AUTHENTICATED
U.S. GOVERNMENT
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# Title 47—Telecommunication

(This book contains parts 0 to 19)

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# CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

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AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

## Subpart A—Organization

AUTHORITY: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

GENERAL

### §0.1 The Commission.

The Federal Communications Commission is composed of five (5) members who are appointed by the president subject to confirmation by the Senate. Normally, one Commissioner is appointed or reappointed each year, for a term of five (5) years.

[53 FR 29054, Aug. 2, 1988]

### §0.3 The Chairman.

(a) One of the members of the Commission is designated by the President to serve as Chairman, or chief executive officer, of the Commission. As Chairman, he has the following duties and responsibilities:

(1) To preside at all meetings and sessions of the Commission.

(2) To represent the Commission in all matters relating to legislation and legislative reports; however, any other Commissioner may present his own or minority views or supplemental reports.

(3) To represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies.

(4) To coordinate and organize the work of the Commission in such a manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission.

(b) The Commission will, in the case of a vacancy in the Office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, temporarily designate one of its members to act as Chairman until the cause or circumstance requiring such

designation has been eliminated or corrected.

[32 FR 10569, July 19, 1967]

### § 0.5 General description of Commission organization and operations.

(a) *Principal staff units.* The Commission is assisted in the performance of its responsibilities by its staff, which is divided into the following principal units:

(1) Office of Managing Director.

(2) Office of Engineering and Technology.

(3) Office of General Counsel.

(4) Office of Strategic Planning and Policy Analysis.

(5) Office of Media Relations.

(6) Office of Legislative Affairs.

(7) Office of Inspector General.

(8) Office of Communications Business Opportunities.

(9) Office of Administrative Law Judges.

(10) Office of Workplace Diversity

(11) Wireline Competition Bureau.

(12) Wireless Telecommunications Bureau.

(13) International Bureau.

(14) Media Bureau.

(15) Enforcement Bureau.

(16) Consumer and Governmental Affairs Bureau.

(17) Public Safety and Homeland Security Bureau.

(b) Staff responsibilities and functions. The organization and functions of these major staff units are described in detail in §§ 0.11 through 0.151. The defense and emergency preparedness functions of the Commission are set forth separately, beginning at § 0.181. For a complete description of staff functions, reference should be made to those provisions. (See also the U.S. Government Organization Manual, which contains a chart showing the Commission's organization, the names of the members and principal staff officers of the Commission, and other information concerning the Commission.)

(c) *Delegations of authority to the staff.* Pursuant to section 5(c) of the Communications Act, the Commission has delegated authority to its staff to act on matters which are minor or routine or settled in nature and those in which immediate action may be necessary. See subpart B of this part. Actions taken under delegated authority are subject to review by the Commission, on its own motion or on an application for review filed by a person aggrieved by the action. Except for the possibility of review, actions taken under delegated authority have the same force and effect as actions taken by the Commission. The delegation of authority to a staff officer, however, does not mean that he will exercise that authority in all matters subject to the delegation. In non-hearing matters, the staff is at liberty to refer any matter at any stage to the Commission for action, upon concluding that it involves matters warranting the Commission's consideration, and the Commission may instruct the staff to do so.

(d) *Commission action.* Matters requiring Commission action, or warranting its consideration, are dealt with by the Commission at regular monthly meetings, or at special meetings called to consider a particular matter. Meetings are normally held at the principal offices of the Commission in the District of Columbia, but may be held elsewhere in the United States. In appropriate circumstances, Commission action may be taken between meetings ''by circulation'', which involves the submission of a document to each of the Commissioners for his approval.

(e) *Compliance with Federal financial management requirements.* Any Bureau or Office recommending Commission action that may affect agency compliance with Federal financial management requirements must confer with the Office of Managing Director. Such items will indicate the position of the Managing Director when forwarded to the Commission. Any Bureau or Office taking action under delegated authority that may affect agency compliance with Federal financial management requirements must confer with the Office of the Managing Director before taking action.

(Secs. 4(i), 303(r) and 5(c)(i), Communications Act of 1934, as amended; 47 CFR 0.61 and 0.283)

[32 FR 10569, July 19, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 0.5, see the List of CFR Sections Affected, which appears in the

Finding Aids section of the printed volume and at www.fdsys.gov.

