

may be expected. In considering applications proposing the use of such locations, the Commission may require site survey tests to be made pursuant to a developmental authorization in the particular service concerned. In such cases, propagation tests should be conducted in accordance with recognized engineering methods and should be made with a transmitting antenna simulating, as near as possible, the proposed antenna installation. Full data obtained from such surveys and its analysis, including a description of the methods used and the name, address and qualifications of the engineer making the survey, must be supplied to the Commission.

(b) In the 12.2–12.7 GHz band, licensees must not locate MVDDS transmitting antennas within 10 km of any qualifying NGSO FSS receiver unless mutual agreement is obtained between the MVDDS and NGSO FSS licensees. Such agreements must be retained by the licensees and made available for inspection by interested parties upon request.

(1) A qualifying NGSO FSS receiver, for the purposes of this section, is deemed to be one that is in regular use by an NGSO FSS subscriber for normal reception purposes in the 12.2–12.7 GHz band and not one for monitoring or testing purposes. In addition, qualifying receivers must either be in operation on the date or already be under construction and then operating within thirty days of the date that the MVDDS licensee notifies the NGSO FSS licensee of its intent to construct a new MVDDS transmitting antenna at a specified location.

(2) Except as provided in paragraph (b)(3) of this section, the 10 kilometer spacing requirement for each MVDDS transmitting antenna site shall not apply with respect to NGSO FSS receivers that might be installed or become operational (except for those under construction and operating within thirty days as specified in paragraph (b)(1) of this section) subsequent to the original date that the MVDDS licensee provided notice of its intention to construct a given transmission facility.

(3) In the event that a proposed MVDDS transmitting antenna for which notice has been duly given to the

NGSO FSS licensees has not been placed in normal operation within one calendar year of the date of notice, then the MVDDS licensee loses the benefit of the original notice. Upon such anniversary, the MVDDS licensee must re-determine compliance with the minimum 10 kilometer spacing requirement based upon locations of qualifying NGSO FSS receivers on that anniversary date. A new determination of compliance with the spacing requirement shall be made for each succeeding anniversary of non-operation for each proposed MVDDS transmission site or additional antenna. This provision contemplates that failure to commence normal operation at a given MVDDS transmitting antenna site within one year of the date of NGSO FSS notification may require successive relocations of the proposed transmitter site in order to meet the minimum spacing distance as determined on each anniversary of non-operation.

[61 FR 26677, May 28, 1996, as amended at 63 FR 68983, Dec. 14, 1998; 67 FR 43038, June 26, 2002]

#### **§ 101.131 Transmitter construction and installation.**

(a) The equipment at the operating and transmitting positions must be so installed and protected that it is not accessible to, or capable of being operated by, persons other than those duly authorized by the licensee.

(b) In any case where the maximum modulating frequency of a transmitter is prescribed by the Commission, the transmitter must be equipped with a low-pass or band-pass modulation filter of suitable performance characteristics. In those cases where a modulation limiter is employed, the modulation filter must be installed between the transmitter stage in which limiting is effected and the modulated stage of the transmitter.

(c) Each transmitter employed in these services must be equipped with an appropriately labeled pilot lamp or meter which will provide continuous visual indication at the transmitter when its control circuits have been placed in a condition to activate the transmitter. In addition, facilities must be provided at each transmitter to permit the transmitter to be turned

on and off independently of any remote control circuits associated therewith.

(d) At each transmitter control point the following facilities must be installed:

(1) A carrier operated device which will provide continuous visual indication when the transmitter is radiating, or, in lieu thereof, a pilot lamp or meter which will provide continuous visual indication when the transmitter control circuits have been placed in a condition to activate the transmitter; and

(2) Facilities which will permit the operator to turn transmitter carrier on and off at will.

(e) Transmitter control circuits from any control point must be so installed that grounding or shorting any line in the control circuit will not cause the transmitter to radiate; provided, however, That this provision will not be applicable to control circuits of stations which normally operate with continuous radiation or to control circuits which are under the effective operational control of responsible operating personnel 24 hours per day.

**§ 101.133 Limitations on use of transmitters.**

(a) Transmitters licensed for operation in Common Carrier services may be concurrently licensed or used for non-common carrier communication purposes. Mobile units may be concurrently licensed or used for non-common carrier communication purposes provided that the transmitter is certificated for use in each service.

(b) Private operational fixed point-to-point microwave stations authorized in this service may communicate with associated operational-fixed stations and fixed receivers and with units of associated stations in the mobile service licensed under Private Radio Service rule parts. In addition, intercommunication is permitted with other licensed stations and with U.S. Government stations in those cases which require cooperation or coordination of activities or when cooperative use arrangements in accordance with § 101.135 are contemplated; provided, however, that where communication is desired with stations authorized to operate under the authority of a foreign juris-

diction, prior approval of this Commission must be obtained; And provided further, That the authority under which such other stations operate does not prohibit the intercommunication.

(c) Two or more persons or governmental entities eligible for private operational fixed point-to-point microwave licenses may use the same transmitting equipment under the following terms and conditions:

(1) Each licensee complies with the general operating requirements set out in this part;

(2) Each licensee is eligible for the frequency(ies) on which the facility operates; and

(3) Each licensee must have the ability to access the transmitter(s) that it is authorized to operate under the multiple licensing arrangement.

(d) *LMDS subscriber transmissions.* LMDS licensees shall not operate transmitters from subscriber locations in the 29.1–29.25 GHz band.

(e) Existing private operational fixed wireless licensees applying to become common carrier wireless licensees shall comply with all provisions of the Communications Act and the Commission's rules. Applicants must take all required filings, including FCC Form 601, and receive all necessary Commission approval prior to operating as a common carrier wireless licensee. The regulatory fee associated with FCC wireless application Form 601 is waived for applicants who are existing private operational fixed licensees seeking common carrier status, provided that such licensees have also complied with all other discontinuance requirements of Title II of the Act. Applicants are responsible for all other Commission regulatory fees.

[61 FR 26677, May 28, 1996, as amended at 61 FR 44183, Aug. 28, 1996; 63 FR 36611, July 7, 1998; 68 FR 4957, Jan. 31, 2003]

**§ 101.135 Shared use of radio stations and the offering of private carrier service.**

Licensees of Private Operational Fixed Point-to-Point Microwave radio stations may share the use of their facilities on a non-profit basis or may offer service on a for-profit private carrier basis, subject to the following conditions and limitations: