a)(1) of this section, each applicant shall:

(i) Demonstrate that its system will, at a minimum, service the 48 contiguous states of the United States (full CONUS);

(ii) Certify that its satellite DARS system includes a receiver that will permit end users to access all licensed satellite DARS systems that are operational or under construction; and

(iii) Identify the compression rate it will use to transmit audio programming. If applicable, the applicant shall identify the compression rate it will use to transmit services that are ancillary to satellite DARS.

(b) Milestone requirements. Each applicant for system authorization in the satellite digital audio radio service must demonstrate within 10 days after a required implementation milestone as specified in the system authorization, and on the basis of the documentation contained in its application, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. The satellite DARS milestones are as follows, based on the date of authorization:

(1) One year: Complete contracting for construction of first space station or begin space station construction;

(2) Two years: If applied for, complete contracting for construction of second space station or begin second space station construction;

(3) Four years: In orbit operation of at least one space station; and

(4) Six years: Full operation of the satellite system.

(c) Reporting requirements. All licensees of satellite digital audio radio