

§ 21.934

into adjacent BTAs. The protected service area also includes registered receive sites.

(b) The stations licensed to the holder of a PSA authorization shall have a protected service area that is coterminous with the boundaries of the counties or other geopolitical subdivisions comprising the PSA, subject to the exclusion of the 56.33 km (35 mile) protected service area of incumbent MDS stations and of previously proposed and authorized ITFS facilities within that PSA, even if these protected service areas extend into adjacent BTAs. The protected service area also includes registered receive sites.

[60 FR 57367, Nov. 15, 1995]

§ 21.934 Assignment or transfer of control of BTA authorizations.

(a)(1) A BTA or PSA authorization holder seeking approval for a transfer of control or assignment of its authorization within three years of receiving such authorization through a competitive bidding procedure must, together with its application for transfer of control or assignment, file with the Commission a statement indicating that its authorization was obtained through competitive bidding.

(2) Such applicant must also file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its authorization. This information should include not only a monetary price, but also any future, contingent, in-kind, or other consideration (e.g., management or consulting contracts either with or without an option to purchase; below market financing).

(b) Transfers of control or assignments of BTA or PSA authorizations are subject to the limitations of §§ 21.4, 21.900 and 21.912 of this subpart.

(c) The anti-trafficking provision of § 21.39 does not apply to the assignment or transfer of control of a BTA or PSA authorization, which was granted pursuant to the Commission's competitive bidding procedures.

[60 FR 36556, July 17, 1995]

47 CFR Ch. I (10-1-00 Edition)

§ 21.935 Assignment or transfer of control of station licenses within a BTA.

Licenses for individual stations within a BTA or PSA area issued to authorization holders may not be transferred or assigned unless they are acquired as part of a PSA.

[60 FR 36557, July 17, 1995]

§ 21.936 Cancellation of authorization.

(a) The Commission may revoke or cancel a BTA or PSA authorization for gross misconduct, misrepresentation or bad faith on the part of the authorization holder.

(b) Cancellation of a BTA or PSA authorization shall result in termination of any rights the authorization holder holds in individual proposed or authorized stations within the BTA or PSA.

[60 FR 36557, July 17, 1995]

§ 21.937 Negotiated interference protection.

(a) The level of acceptable electromagnetic interference that occurs at or within the boundaries of BTAs, PSAs, or an incumbent MDS station's 56.33 km (35 mile) protected service area can be negotiated and established by an agreement between the appropriate parties, provided that:

(1) The parties to such an agreement file with the Commission a written statement of no objection, acknowledging that the parties have agreed to accept a level of interference that does not meet the protection standards set forth in §§ 21.902 or 21.938 of the Commission's rules;

(2) The statement bears the signatures of all parties to the agreement, or the signatures of their representative agents; and

(3) The statement is filed with the Commission within 30 days of its ratification or file in conjunction with an application with which the agreement is associated, whichever is earliest.

[60 FR 36557, July 17, 1995]

§ 21.938 BTA and PSA technical and interference provisions.

(a) BTA or PSA authorization holders are expected to cooperate with one another by designing their stations in

a manner that protects service in adjoining BTAs and PSAs including consideration of interference abatement techniques such as cross polarization, frequency offset, directional antennas, antenna beam tilt, EIRP decrease, reduction of antenna height, and terrain shielding.

(b) Unless the affected parties have executed a written interference agreement in accordance with § 21.937, and subject to the provisions of §§ 21.909, 21.913, 21.949, 74.939 of this chapter, 74.949 of this chapter and 74.985 of this chapter regarding the protection of response station hubs, booster service areas and 125 kHz channels from harmful electromagnetic interference, stations licensed to a BTA or PSA authorization holder must not cause harmful electromagnetic interference to the following:

(1) The protected service area of other authorization holders in adjoining BTAs or PSAs.

(2) The 56.33 km (35 mile) protected service areas of authorized or previously proposed MDS stations (incumbents).

(3) Registered receive sites and protected service areas of authorized or previously proposed stations in the Instructional Television Fixed Service pursuant to the manner in which interference is defined in § 74.903(a).

(c)(1) ITFS applicants may locate a new station in an unused portion of a BTA or PSA where interference to a previously-proposed or authorized MDS station of a BTA or PSA authorization holder would not be predicted.

(2) With respect to ITFS applications only and for purposes of determining the existence of harmful electromagnetic interference as caused to MDS stations licensed to BTA or PSA authorization holders by subsequently proposed ITFS stations within that BTA, MDS stations licensed to BTA and PSA authorization holders and will have a protected service area of 56.33 km (35 miles), centered on the antenna site of the MDS stations.

(3) The 56.33 km (35 mile) protected service area afforded to a previously-proposed or authorized MDS station of a BTA or PSA authorization holder with respect to a subsequently proposed ITFS station is entitled to the

interference protection standards of § 21.902.

