

service area on a schedule to the application. The geographic coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude, and must be based upon the 1983 North American Datum (NAD83).

(4) *Combined partitioning and disaggregation.* The Commission will consider requests from geographic area licensees for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(c) *Unjust enrichment.* See §1.2111(e) of this chapter.

(d) *Construction requirements—(1) Disaggregation.* Partial assignors and assignees for license disaggregation have two options to meet construction requirements. Under the first option, the disaggregator and disaggregatee would certify that they each will share responsibility for meeting the applicable construction requirements set forth in §101.1325 for the geographic service area. If parties choose this option and either party fails to meet the applicable construction requirements, both licenses would be subject to forfeiture at renewal. The second option allows the parties to agree that either the disaggregator or disaggregatee would be responsible for meeting the requirements in §101.1325 for the geographic service area. If parties choose this option, and the party responsible for meeting the construction requirement fails to do so, only the license of the non-performing party would be subject to forfeiture at renewal.

(2) *Partitioning.* Partial assignors and assignees for license partitioning have two options to meet construction requirements. Under the first option, the partitionor and partitionee would each certify that they will independently satisfy the applicable construction requirements set forth in §101.1325 for their respective partitioned areas. If either licensee fails to meet its requirement in §101.1325, only the non-performing licensee's renewal application would be subject to dismissal. Under the second option, the partitionor certifies that it has met or will meet the requirement in §101.1325 for the entire market. If the partitionor fails to meet the requirement in §101.1325, however,

only its license would be subject to forfeiture at renewal.

(3) All applications requesting partial assignments of license for partitioning or disaggregation must certify in the appropriate portion of the application which construction option is selected.

(4) Responsible parties must submit supporting documents showing compliance with the respective construction requirements within the appropriate construction benchmarks set forth in §101.1325.

(e) *License term.* The license term for a partitioned license area and for disaggregated spectrum shall be the remainder of the original licensee's license term as provided for in §101.1313.

SYSTEM REQUIREMENTS

§ 101.1325 Construction requirements.

(a) Incumbent site-based licensees are subject to the construction requirements set forth in §101.63 of subpart B (Applications and Licenses).

(b) Each MAS EA licensee must provide service to at least one-fifth of the population in its service area or "substantial service" within five years of the license grant. In addition, MAS EA licensees must make a showing of continued "substantial service" within ten years of the license grant. Licensees must file maps and other supporting documents showing compliance with the respective construction requirements within the appropriate five- and ten-year benchmarks of the date of their initial licenses.

(c) Failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the initial license, and the licensee will be ineligible to regain it.

§ 101.1327 Renewal expectancy for EA licensees.

(a) A renewal applicant shall receive a renewal expectancy at the end of the license period as long as the applicant:

(1) Demonstrates that the licensee has provided continued "substantial service," *i.e.*, service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal, during its past license term;

§ 101.1329

(2) Demonstrates that the licensee has substantially complied with applicable Commission Rules, policies, and the Communications Act of 1934, as amended;

(3) Provides an explanation of the licensee's record of expansion, including a timetable of the construction of new facilities to meet changes in demand for services provided by the licensee; and (4) Provides a description of investments made by the licensee in its system.

(b) In determining whether a renewal applicant has complied with the "substantial service" requirement by the end of the ten-year initial license term, the Commission may consider factors such as:

(1) Whether the licensee is offering a specialized or technologically sophisticated service that does not require a high level of coverage to be of benefit to customers; and

(2) Whether the licensee's operations service niche markets or focus on serving populations outside of areas served by other licensees. The "substantial service" requirement can, however, be met in other ways, and the Commission will review each licensee's showing on a case-by-case basis.

(c) A "substantial service" assessment will be made at renewal pursuant to the procedures contained in §1.949 of this chapter.

EFFECTIVE DATE NOTE: At 65 FR 17450, Apr. 3, 2000, subpart O, consisting of §§101.1301-101.1333 was added. Section 101.1327 contains an information collection requirement that is not effective until it has been approved by the Office of Management and Budget.

§ 101.1329 EA Station license, location, modifications.

EA licensees may construct master and remote stations anywhere inside the area authorized in their licenses, without prior approval, so long as the Commission's technical and other Rules are complied with, except that individual licenses are required for any master station that:

(a) Requires the submission of an environmental assessment under §1.1307 of this chapter;

(b) Requires international coordination; or

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

(c) Would affect the radio frequency quiet zones described in §1.924 of this chapter.

§ 101.1331 Treatment of incumbents.

(a) Any station licensed by the Commission prior to July 1, 1999, as well as any assignments or transfers of such station as of January 19, 2000, shall be considered incumbent.

(b) Incumbent operators in the 928.0-928.85/952.0-952.85/956.25-956.45 MHz bands are grandfathered as of January 19, 2000, and may continue to operate and expand their systems pursuant to the interference protection and co-channel spacing criteria contained in §101.105.

(c) Incumbent operators in the 928.85-929.0/959.85-960.0 MHz bands are grandfathered as of January 19, 2000, and may expand their systems provided that the signal level of the additional transmitter(s) does not increase the composite contour that occurs at a 40.2 kilometer (25-mile) radius from the center of each master station transmitter site. Incumbent operators and geographic area licensees may negotiate alternative criteria.

(d) The frequencies associated with incumbent authorizations in the 928/959 MHz bands that have cancelled automatically or otherwise been recovered by the Commission will automatically revert to the applicable EA licensee.

(e) The frequencies associated with incumbent authorizations in the 928/952/956 MHz bands that have cancelled automatically will revert to the Commission.

§ 101.1333 Interference protection criteria.

(a) *Frequency coordination.* All EA licensees are required to coordinate their frequency usage with co-channel adjacent area licensees and all other affected parties.

(b) EA licensees are prohibited from exceeding a signal strength of 40 dBμ/m at their service area boundaries, unless a higher signal strength is agreed to by all affected co-channel, adjacent area licensees.

(c) EA licensees are prohibited from exceeding a signal strength of 40 dBμV/