and Order which will concisely report the reasons for the denial and dispose of all substantial issues raised by the petition.

- (d) Whenever the Commission, without a formal hearing, grants any application in part, or subject to any terms or conditions other than those normally applied to applications of the same type, it shall inform the applicant of the reasons therefor, and the grant shall be considered final unless the Commission should revise its action (either by granting the application as originally requested, or by designating the application for a formal evidentiary hearing) in response to a petition for reconsideration which:
- (1) Is filed by the applicant within thirty (30) days from the date of the letter or order giving the reasons for the partial or conditioned grant;
- (2) Rejects the grant as made and explains the reasons why the application should be granted as originally requested; and,
- (3) Returns the instrument of authorization.
- (e) The Commission will designate an application for a formal hearing, specifying with particularly the matters and things in issue, if, upon consideration of the application, any pleadings or objections filed, or other matters which be officially noticed, the Commission determines that:
- A substantial and material question of fact is presented (see also § 1.2108 of this chapter);
- (2) The Commission is unable for any reason to make the findings specified in paragraph (a) of this section and the application is acceptable for filing, complete, and in accordance with the Commission's rules, regulations, and other requirements; or
- (3) The application is entitled to comparative consideration (under § 26.321) with another application (or applications).
- (f) The Commission may grant, deny or take other action with respect to an application designated for a formal hearing pursuant to paragraph (e) of this section or Part 1 of this chapter.
- (g) Reconsideration or review of any final action taken by the Commission will be in accordance with Part 1, Subpart A of this chapter.

§ 26.323 Post-action divestitures.

Any parties sharing a common noncontrolling ownership interests who aggregate more GWCS spectrum among them than a single entity is entitled to hold will be permitted to divest sufficient properties within 90 days of the license grant to come into

compliance with the spectrum aggregation limits as follows:

- (a) The GWCS applicant shall submit a signed statement with its long-form application stating that sufficient properties will be divested within 90 days of the license grant. If the licensee is otherwise qualified, the Commission will grant the applications subject to a condition that the licensee come into compliance with the GWCS spectrum aggregation limits within 90 days of grant.
- (b) Within 90 days of license grant, the licensee must certify that the applicant and all parties to the application have come into compliance with the GWCS spectrum aggregation limits. If the licensee fails to submit the certification within 90 days, the Commission will immediately cancel all broadband GWCS licenses won by the applicant, impose the default payment and, based on the facts presented, take any other action it deems appropriate. Divestiture may be an interim trustee if a buyer has not been secured in the required time frame, as long as the applicant has no interest in or control of the trustee, and the trustee may dispose of the property as it sees fit. In no event may the trustee retain the property for longer than six months from grant of license.

§ 26.324 Transfer of control or assignment of station authorization.

- (a) Authorizations shall be transferred or assigned to another party, voluntarily (for example, by contract) or involuntarily (for example, by death, bankruptcy, or legal disability), directly or indirectly or by transfer of control of any corporation holding such authorization, only upon application and approval by the Commission. A transfer of control or assignment of station authorization in the General Wireless Communications Service is also subject to § 1.2111 of this chapter (Assignment or transfer of control: unjust enrichment)
- (1) A change from less than 50% ownership to 50% or more ownership shall always be considered a transfer of control.
- (2) In other situations a controlling interest shall be determined on a caseby-case basis considering the distribution of ownership, and the relationships of the owners, including family relationships.
 - (b) Form required:
 - (1) Assignment.
- (i) FCC Form 490 shall be filed to assign a license or permit.
- (ii) In the case of involuntary assignment, FCC Form 490 shall be filed

within 30 days of the event causing the assignment.

(2) Transfer of control.

(i) FCC Form 490 shall be submitted in order to transfer control of a corporation holding a license or permit.

- (ii) In the case of involuntary transfer of control, FCC Form 490 shall be filed within 30 days of the event causing the transfer.
- (3) Form 430. Whenever an application must be filed under paragraphs (a)(1) or (a)(2) of this section, the assignee or transferee shall file FCC Form 430 ("Common Carrier Radio License Qualification Report") unless an accurate report is on file with the Commission.
- (4) Notification of completion. The Commission shall be notified by letter of the date of completion of the assignment or transfer of control.
- (5) If the transfer of control of a license is approved, the new licensee is held to the original build-out requirement of § 26.104.
- (c) In acting upon applications for transfer of control or assignment, the Commission will not consider whether the public interest, convenience, and necessity might be served by the transfer or assignment of the authorization to a person other than the proposed transferee or assignee.
- (d) Applicants seeking to transfer their licenses within three years after the initial license grant date are required to file, together with their transfer application, the associated contracts for sale, option agreements, management agreements, and all other documents disclosing the total consideration to be received in return for the transfer of the license.

§ 26.325 Extension of time to complete construction.

- (a) If construction is not completed within the time period set forth in § 26.104, the authorization will automatically expire. Before the period for construction expires an application for an extension of time to complete construction (FCC Form 489) may be filed. See paragraph (b) of this section. Within 30 days after the authorization expires an application for reinstatement may be filed on FCC Form 489.
- (b) An application for extension of time to complete construction may be made on FCC Form 489. Extension of time requests must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to complete construction is due to causes beyond his control. An application for modification of an authorization (under construction) does not extend the initial