

operate under their licensed parameters).

(b) As of [date to be decided], all incumbent MDS licenses shall be converted to a blanket license. Pursuant to that geographic area license, such incumbent licensees may modify their systems provided the signal level [specific level to be decided] does not increase outside their pre-existing protected service area. The blanket license covers all fixed stations anywhere within the authorized service area, except as follows:

(1) A fixed station (other than a response station) would be required to be individually licensed if:

(i) International agreements require coordination;

(ii) Submission of an Environmental Assessment is required under § 1.1307 of this chapter; and

(iii) The station would affect the radio quiet zones under § 1.924 of this chapter.

(2) Any antenna structure that requires notification to the Federal Aviation Administration (FAA) must be registered with the Commission prior to construction under § 17.4 of this chapter.

(c) The frequencies associated with incumbent authorizations that have been cancelled automatically or otherwise been recovered by the Commission will automatically revert to the applicable BTA licensee.

#### **§ 101.1605 Performance requirements.**

(a) Incumbent site-based licensees are subject to the construction requirements set forth in § 101.63.

(b) All MDS BTA licensees must demonstrate substantial service at the time of license renewal. A licensee's substantial service showing should include, but not be limited to, the following information for each channel for which it holds a license, in each BTA or portion of a BTA covered by their license, in order to qualify for renewal of that license. The information provided will be judged by the Commission to determine whether the licensee is providing service which rises to the level of "substantial."

(1) A description of the MDS licensee's current service in terms of geographic coverage;

(2) Copies of all orders or other adjudications that the licensee has violated the Communications Act or the Commission's rules or policies;

(3) A description of the MDS licensee's current service in terms of population served, as well as any additional service provided during the license term;

(4) A description of the MDS licensee's investments in its system(s)

(type of facilities constructed and their operational status is required);

(5) Any MDS licensees adjudged not to be providing substantial service will not have their licenses renewed.

#### **§ 101.1606 Partitioning and disaggregation.**

(a) *Eligibility.* (1) Parties seeking approval for partitioning and disaggregation shall request from the Commission an authorization for partial assignment of license. Geographic area licensees may participate in aggregation, disaggregation, and partitioning within the bands licensed on a geographic area basis.

(2) Eligible MDS licensees may apply to the Commission to partition their licensed geographic service areas to eligible entities and are free to determine the portion of their service areas to be partitioned. Eligible MDS licensees may aggregate or disaggregate their licensed spectrum at any time following the grant of a license.

(b) *Technical standards.* (1) There is no limitation on the amount of spectrum that an MDS licensee may aggregate.

(2) Spectrum may be disaggregated in any amount. A licensee need not retain a minimum amount of spectrum.

(3) In the case of partitioning, applicants and licensees must file FCC Form 603 pursuant to § 1.948 of this chapter and list the partitioned 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) *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 disaggregate would certify that they each will share responsibility for meeting the applicable construction requirements set forth in § 101.1605 for the geographic service area. If parties choose this option and either party fails to demonstrate substantial service, both licenses would be subject to forfeiture at renewal. The second option allows the parties to agree that either the disaggregator or disaggregate would be responsible for meeting the requirements in § 101.1605 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 provide substantial service for their respective partitioned areas. If either licensee fails to meet its requirement in § 101.1605, 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 § 101.1605 for the entire market. If the partitionor fails to meet the requirement in § 101.1605, 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 as required by § 101.1505.

(d) *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.

#### **§ 101.1607 Remote control operation.**

MDS stations may be operated by remote control without further authority.

#### **§ 101.1608 Unattended operation.**

Unattended operation of licensed MDS stations is permitted without further authority. An unattended relay station may be employed to receive and retransmit signals of another station provided that the transmitter is equipped with circuits which permit it to radiate only when the signal intended to be retransmitted is present at the receiver input terminals.

#### **§ 101.1609 License term.**

(a) Incumbent MDS licenses shall be issued for a period of 10 years beginning with the date of grant.

(b) A BTA authorization shall be issued for a period of ten years from the date the Commission declared bidding closed in the MDS auction.

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