

(b) The eligibility requirements applicable to BTA authorization holders also apply to those individuals and entities seeking PSA authorizations.

(c) Any individual or entity acquiring the rights to a partitioned area of a BTA also acquires the rights to any previously authorized individual stations located within the partitioned area that were held by the previous authorization holder, provided that grantable applications for assignment and transfer of control, FCC Forms 702 and 704, are filed for existing stations and that acceptable amendments to pending long-form applications are filed. Pending long-form applications filed by the previous authorization holder for transmitter sites within the PSA may also be dismissed without prejudice at the applicant's request.

(d) Authorizations for PSAs will be issued in accordance with § 21.958; however, when individual stations within an PSA are assigned along with the partitioned area, the authorization will be granted concurrently with the grant of the applications for assignment and transfer of the existing stations.

(e) Subsequent to issuance of the authorization for a PSA, the partitioned area will be treated as a separate protected service area.

(f)(1) When any area within a BTA becomes a PSA, the remaining counties and other geopolitical subdivisions within that BTA will also be subsequently treated and classified as a PSA(s).

(2) At the time a BTA is partitioned, the Commission shall cancel the BTA authorization initially issued and issue a PSA authorization to the former BTA authorization holder.

(g) The duties and responsibilities imposed upon BTA authorization holders in this part and throughout the Commission's rules, such as § 21.930(c)(1), apply to the holders of PSA authorizations.

(h) The build-out period for PSAs voluntarily partitioned shall be the remainder of the five-year build-out period applicable to the BTA or PSA from which the PSA was drawn. For PSA authorizations issued pursuant to § 21.930(d)(2) and the competitive bidding process, the build-out period is five years, beginning on the date of the

grant of the PSA authorization. The requirements of § 21.930(c)(1) also apply to the holders of authorizations for PSAs.

[60 FR 36556, July 17, 1995]

§ 21.932 Forfeiture of incumbent MDS station licenses.

(a) If the license for a incumbent MDS station is forfeited, absent the filing and grant of a petition for reinstatement pursuant to § 21.44(b), the 56.33 km (35 mile) protected service area of the incumbent station shall dissolve and the protected service area shall become part of the BTA or PSA surrounding it.

(b) If upon forfeiture the protected service area of a forfeited license extends across the boundaries of more than one BTA or PSA, the portions of the protected service area of the incumbent station shall merge with the overlapping BTAs or PSAs.

(c) The holder of the authorization for the BTA or PSA with which the service area of the forfeited incumbent station has merged has the exclusive right to file a long-form application to operate a station within the merged area and may modify the locations of its stations to serve the forfeited area.

[60 FR 36556, July 17, 1995]

§ 21.933 Protected service areas.

(a) The stations licensed to the holder of a BTA authorization shall have a protected service area that is coterminous with the boundaries of that BTA, subject to the exclusion of the 56.33 km (35 mile) protected service area of incumbent MDS stations and of previously proposed and authorized ITFS facilities within that BTA, even if these protected service areas extend into adjacent BTAs. The protected service area also includes registered receive sites.

(b) The stations licensed to the holder of a PSA authorization shall have a protected service area that is coterminous with the boundaries of the counties or other geopolitical subdivisions comprising the PSA, subject to the exclusion of the 56.33 km (35 mile) protected service area of incumbent MDS stations and of previously proposed and authorized ITFS facilities within that

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PSA, even if these protected service areas extend into adjacent BTAs. The protected service area also includes registered receive sites.

[60 FR 57367, Nov. 15, 1995]

§ 21.934 Assignment or transfer of control of BTA authorizations.

(a)(1) A BTA or PSA authorization holder seeking approval for a transfer of control or assignment of its authorization within three years of receiving such authorization through a competitive bidding procedure must, together with its application for transfer of control or assignment, file with the Commission a statement indicating that its authorization was obtained through competitive bidding.

(2) Such applicant must also file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its authorization. This information should include not only a monetary price, but also any future, contingent, in-kind, or other consideration (e.g., management or consulting contracts either with or without an option to purchase; below market financing).

(b) Transfers of control or assignments of BTA or PSA authorizations are subject to the limitations of §§ 21.4, 21.900 and 21.912 of this subpart.

(c) The anti-trafficking provision of § 21.39 does not apply to the assignment or transfer of control of a BTA or PSA authorization, which was granted pursuant to the Commission's competitive bidding procedures.

[60 FR 36556, July 17, 1995]

§ 21.935 Assignment or transfer of control of station licenses within a BTA.

Licenses for individual stations within a BTA or PSA area issued to authorization holders may not be transferred or assigned unless they are acquired as part of a PSA.

[60 FR 36557, July 17, 1995]

§ 21.936 Cancellation of authorization.

(a) The Commission may revoke or cancel a BTA or PSA authorization for

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gross misconduct, misrepresentation or bad faith on the part of the authorization holder.

(b) Cancellation of a BTA or PSA authorization shall result in termination of any rights the authorization holder holds in individual proposed or authorized stations within the BTA or PSA.

[60 FR 36557, July 17, 1995]

§ 21.937 Negotiated interference protection.

(a) The level of acceptable electromagnetic interference that occurs at or within the boundaries of BTAs, PSAs, or an incumbent MDS station's 56.33 km (35 mile) protected service area can be negotiated and established by an agreement between the appropriate parties, provided that:

(1) The parties to such an agreement file with the Commission a written statement of no objection, acknowledging that the parties have agreed to accept a level of interference that does not meet the protection standards set forth in §§ 21.902 or 21.938 of the Commission's rules;

(2) The statement bears the signatures of all parties to the agreement, or the signatures of their representative agents; and

(3) The statement is filed with the Commission within 30 days of its ratification or file in conjunction with an application with which the agreement is associated, whichever is earliest.

[60 FR 36557, July 17, 1995]

§ 21.938 BTA and PSA technical and interference provisions.

(a) BTA or PSA authorization holders are expected to cooperate with one another by designing their stations in a manner that protects service in adjoining BTAs and PSAs including consideration of interference abatement techniques such as cross polarization, frequency offset, directional antennas, antenna beam tilt, EIRP decrease, reduction of antenna height, and terrain shielding.

(b) Unless the affected parties have executed a written interference agreement in accordance with § 21.937, and subject to the provisions of §§ 21.909, 21.913, 21.949, 74.939 of this chapter, 74.949 of this chapter and 74.985 of this