(4) An ITFS station authorized before September 15, 1995 may be modified, provided the power flux density of that station does not exceed -73 dBW/m² (or the appropriate value for bandwidth other than 6 MHz) at locations along the 56.33 km (35 mile) circle centered on the then-existing transmitting antenna site or service area of a collocated incumbent MDS station, as applicable.

(d) Unless the affected parties have executed a written interference agreement in accordance with § 21.937, it shall be the responsibility of a BTA or PSA authorization holder to correct at its expense any condition of harmful electromagnetic interference caused to authorized MDS service at locations within other BTAs or PSAs or within the 56.33 km (35 mile) protected service areas of authorized or previously proposed ITFS and MDS stations (incumbents), or at authorized or previously proposed ITFS receive sites.

(e) Unless specifically excepted, BTA or PSA authorization holders are governed by the interference protection and other technical provisions applicable to MDS.

(f) The calculated free space power flux density from an MDS station, other than an incumbent MDS station, may not exceed -73 dBW/m² (or the appropriate value for bandwidth other than 6 MHz) at locations on BTA or PSA boundaries for which there is an unobstructed signal path from the transmitting antenna to the boundary, unless the applicant has obtained the written consent of the authorization holder for the affected BTA or PSA.

(g)(1) Authorization holders for BTAs or PSAs must notify authorization holders of adjoining areas of their application filings for new or modified stations; provided the proposed facility would produce an unobstructed signal path anywhere within the adjoining BTA or PSA.

(2) This service of written notification must include a copy of the FCC application and occur on or before the date the application is filed with the Commission.

(3) With regard to incumbent MDS stations, authorization holders for

§ 21.939

BTAs or PSAs must comply with the requirements of § 21.902.

(h) Where a PSA adjoins a BTA and both authorizations are held by the same individual or entity, the PSA shall be considered an extension of the protected service area of the BTA regarding the interference protection, limiting signal strength, and notification provisions of this section.

[60 FR 36557, July 17, 1995, as amended at 60 FR 57367, Nov. 15, 1995; 63 FR 65112, Nov. 25, 1998; 64 FR 63737, Nov. 22, 1999]

§ 21.939 Harmful interference abatement.

In the event harmful interference occurs or appears to occur, after notice and an opportunity for a hearing, Commission staff may require any Multipoint Distribution Service conditional licensee or licensee to:

(a) Modify the station to use cross polarization, frequency offset techniques, directional antenna, antenna beam tilt, or

(b) Order an equivalent isotropically radiated power decrease, a reduction of transmitting antenna height, a change of antenna location, a change of antenna radiation pattern, or a reduction in aural signal power.

[60 FR 36557, July 17, 1995]

§ 21.940 Non-subscription MDS service.

The Commission must be notified, and prior Commission approval obtained, before Multipoint Distribution Service or Multichannel Multipoint Distribution Service may be provided on a non-subscription basis.

[63 FR 29668, June 1, 1998]

§§ 21.941–21.948 [Reserved]

§ 21.949 Individually licensed 125 kHz channel MDS response stations.

(a) The provisions of § 21.909(a), (e), (h), (j), (l) and (m) and § 74.939(j) of this chapter shall also apply with respect to authorization of 125 kHz channel MDS response stations not authorized under a response station hub license. The applicant shall comply with the requirements of § 21.902 and § 21.938 where appropriate, as well as with the provisions of §§ 21.909, 21.913, 74.939 and 74.985 of this chapter regarding the protec-

47 CFR Ch. I (10–1–00 Edition)

tion of response stations hubs and booster (and primary) service areas from harmful electromagnetic interference, using the appropriately adjusted interference protection values based upon the ratios of the bandwidths involved.

(b) An application for a license to operate a new or modified 125 kHz channel MDS response station not under a response station hub license shall be filed with Mellon Bank on FCC Form 331. The applicant shall supply the following information and certification on that form for each response station:

(1) The geographic coordinates and street address of the MDS response station transmitting antenna; and

(2) The manufacturer's name, type number, operating frequency, and power output of the proposed MDS response station transmitter; and

(3) The type of transmitting antenna, power gain, azimuthal orientation and polarization of the major lobe of radiation in degrees measured clockwise from True North; and

(4) A sketch giving pertinent details of the MDS response station transmitting antenna installation including ground elevation of the transmitter site above mean sea level; overall height above ground, including appurtenances, of any ground-mounted tower or mast on which the transmitting antenna will be mounted or, if the tower or mast is or will be located on an existing building or other manmade structure, the separate heights above ground of the building and the tower or mast including appurtenances; the location of the tower or mast on the building; the location of the transmitting antenna on the tower or mast; and the overall height of the transmitting antenna above ground.

(5) A certification that all licensees and applicants appropriately covered under the provisions of (a), above, have been served with copies of the application.

(c) Each MDS response station licensed under this section shall comply with the following:

(1) No MDS response station shall be located beyond the protected service area of the MDS station with which it communicates; and