

and on the basis of the documentation contained in its application, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. The satellite DARS milestones are as follows, based on the date of authorization:

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§ 25.145 [Amended]

■ 18. Amend § 25.145 by removing and reserving paragraph (d).

§ 25.146 [Amended]

■ 19. Amend § 25.146 by removing and reserving paragraph (i).

■ 20. Revise § 25.155 to read as follows:

§ 25.155 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 other applications.

(b) An application for an NGSO-like space station license, within the meaning of § 25.157, will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with another NGSO-like space station application; and

(2) The application is received by the Commission in a condition acceptable for filing by the "cut-off" date specified in a public notice.

(c) An application for a GSO-like space station license, within the meaning of § 25.158, will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with another GSO-like space station application; and

(2) The application is received by the Commission in a condition acceptable for filing at the same millisecond as another GSO-like space station application with which it is mutually exclusive.

■ 21. Amend § 25.156 by adding paragraph (d) to read as follows:

§ 25.156 Consideration of applications.

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(d)(1) Applications for NGSO-like satellite systems will be considered pursuant to the procedures set forth in § 25.157.

(2) Applications for GSO-like satellite systems will be considered pursuant to the procedures set forth in § 25.158.

(3) Applications for NGSO-like satellite and GSO-like systems employing two or more service bands will be treated like separate applications for each service band, and each service band request will be considered pursuant to § 25.157 or § 25.158, as appropriate.

(4) Applications for feeder link authority or intersatellite link authority will be treated like an application separate from its associated service band. Each feeder link request or intersatellite link request will be considered pursuant to the procedure for GSO-like service or NGSO-like service, as applicable.

(5) In cases where the Commission has not adopted frequency-band specific service rules, the Commission will not consider NGSO-like applications after it has granted a GSO-like application, and it will not consider GSO-like applications after it has granted an NGSO-like application, unless and until the Commission establishes NGSO/GSO sharing criteria for that frequency band. In the event that the Commission receives NGSO-like applications and GSO-like applications at the same time, and the Commission has not adopted sharing criteria in that band, the Commission will divide the spectrum between GSO-like and NGSO-like licensees based on the proportion of qualified GSO-like and NGSO-like applicants.

(6) An application for DBS or DARS services will be entitled to comparative consideration with one or more conflicting applications only if:

(i) The application is mutually exclusive with another application; and

(ii) The application is received by the Commission in a condition acceptable for filing by the "cut-off" date specified in a public notice.

■ 22. Add § 25.157 to read as follows:

§ 25.157 Consideration of NGSO-like satellite applications.

(a) This section specifies the Commission's procedures for considering license applications for "NGSO-like satellite systems." For purposes of this section, the term "NGSO-like satellite system" is defined as:

(1) All NGSO satellite systems, and
(2) All GSO MSS satellite systems, in which the satellites are designed to communicate with earth stations with omni-directional antennas.

(b) Each NGSO-like satellite system application will be reviewed to determine whether it is acceptable for

filing within the meaning of § 25.112. Any application that is not acceptable for filing would be returned to the applicant.

(c) Each NGSO-like satellite system application that is acceptable for filing will be reviewed to determine whether it is a "competing application," *i.e.*, filed in response to a public notice initiating a processing round, or a "lead application," *i.e.*, all other NGSO-like satellite system applications.

(1) Competing applications that are acceptable for filing will be placed on public notice to provide interested parties an opportunity to file pleadings in response to the application pursuant to § 25.154.

(2) Lead applications that are acceptable for filing will be placed on public notice. This public notice will initiate a processing round, establish a cut-off date for competing NGSO-like satellite system applications, and provide interested parties an opportunity to file pleadings in response to the application pursuant to § 25.154.

(d) After review of each of the applications in the processing round, and all the pleadings filed in response to each application, the Commission will grant all the applications that meet the standards of § 25.156(a), and deny the other applications.

(e)(1) In the event that there is insufficient spectrum in the frequency band available to accommodate all the qualified applicants in a processing round, the available spectrum will be divided equally among the licensees whose applications are granted pursuant to paragraph (d) of this section, except as set forth in paragraph (e)(2) or (e)(3) of this section.

(2) In cases where there are only one or two applications in a processing round granted pursuant to paragraph (d) of this section, each applicant will be assigned 1/3 of the available spectrum, and the remaining spectrum will be made available to other licensees in an additional processing round pursuant to paragraph (c) of this section.

(3) In cases where there are three or more applications in a processing round granted pursuant to paragraph (d) of this section, and one or more applicants apply for less spectrum than they would be warranted under paragraph (e)(1) of this section, those applicants will be assigned the bandwidth amount they requested in their applications. In those cases, the remaining qualified applicants will be assigned the lesser of the amount of spectrum they requested in their applications and the amount spectrum that they would be assigned if the available spectrum were divided