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and one above the carrier center frequency, outside of which all emission are attenuated at least 26 dB below the transmitter power.

(c) When measuring the emission limits, the nominal carrier frequency shall be adjusted as close to the license's frequency block edges, both upper and lower, as the design permits.

(d) The measurements of emission power can be expressed in peak or average values, provided that they are expressed in the same parameters as the transmission power.

(e) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

§ 26.54 Frequency stability.

The frequency stability shall be sufficient to ensure that the fundamental emission stays within the authorized frequency block.

§ 26.55 Field strength limits.

The predicted or measured median field strength at any location on the border of the GWCS service area shall not exceed 55 dBu unless licensees operating in adjacent areas agree to higher field strength along their mutual borders.

§ 26.56 Antenna structures; air navigation safety.

Licensees that own their antenna structures must not allow these antenna structures to become a hazard to air navigation. In general, antenna structure owners are responsible for registering antenna structures with the FCC if required by part 17 of this chapter, and for installing and maintaining any required marking and lighting. However, in the event of default of this responsibility by an antenna structure owner, each FCC permittee or licensee authorized to use an affected antenna structure will be held responsible by the FCC for ensuring that the antenna structure continues to meet the requirements of part 17 of this chapter. See § 17.6 of this chapter.

(a) *Marking and lighting.* Antenna structures must be marked, lighted and maintained in accordance with part 17 of this chapter and all applicable rules

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and requirements of the Federal Aviation Administration.

(b) *Maintenance contracts.* Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) may enter into contracts with other entities to monitor and carry out necessary maintenance of antenna structures. Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) that make such contractual arrangements continue to be responsible for the maintenance of antenna structures in regard to air navigation safety.

[63 FR 71041, Dec. 23, 1998]

Subpart D—Miscellaneous

§ 26.101 Multiple ownership restrictions.

(a) GWCS licensees shall not have an ownership interest in more than three of the five, 5 megahertz wide channels available in any geographic area. For purposes of this restriction, a GWCS licensee is:

(1) Any institutional investor, as defined in § 26.4, with an ownership interest of ten or more percent in a GWCS license; and

(2) Any other person or entity with an ownership interest of five or more percent in a GWCS license.

(b) In cases where a party had indirect ownership, through an interest in an intervening entity (or entities) that has ownership in the GWCS license, that indirect ownership shall be attributable if the percentages of ownership at each level, multiplied together, equal five or more percent ownership of the GWCS license, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest.

EXAMPLE. Party X has a non-controlling ownership interest of 25 percent in Company Y, which in turn has a non-controlling ownership interest of 10 percent in Company Z, the GWCS licensee. Party X's effective ownership interest in Company Z is Party X's ownership interest in Company Y (25 percent) times Company Y's ownership interest in Company Z (10 percent). Therefore, Party

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X's effective ownership interest in Company Z is 2.5 percent, and is not attributable.

(c) Notwithstanding paragraph (b) of this section, the following interests shall not constitute attributable ownership interests for purposes of paragraph (a) of this section.

(1) A limited partnership interest held by an institutional investor (as defined §26.4) where the limited partner is not materially involved, directly or indirectly, in the management or operation of the GWCS holdings of the partnership, and the licensee so certifies. The criteria which would assure adequate insulation for the purposes of this certification require:

- (i) Prohibiting limited partners from acting as employees of the limited partnership if responsibilities relate to the carrier activities of the licensee;
- (ii) Barring the limited partners from serving as independent contractors;
- (iii) Restricting communication among limited partners and the general partner regarding day-to-day activities of the licensee;
- (iv) Empowering the general partner to veto admissions of new general partners;
- (v) Restricting the circumstances in which the limited partners can remove the general partner;
- (vi) Prohibiting the limited partners from providing services to the partnership relating to the GWCS holdings of the licensee; and
- (vii) Stating that the limited partners may not become involved in the management or operation of the licensee.

§26.102 Service areas.

GWCS service areas are based on Economic Areas developed by the Bureau of Economic Analysis, Department of Commerce, referred to as "EAs" and three additional EA-like service areas: Guam and the Northern Mariana Islands (combined as one service area), Puerto Rico and the United States Virgin Islands (combined as one service area), and American Samoa.

