

(b) A Guard Band Manager may not impose unduly restrictive requirements on use of its licensed frequencies, including any requirement that is not reasonably related to the efficient management of the spectrum licensed to the Guard Band Manager.

(c) A Guard Band Manager may lease a reasonable amount of its spectrum to an affiliate for the affiliate's own internal use or for the affiliate's provision of commercial or private radio services. However, a Guard Band Manager must lease the predominant amount of its spectrum to non-affiliates.

§ 27.604 Limitation on licenses won at auction.

(a) For the first auction of licenses in Blocks A and B, as defined in § 27.5, no applicant may be deemed the winning bidder of both a Block A and a Block B license in a single geographic service area.

(b) For purposes of paragraph (a) of this section, licenses will be deemed to be won by the same bidder if an entity that wins one license at the auction is an affiliate of any other entity that wins a license at the auction.

§ 27.605 Geographic partitioning and spectrum disaggregation.

An entity that acquires a portion of a Guard Band Manager's geographic area or spectrum subject to a geographic partitioning or spectrum disaggregation agreement under § 27.15 must function as a Guard Band Manager and is subject to the obligations and restrictions on Guard Band Manager licenses set forth in this subpart.

§ 27.606 Complaints against Guard Band Managers.

Guard Band Managers are expected to resolve disputes with their customers or disputes between multiple customers of the Guard Band Manager in the same manner that the parties would resolve other commercial disputes arising out of the spectrum user agreement. The Commission will also consider complaints filed against a Guard Band Manager for violating the Communications Act or the Commission's regulations or policies. When there is a dispute between a Guard

Band Manager, or its spectrum user, and a non-contracting party, and the Guard Band Manager is unable or unwilling to resolve such dispute in a timely fashion, the non-contracting party may file a complaint with the Commission pursuant to § 1.41 of this chapter.

§ 27.607 Performance requirements and annual reporting requirement.

(a) Guard Band Managers are subject to the performance requirements specified in § 27.14(a).

(b) Guard Band Managers are required to file an annual report providing the Commission with information about the manner in which their spectrum is being utilized. Such reports shall be filed with the Commission on a calendar year basis, no later than the March 1 following the close of each calendar year, unless another filing date is specified by Public Notice.

(c) Guard Band Managers must, at a minimum, include the following information in their annual reports:

(1) The total number of spectrum users and the number of those users that are affiliates of the Guard Band Manager;

(2) The amount of the Guard Band Manager's spectrum being used by the Guard Band Manager's affiliates in any part of the licensed service area;

(3) The amount of Guard Band Manager's spectrum being used pursuant to agreements with unaffiliated third parties;

(4) The nature of the spectrum use of the Guard Band Manager's customers; and

(5) The length of the term of each spectrum user agreement.

(d) The specific information that Guard Band Managers will provide and the procedures that they will follow in submitting their annual reports will be announced in a Public Notice issued by the Wireless Telecommunications Bureau.

Subpart H—Competitive Bidding Procedures for the 698–746 MHz Band

SOURCE: 67 FR 5512, Feb. 6, 2002, unless otherwise noted.

§ 27.701

§ 27.701 698–746 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 698–746 MHz 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 in this subpart.

[67 FR 45374, July 9, 2002]

§ 27.702 Designated entities.

(a) *Eligibility for small business provisions.* (1) An entrepreneur is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years. This definition applies only with respect to licenses in Block C (710–716 MHz and 740–746 MHz) as specified in § 27.5(c)(1).

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

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

(b) *Bidding credits.* 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)(i) of this chapter. 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)(ii) 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)(iii) of this chapter.

[67 FR 5512, Feb. 6, 2002, as amended at 68 FR 43000, July 21, 2003]

Subpart I—1.4 GHz Band

SOURCE: 67 FR 41855, June 20, 2002, unless otherwise noted.

§ 27.801 Scope.

This subpart sets out the regulations governing service in the paired 1392–

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1395 MHz and 1432–1435 MHz bands as well as the unpaired 1390–1392 MHz band (1.4 GHz band).

§ 27.802 Permissible communications.

Licenses in the paired 1392–1395 MHz and 1432–1435 MHz bands and unpaired 1390–1392 MHz band are authorized to provide fixed or mobile service, except aeronautical mobile service, subject to the technical requirements of this subpart.

§ 27.803 Coordination requirements.

(a) Licensees in the 1.4 GHz band will be issued geographic area licenses in accordance with the service areas listed in § 27.6(d) and (e).

(b) Licensees in the 1.4 GHz Service must file a separate station application with the Commission and obtain an individual station license, prior to construction or operation, of any station:

(1) That requires submission of an Environmental Assessment under part 1, § 1.1307 of this chapter;

(2) That requires international coordination;

(3) That operates in areas listed in part 1, § 1.924 of this chapter; or

(4) That requires approval of the Frequency Advisory Subcommittee (FAS) of the Interdepartment Radio Advisory Committee (IRAC). Stations that require FAS approval are as follows:

(i) Licensees in the 1390–1392 MHz and 1392–1395 MHz band must receive FAS approval prior to operation of fixed sites or mobile units within the NTIA recommended protection radii of the Government sites listed in footnote US351 of § 2.106 of this chapter.

(ii) Licensees in the 1432–1435 MHz band must receive FAS approval, prior to operation of fixed sites or mobile units within the NTIA recommended protection radii of the Government sites listed in footnote US361 of § 2.106 of this chapter.

(c) Prior to construction of a station, a licensee in the 1.4 GHz Band must register with the Commission any station antenna structure for which notification to the Federal Aviation Administration is required by part 17 of this chapter.

(d) It is the licensee's responsibility to determine whether an individual