

§ 76.124

waiver of the significantly viewed exception is granted pursuant to § 76.7 of this chapter; or

(3) If the zone of protection falls, in whole or in part, within that signal's grade B contour or noise limited service contour.

(l) A satellite carrier is not required to delete the duplicating programming of any nationally distributed superstation from an individual subscriber who is located outside the zone of protection, notwithstanding that the subscriber lives within a zip code provided by the broadcaster pursuant to paragraph (d) of this section.

(m) A satellite carrier is not required to delete programming if it has fewer than 1,000 subscribers within the relevant protected zone who subscribe to the nationally distributed superstation carrying the programming for which deletion is requested pursuant to paragraph (d) of this section.

[65 FR 68101, Nov. 14, 2000, as amended at 70 FR 76530, Dec. 27, 2005]

§ 76.124 Requirements for invocation of protection.

For a television broadcast station licensee or distributor of syndicated programming to be eligible to invoke the provisions of § 76.122 or § 76.123 of this subpart, it must have a contract or other written indicia that it holds network program non-duplication or syndicated exclusivity rights for the exhibition of the program in question. Contracts entered on or after November 29, 2000, must contain the following words: "the licensee [or substitute name] shall, by the terms of this contract, be entitled to invoke the protection against duplication of programming imported under the Statutory Copyright License, as provided in § 76.122 or § 76.123 of the FCC rules [or 'as provided in the FCC's satellite network non-duplication or syndicated exclusivity rules']." Contracts entered into prior to November 29, 2000, must contain the foregoing language plus a clear and specific reference to the licensee's authority to exercise exclusivity rights as to the specific programming against signal carriage by the satellite carrier in question, or by satellite carriage in general in a protected, geographic or specified zone. In the absence of such a

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specific reference in contracts entered into prior to November 29, 2000, the provisions of these rules may be invoked only if the contract is amended to include the specific language referenced in this section or a specific written acknowledgment is obtained from the party from whom the broadcast exhibition rights were obtained that the existing contract was intended, or should now be construed by agreement of the parties, to include such rights. A general acknowledgment by a supplier of exhibition rights that specific contract language was intended to convey rights under these rules will be accepted with respect to all contracts containing that specific language. Nothing in this section shall be construed as a grant of exclusive rights to a broadcaster where such rights are not agreed to by the parties.

§ 76.125 Indemnification contracts.

No television broadcast station licensee shall enter into any contract to indemnify a satellite carrier for liability resulting from failure to delete programming in accordance with the provisions of this subpart unless the licensee has a reasonable basis for concluding that such program deletion is not required by this Subpart.

§ 76.130 Substitutions.

Whenever, pursuant to the requirements of the network program non-duplication or syndicated program exclusivity rules, a satellite carrier is required to delete a television program from retransmission to satellite subscribers within a zip code area, such satellite carrier may, consistent with this subpart, substitute a program from any other television broadcast station for which the satellite carrier has obtained the necessary legal rights and permissions, including but not limited to copyright and retransmission consent. Programs substituted pursuant to this section may be carried to their completion.

[65 FR 68101, Nov. 14, 2000, as amended at 79 FR 63562, Oct. 24, 2014]