(a) *Economic Areas.* Codes from 001 to 172 are assigned to the EAs in approximate geographic order, beginning with 001 in northern Maine, continuing south to Florida, then north to the Great Lakes, and continuing in a ser-

pentine pattern to the West Coast. Except for the Western Oklahoma EA (126), the Northern Michigan EA (058), and the 17 EAs that mainly correspond to consolidated metropolitan statistical areas (CMSAs), each EA is named for the metropolitan area or city that is the node of its largest component economic area (CEA) and that is usually, but not always, the largest metropolitan area or city in the EA. Each CEA consists of a single economic node and the surrounding counties that are economically related to the node. The following list provides EA codes and names.

Code and Name	
001	Bangor, ME
002	Portland, ME
003	Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH
004	Burlington, VT
005	Albany-Schenectady-Troy, NY
006	Syracuse, NY
007	Rochester, NY
008	Buffalo-Niagara Falls, NY
009	State College, PA
010	New York-No. New Jersey-Long Island, NY-NJ-CT-PA
011	Harrisburg-Lebanon-Carlisle, PA
012	Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD
013	Washington-Baltimore, DC-MD-VA-WV
014	Salisbury, MD
015	Richmond-Petersburg, VA
016	Staunton, VA
017	Roanoke, VA
018	Greensboro-Winston-Salem-High Point, NC
019	Raleigh-Durham-Chapel Hill, NC
020	Norfolk-Virginia Beach-Newport News, VA-NC
021	Greensville, NC
022	Fayetteville, NC
023	Charlotte-Gastonia-Rock Hill, NC-SC
024	Columbia, SC
025	Wilmington, NC
026	Charleston-North Charleston, SC
027	Augusta-Aiken, GA-SC
028	Savannah, GA
029	Jacksonville, FL
030	Orlando, FL
031	Miami-Fort Lauderdale, FL
032	Fort Myers-Cape Coral, FL
033	Sarasota-Bradenton, FL

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034 Tampa-St. Petersburg-Clearwater, FL	089 Monroe, LA
035 Tallahassee, FA	090 Little Rock-North Little Rock, AR
036 Dothan, AL	091 Fort Smith, AR-OK
037 Albany, GA	092 Fayetteville-Springdale-Rogers, AR
038 Macon, GA	093 Joplin, MO
039 Columbus, GA-AL	094 Springfield, MO
040 Atlanta, GA	095 Jonesboro, AR
041 Greenville-Spartanburg-Anderson, SC	096 St. Louis, MO-IL
042 Asheville, NC	097 Springfield, IL
043 Chattanooga, TN-GA	098 Columbia, MO
044 Knoxville, TN	099 Kansas City, MO-KS
045 Johnson City-Kingsport-Bristol, TN-VA	100 Des Moines, IA
046 Hickory-Morganton, NC	101 Peoria-Pekin, IL
047 Lexington, KY	102 Davenport-Moline-Rock Island, IA-IL
048 Charleston, WV	103 Cedar Rapids, IA
049 Cincinnati-Hamilton, OH-KY-IN	104 Madison, WI
050 Dayton-Springfield, OH	105 La Crosse, WI-MN
051 Columbus, OH	106 Rochester, MN
052 Wheeling, WV-OH	107 Minneapolis-St. Paul, MN-WI
053 Pittsburgh, PA	108 Wausau, WI
054 Erie, PA	109 Duluth-Superior, MN-WI
055 Cleveland-Akron, OH	110 Grand Forks, ND-MN
056 Toledo, OH	111 Minot, ND
057 Detroit-Ann Arbor-Flint, MI	112 Bismarck, ND
058 Northern Michigan, MI	113 Fargo-Moorhead, ND-MN
059 Green Bay, WI	114 Aberdeen, SD
060 Appleton-Oshkosh-Neenah, WI	115 Rapid City, SD
061 Traverse City, MI	116 Sioux Falls, SD
062 Grand Rapids-Muskegon-Holland, MI	117 Sioux City, IA-NE
063 Milwaukee-Racine, WI	118 Omaha, NE-IA
064 Chicago-Gary-Kenosha, IL-IN-WI	119 Lincoln, NE
065 Elkhart-Goshen, IN	120 Grand Island, NE
066 Fort Wayne, IN	121 North Platte, NE
067 Indianapolis, IN	122 Wichita, KS
068 Champaign-Urbana, IL	123 Topeka, KS
069 Evansville-Henderson, IN-KY	124 Tulsa, OK
070 Louisville, KY-IN	125 Oklahoma City, OK
071 Nashville, TN	126 Western Oklahoma, OK
072 Paducah, KY	127 Dallas-Fort Worth, TX
073 Memphis, TN-AR-MS	128 Abilene, TX
074 Huntsville, AL	129 San Angelo, TX
075 Tupelo, MS	130 Austin-San Marcos, TX
076 Greenville, MS	131 Houston-Galveston-Brazoria, TX
077 Jackson, MS	132 Corpus Christi, TX
078 Birmingham, AL	133 McAllen-Edinburg-Mission, TX
079 Montgomery, AL	134 San Antonio, TX
080 Mobile, AL	135 Odessa-Midland, TX
081 Pensacola, FL	136 Hobbs, NM
082 Biloxi-Gulfport-Pascagoula, MS	137 Lubbock, TX
083 New Orleans, LA	138 Amarillo, TX
084 Baton Rouge, LA	139 Santa Fe, NM
085 Lafayette, LA	140 Pueblo, CO
086 Lake Charles, LA	141 Denver-Boulder-Greeley, CO
087 Beaumont-Port Arthur, TX	142 Scottsbluff, NE
088 Shreveport-Bossier City, LA	143 Casper, WY
	144 Billings, MT

