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to the ITU by the due date specified in the ITU invoice, unless an appeal is pending with the ITU that was filed prior to the due date. A license granted in reliance on such a commitment will be conditioned upon discharge of any such cost-recovery obligation. Where an applicant or licensee has an overdue ITU cost-recovery fee and does not have an appeal pending with the ITU, the Commission will dismiss any application associated with that satellite network.

(e) The Commission will process and forward to the ITU up to five Advance Publication filings by an entity that are not accompanied by a complete space station license application or by an application pursuant to § 25.110(b)(3)(i) or (b)(3)(ii). Such Advance Publication filing requests not contained in an application must be accompanied by a letter request and a signed ITU cost-recovery declaration pursuant to paragraph (d) of this section. A request for filing of Advance Publication information will be attributed to an entity in the same manner as a space station license application under the criteria set forth in § 25.159(c).

NOTE TO PARAGRAPH (e): After June 30, 2016, the Commission will not forward Advance Publication information for satellite networks or systems subject to Article 9, Section II of the ITU Radio Regulations (incorporated by reference, *see* § 25.108).

[56 FR 24016, May 28, 1991, as amended at 67 FR 51113, Aug. 7, 2002; 68 FR 63997, Nov. 12, 2003; 78 FR 8421, Feb. 6, 2013; 79 FR 8314, Feb. 12, 2014; 81 FR 55325, Aug. 18, 2016]

§ 25.112 Dismissal and return of applications.

(a) An application will be unacceptable for filing and will be returned to the applicant with a brief statement identifying the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, internal inconsistencies, execution, or other matters of a formal character; or

(2) The application does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements.

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(3) The application requests authority to operate a space station in a frequency band that is not allocated internationally for such operations under the Radio Regulations of the International Telecommunication Union, unless the application is filed pursuant to § 25.122 or § 25.123.

(4) The application is identical to a pending application that was timely filed pursuant to § 25.157 or § 25.158.

(b) Applications for space station authority found defective under paragraph (a)(3) or (a)(4) of this section will not be considered. Applications for authority found defective under paragraphs (a)(1) or (a)(2) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict;

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

(c) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal will be without prejudice unless the application is mutually exclusive pursuant to § 25.155, in which case it will be dismissed with prejudice.

(d) An application will be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to final Commission action.

[56 FR 24016, May 28, 1991, as amended at 68 FR 51502, Aug. 27, 2003; 79 FR 8314, Feb. 12, 2014; 81 FR 55326, Aug. 18, 2016; 85 FR 43733, July 20, 2020]

§ 25.113 Station construction, deployment approval, and operation of spare satellites.

(a) Construction permits are not required for earth stations. Construction of such stations may commence prior to grant of an earth station license at the applicant's own risk, subject to the requirements of § 1.1312 and part 17 of this chapter concerning environmental

processing and construction, marking, and lighting of antenna structures.

(b) Construction permits are not required for Ancillary Terrestrial Component (ATC) stations. A party with licenses issued under this part for launch and operation of 1.5/1.6 GHz or 1.6/2.4 GHz Mobile-Satellite Service space stations and operation of associated ATC facilities may commence construction of ATC base stations at its own risk after commencing physical construction of the space stations, subject to the requirements of §1.1312 and part 17 of this chapter. Such an MSS/ATC licensee may also conduct equipment tests for the purpose of making adjustments and measurements necessary to ensure compliance with the terms of its ATC license, applicable rules in this part, and technical design requirements. Prior to commencing such construction and pre-operational testing, an MSS/ATC licensee must notify the Commission of the commencement of physical satellite construction and the licensee's intention to construct and test ATC facilities. This notification must be filed electronically in the appropriate file in the International Bureau Filing System database. The notification must specify the frequencies the licensee proposes to use for pre-operational testing and the name, address, and telephone number of a representative for the reporting and mitigation of any interference resulting from such testing. MSS/ATC licensees engaging in pre-operational testing must comply with §§5.83, 5.85(c), 5.111, and 5.117 of this chapter regarding experimental operations. An MSS/ATC licensee may not offer ATC service to the public for compensation during pre-operational testing.

(c)–(e) [Reserved]

(f) Construction permits are not required for U.S.-licensed space stations, except for stations that the applicant proposes to operate to disseminate program content to be received by the public at large, rather than only by subscribers. Construction of a station for which a construction permit is not required may commence, at the applicant's own risk, prior to grant of a license.

(g) Except as set forth in paragraphs (h) and (i) of this section, approval for

orbital deployment and a station license (*i.e.*, operating authority) must be applied for and granted before a space station may be deployed and operated in orbit. Approval for orbital deployment may be requested in an application for a space station license. However, an application for authority to deploy and operate an on-ground spare satellite will be considered pursuant to the following procedures:

(1) Applications for deployment and operation of an on-ground spare NGSO-like satellite will be considered pursuant to the procedures set forth in §25.157, except as provided in paragraph (g)(3) of this section.

(2) Applications for deployment and operation of an on-ground spare GSO-like satellite will be considered pursuant to the procedures set forth in §25.158, except as provided in paragraph (g)(3) of this section.

(3) Neither paragraph (g)(1) nor (g)(2) of this section will apply in cases where the space station to be deployed is determined to be an emergency replacement for a previously authorized space station that has been lost as a result of a launch failure or a catastrophic in-orbit failure.

(h) An operator of NGSO space stations under a blanket license granted by the Commission, except for those granted pursuant to the application process in §25.122 or §25.123, need not apply for license modification to operate technically identical in-orbit spare satellites in an authorized orbit. However, the licensee must notify the Commission within 30 days of bringing an in-orbit spare into service and certify that its activation has not exceeded the number of space stations authorized to provide service and that the licensee has determined by measurement that the activated spare is operating within the terms of the license.

(i) An operator of NGSO space stations under a blanket license granted by the Commission, except for those granted pursuant to the application process in §25.122 or §25.123, need not apply for license modification to deploy and operate technically identical replacement satellites in an authorized orbit within the term of the system authorization. However, the licensee

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must notify the Commission of the intended launch at least 30 days in advance and certify that its operation of the additional space station(s) will not increase the number of space stations providing service above the maximum number specified in the license.

[56 FR 24016, May 28, 1991, as amended at 61 FR 4366, Feb. 6, 1996; 61 FR 9951, Mar. 12, 1996; 61 FR 55582, Oct. 28, 1996; 62 FR 5927, Feb. 10, 1997; 62 FR 64172, Dec. 4, 1997; 68 FR 51502, Aug. 27, 2003; 69 FR 47794, Aug. 6, 2004; 70 FR 32253, June 2, 2005; 77 FR 3954, Jan. 26, 2012; 78 FR 8421, Feb. 6, 2013; 79 FR 8314, Feb. 12, 2014; 79 FR 27503, May 14, 2014; 81 FR 55326, Aug. 18, 2016; 85 FR 43733, July 20, 2020]

§ 25.114 Applications for space station authorizations.

(a)(1) A license application filed pursuant to § 25.110(b)(2) for a GSO space station or NGSO space station or space-station constellation must comprise a comprehensive proposal and must be submitted on FCC Form 312, Main Form and Schedule S, with attached exhibits required by paragraph (d) of this section.

(2) An application for blanket authority for an NGSO constellation of space stations that are not all technically identical must provide the information required by paragraphs (c) and (d) of this section for each type of station in the constellation.

(3) For an application filed pursuant to the two-step procedure in § 25.110(b)(3), the filing pursuant to § 25.110(b)(3)(iii) must be submitted on FCC Form 312, Main Form and Schedule S, with attached exhibits as required by paragraph (d) of this section, and must constitute a comprehensive proposal.

(b) Each application for a new or modified space station authorization must contain the formal waiver required by 47 U.S.C. 304.

(c) The following information shall be filed on FCC Form 312, Main Form and Schedule S:

(1) Name, address, and telephone number of the applicant;

(2) Name, address, and telephone number of the person(s), including counsel, to whom inquiries or correspondence should be directed;

(3) Type of authorization requested (*e.g.*, launch authority, station license, modification of authorization);

(4)(i) For each space station transmitting and receiving antenna beam (including telemetry and tracking beams but not command beams), specify channel center frequencies and bandwidths and polarization plan. For command beams, specify each of the center frequencies within a 5 MHz range or a range of 2 percent of the assigned bandwidth, whichever is smaller, and the polarization plan. If the space station can vary channel bandwidth in a particular frequency band with on-board processing, specify only the range of frequencies in that band over which the beam can operate and the polarization plan.

(ii) Specify maximum EIRP and maximum EIRP density for each space station transmitting antenna beam. If the satellite uses shapeable antenna beams, as defined in § 25.103, specify instead maximum possible EIRP and maximum possible EIRP density within each shapeable beam's proposed coverage area. Provide this information for each frequency band in which the transmitting antenna would operate. For bands below 15 GHz, specify EIRP density in dBW/4 kHz; for bands at and above 15 GHz, specify EIRP density in dBW/MHz. If the EIRP density varies over time, specify the maximum possible EIRP density.

(iii)–(iv) [Reserved]

(v) For each space station receiving beam other than command beams, specify the gain-to-temperature ratio at beam peak. For receiving beams fed into transponders, also specify the minimum and maximum saturation flux density at beam peak. If the satellite uses shapeable beams, specify the minimum and maximum gain-to-temperature ratio within each shapeable beam's proposed coverage area, and for shapeable receiving beams fed into transponders, specify the minimum and maximum saturation power flux density within the 0 dB relative antenna gain isoline. Provide this information for each frequency band in which the receiving beam can operate. For command beams, specify the beam peak flux density at the command threshold;

(vi)(A) For space stations in geostationary orbit, specify predicted space station antenna gain contour(s) for each transmit and receive antenna