

Federal Communications Commission

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the areas defined in §1.924 of this chapter may not commence without prior specific notification to, and authorization from, the Commission.

(b) *Conditional authorization.* (1) An applicant for a new point-to-point microwave radio station(s) or a modification of an existing station(s) in the 952.95–956.15 and 956.55–959.75 MHz band segments; the 3700–4200, 5925–6425, 6525–6875, and 6875–7125 MHz bands; the 10.550–10.680, 10.700–11.700, 12.700–13.150, 13.200–13.250, 17.700–18.300, and 19.300–19.700 GHz bands; and the 21.800–22.000 and 23.000–23.200 GHz band segments (see §101.147(s)(8) for specific service usage) may operate the proposed station(s) during the pendency of its application(s) upon the filing of a properly completed formal application(s) that complies with subpart B of this part, if the applicant certifies that the following conditions are satisfied:

(i) The frequency coordination procedures of §101.103 have been successfully completed;

(ii) The antenna structure(s) has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by subpart B of part 17 of this

chapter; or the antenna or tower structure does not exceed 6.1 meters above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC;

(iii) The grant of the application(s) does not require a waiver of the Commission's rules;

(iv) The applicant has determined that the facility(ies) will not significantly affect the environment as defined in §1.1307 of this chapter;

(v) The station site does not lie within 56.3 kilometers of any international border, within areas identified in §§1.924(a) through (d) of this chapter unless the affected entity consents in writing to conditional operation or, if for any services on frequencies in the 17.8–19.7 GHz band and for MVPD operations in the 17.7–17.8 GHz band, within any of the areas identified in §1.924 of this chapter;

(vi) If operated on frequencies in the 10.6–10.68 GHz band, the station site does not lie within any of the following regions:

Name of region	Dimensions = radius in kilometers	Center-point
Kitt Peak, Arizona	60	N31–57–22; W111–36–42
Big Pine, California	60	N37–13–54; W118–16–34
Vandenberg AFB, California	75	N34–43–00; W120–34–00
Denver, Colorado	150	N39–43–00; W104–46–00
Washington, DC	150	N38–48–00; W76–52–00
Eglin AFB, Florida	50	N30–29–00; W86–32–00
Mauna Kea, Hawaii	60	N19–48–16; W155–27–29
North Liberty, Iowa	60	N41–46–17; W91–34–26
Maryland Point, Maryland	60	N38–22–26; W77–14–00
Hancock, New Hampshire	60	N42–56–01; W71–59–12
Los Alamos, New Mexico	60	N35–46–30; W106–14–42
Pie Town, New Mexico	60	N34–18–04; W108–07–07
Socorro, New Mexico	160	N34–04–43; W107–37–04
WSMR, New Mexico	75	N32–23–00; W106–29–00
Minot AFB, North Dakota	80	N48–15–00; W101–17–00
Arecibo, Puerto Rico	160	N18–20–37; W66–45–11
Fort Davis, Texas	60	N30–38–06; W103–56–39
St. Croix, Virgin Islands	60	N17–45–31; W64–35–03
Brewster, Washington	60	N48–07–53; W119–40–55
Green Bank, West Virginia	160	N38–25–59; W79–50–24

Note: Coordinates are referenced to North American Datum 1983 (NAD83).

(vii) With respect to the 21.8–22.1 GHz and 23.0–23.3 GHz band, the filed application(s) does not propose to operate on a frequency pair centered on other than 21.825/23.025 GHz, 21.875/23.075 GHz, 21.925/23.125 GHz, 21.975/23.175 GHz,

22.025/23.225 GHz or 22.075/23.275 GHz and does not propose to operate with an E.I.R.P. greater than 55 dBm. The center frequencies are shifted from the center frequencies listed above for certain bandwidths as follows: add 0.005

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GHz for 20 MHz bandwidth channels, add 0.010 GHz for 30 megahertz bandwidth channels, and subtract 0.005 GHz for 40 MHz bandwidth channels. See specific channel listings in §101.147(s).

(viii) The filed application(s) is consistent with the proposal that was coordinated pursuant to §101.103.

(2) Conditional authority ceases immediately if the application(s) is returned by the Commission because it is not acceptable for filing.

(3) Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. An applicant operating pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its applications(s).

[61 FR 26677, May 28, 1996, as amended at 62 FR 55538, Oct. 27, 1997; 63 FR 10779, Mar. 5, 1998; 63 FR 68981, Dec. 14, 1998; 65 FR 38327, June 20, 2000; 68 FR 4955, Jan. 31, 2003; 69 FR 17959, Apr. 6, 2004; 71 FR 69048, Nov. 29, 2006; 75 FR 41771, July 19, 2010; 76 FR 59571, Sept. 27, 2011; 80 FR 38912, July 7, 2015]

PROCESSING OF APPLICATIONS

§101.45 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications. The Commission will presume "harmful electrical interference" exists when the levels of §101.105 are exceeded, or when there is a material impairment to service rendered to the public despite full cooperation in good faith by all applicants or parties to achieve reasonable technical adjustments which would avoid electrical conflict.

(b) A common carrier application, except in the Local Multipoint Distribution Service and in the 24 GHz Service,

will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with the other application; and

(2) The application is received by the Commission in a condition acceptable for filing by whichever "cut-off" date is earlier:

(i) Sixty (60) days after the date of the public notice listing the first of the conflicting applications as accepted for filing; or

(ii) One (1) business day preceding the day on which the Commission takes final action on the previously filed application (should the Commission act upon such application in the interval between thirty (30) and sixty (60) days after the date of its public notice).

(c) Whenever three or more applications are mutually exclusive, but not uniformly so, the earliest filed application established the date prescribed in paragraph (b)(2) of this section, regardless of whether or not subsequently filed applications are directly mutually exclusive with the first filed application. (For example, applications A, B, and C are filed in that order. A and B are directly mutually exclusive, B and C are directly mutually exclusive. In order to be considered comparatively with B, C must be filed within the "cut-off" period established by A even though C is not directly mutually exclusive with A.)

(d) Private operational fixed point-to-point microwave applications for authorization under this part will be entitled to comparative consideration with one or more conflicting applications in accordance with the provisions of §1.227(b)(4) of this chapter.

(e) An application otherwise mutually exclusive with one or more previously filed applications, but filed after the appropriate date prescribed in paragraphs (b) or (d) of this section, will be returned without prejudice and will be eligible for refiling only after final action is taken by the Commission with respect to the previously filed application (or applications).

(f) For purposes of this section, any application (whether mutually exclusive or not) will be considered to be a newly filed application if it is amended by a major amendment (as defined by