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- 145 Great Falls, MT
- 146 Missoula, MT
- 147 Spokane, WA
- 148 Idaho Falls, ID
- 149 Twin Falls, ID
- 150 Boise City, ID
- 151 Reno, NV
- 152 Salt Lake City-Ogden, UT
- 153 Las Vegas, NV-AZ
- 154 Flagstaff, AZ
- 155 Farmington, NM
- 156 Albuquerque, NM
- 157 El Paso, TX
- 158 Phoenix-Mesa, AZ
- 159 Tucson, AZ
- 160 Los Angeles-Riverside-Orange County, CA
- 161 San Diego, CA
- 162 Fresno, CA
- 163 San Francisco-Oakland-San Jose, CA
- 164 Sacramento-Yolo, CA
- 165 Redding, CA
- 166 Eugene-Springfield, OR
- 167 Portland-Salem, OR-WA
- 168 Pendleton, OR
- 169 Richland-Kennewick-Pasco, WA
- 170 Seattle-Tacoma-Bremerton, WA
- 171 Anchorage, AK
- 172 Honolulu, HI

(b) Other eligible areas not included in the Bureau of Economic Analysis's list of EAs include: Guam and the Northern Mariana Islands, Puerto Rico and United States Virgin Islands, and American Samoa.

§ 26.103 Frequencies.

The following frequencies are available for GWCS in the Economic Areas and other areas described in § 26.102 as shown below.

Channel Block and Frequency Band

- Block A: 4660-4665 MHz
- Block B: 4665-4670 MHz
- Block C: 4670-4675 MHz
- Block D: 4675-4680 MHz
- Block E: 4680-4685 MHz

§ 26.104 Construction requirements.

(a) GWCS licensees shall within five years of initial license grant date offer service to one-third of the population in the area in which they are licensed. Licensees shall serve two-thirds of the population in the area in which they are licensed within ten years of initial license grant date.

(b) In demonstrating compliance with the above construction requirements, licensees must base their calculations on signal field strengths that ensure reliable service for the technology utilized. Licensees may use any service radius contour formula developed or generally used by industry, provided that such formula is based on the technical characteristics of their system.

(c) Upon meeting the five and ten year benchmarks in paragraph (a) of this section, licensees shall file a map and other supporting documentation that demonstrates compliance with the geographic area or population coverage requirement. Licensees shall file a statement indicating commencement of service. The filing must be received at the Commission on or before expiration of the relevant period.

(d) If the sale of a license is approved, the new licensee is held to the original build-out requirement.

(e) The licensee must notify the FCC electronically by using FCC Form 601 via the ULS, no later than by the end of the five-and ten-year periods, respectively, that it has met the applicable service requirements. If the licensee fails to respond within the allotted time, then the authorization will automatically terminate.

NOTE TO § 26.104: Population-based construction requirements contained in this section shall be based on the 1990 census.

[60 FR 40719, Aug. 9, 1995, as amended at 63 FR 68953, Dec. 14, 1998]

EFFECTIVE DATE NOTE: At 60 FR 40719, Aug. 9, 1995, § 26.104 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 26.105 Notification to the Arecibo Observatory.

(a) The requirements in this section are intended to minimize possible interference at the Arecibo Observatory in Puerto Rico. Licensees must make reasonable efforts to protect the Observatory from interference. Licensees planning to construct and operate a new station at a permanent fixed location on the islands of Puerto Rico, Desecheo, Mona, Vieques or Culebra in services in which individual station licenses are issued by the FCC; planning

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to construct and operate a new station at a permanent fixed location on these islands that may cause interference to the operations of the Arecibo Observatory in services in which individual station licenses are not issued by the FCC; or planning a modification of any existing station at a permanent fixed location on these islands that would increase the likelihood of causing interference to the operations of the Arecibo Observatory must notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically (e-mail address: prcz@naic.edu), of the technical parameters of the planned operation. Carriers may wish to use the interference guidelines provided by Cornell University as guidance in designing facilities to avoid interference to the Observatory. The notification must include identification of the geographical coordinates of the antenna location (NAD-83 datum), the antenna height, antenna directivity (if any), proposed channel and FCC rule part, type of emission, and effective isotropic radiated power.

(b) In services in which individual station licenses are issued by the FCC, the notification required in paragraph (a) of this section should be sent at the same time the application is filed with the FCC, and at least 20 days in advance of the applicant's planned operation. The application must state the date that notification in accordance with paragraph (a) was made. In services in which individual station licenses are not issued by the FCC, the notification required in paragraph (a) of this section should be sent at least 45 days in advance of the applicant's planned operation. In the latter services, the Interference Office must inform the FCC of a notification by an applicant within 20 days if the Office plans to file comments or objections to the notification. After the FCC receives an application from a service applicant or is informed by the Interference Office of a notification from a service applicant, the FCC will allow the Interference Office a period of 20 days for comments or objections in response to the application or notification.

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(c) If an objection to any planned service operation is received during the 20-day period from the Interference Office, the FCC will take whatever action is deemed appropriate.

[63 FR 41203, Aug. 3, 1998]

Subpart E—Competitive Bidding Procedures for GWCS

§ 26.201 GWCS subject to competitive bidding.

Mutually exclusive initial applications to provide GWCS service are subject to competitive bidding procedures. The general competitive bidding procedures found in 47 CFR part 1, subpart Q, will apply unless otherwise provided in this part.

§ 26.202 Competitive bidding design for GWCS licensing.

(a) The Commission will employ the following competitive bidding designs when choosing from among mutually exclusive initial applications to provide GWCS service:

(1) Simultaneous multiple round auctions

(2) Sequential oral auctions

(b) The Commission may design and test alternative procedures. The Commission will announce by Public Notice before each auction the competitive bidding design to be employed in a particular auction.

(c) The Commission may use single combined auctions, which combine bidding for two or more substitutable licenses and award licenses to the highest bidders until the available licenses are exhausted. This technique may be used in conjunction with any type of auction.

§ 26.203 Competitive bidding mechanisms.

See § 1.2104 of this chapter.

[63 FR 56578, Oct. 22, 1998]

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§ 26.205 Bidding application (FCC form 175 and 175-S short-form).

See § 1.2105 of this chapter.

[63 FR 56578, Oct. 22, 1998]