OFFICE OF MANAGING DIRECTOR

### §0.11 Functions of the Office.

(a) The Managing Director is appointed by the Chairman with the approval of the Commission. Under the supervision and direction of the Chairman, the Managing Director shall serve as the Commission's chief operating and executive official with the following duties and responsibilities:

(1) Provide managerial leadership to and exercise supervision and direction over the Commission's Bureaus and Offices with respect to management and administrative matters but not substantive regulatory matters such as regulatory policy and rule making, authorization of service, administration of sanctions, and adjudication.

(2) Formulate and administer all management and administrative policies, programs, and directives for the Commission consistent with authority delegated by the Commission and the Chairman and recommend to the Chairman and the Commission major changes in such policies and programs.

(3) Assist the Chairman in carrying out the administrative and executive responsibilities delegated to the Chairman as the administrative head of the agency.

(4) Advise the Chairman and Commission on management, administrative, and related matters; review and evaluate the programs and procedures of the Commission; initiate action or make recommendations as may be necessary to administer the Communications Act most effectively in the public interest. Assess the management, administrative, and resource implications of any proposed action or decision to be taken by the Commission or by a Bureau or Office under delegated authority; recommend to the Chairman and Commission program priorities, resource and position allocations, management, and administrative policies.

(5) Plan and administer the Commissions performance review system. Assure that objections, priorities, and action plans established by Bureau and Offices are consistent with overall Commission objectives and priorities.

(6) Plan and administer the Commission's Program Evaluation System. Ensure that evaluation results are utilized in Commission decision-making and priority-setting activities.

(7) Direct agency efforts to improve management effectiveness, operational efficiency, employee productivity, and service to the public. Administer Commission-wide management programs.

(8) Plan and manage the administrative affairs of the Commission with respect to the functions of personnel and position management; labor-management relations; training; budget and financial management; accounting for the financial transactions of the Commission and preparation of financial statements and reports; information management and processing; organization planning; management analysis; procurement; office space management and utilization; administrative and office services; supply and property management; records management; personnel and physical security; and international telecommunications settlements.

(9) [Reserved]

(10) With the concurrence of the General Counsel, interpret rules and regulations pertaining to fees.

(b) The Secretary is the official custodian of the Commission's documents.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[46 FR 59975, Dec. 8, 1981, as amended at 47 FR 41380, Sept. 20, 1982; 49 FR 45583, Nov. 19, 1984; 50 FR 27953, July 9, 1985; 53 FR 29054, Aug. 2, 1988; 53 FR 47536, Nov. 23, 1988; 54 FR 152, Jan. 4, 1989; 59 FR 26971, May 25, 1994; 60 FR 5323, Jan. 27, 1995; 62 FR 15853, Apr. 3, 1997; 62 FR 51052, Sept. 30, 1997; 67 FR 13217, Mar. 21, 2002; 69 FR 30233, May 27, 2004; 70 FR 21651, Apr. 27, 2005; 71 FR 69034, Nov. 29, 2006]

OFFICE OF INSPECTOR GENERAL

### §0.13 Functions of the Office.

The Office of Inspector General is directly responsible to the Chairman as head of the agency. However, the Chairman may not prevent or prohibit the Office of Inspector General from carrying out its duties and responsibilities as mandated by the Inspector General Act Amendments of 1988 (Pub. L. 100–504) and the Inspector General Act of 1978 (5 U.S.C. Appendix 3), as

amended. The Office has the following duties and responsibilities.

(a) Provide policy direction for and to conduct, supervise and coordinate audits and investigations relating to the programs and operations of the Federal Communications Commission.

(b) Review existing and proposed legislation and regulations relating to programs and operations of the Commission and to make recommendations in its required semiannual reports to Congress concerning the impact of such legislation or regulations on the economy and efficiency in the administration of these programs and operations, or the prevention and detection of fraud and abuse in such programs and operations.

(c) Recommend policies and conduct or coordinate other activities to promote economy and efficiency in the administration of Commission programs, or detect and prevent fraud and abuse in Commission activities. Coordinate with other governmental agencies and non-governmental entities on these matters.

(d) Keep the Chairman of the Commission—and through him the other Commissioners—and the Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of Commission programs and operations; recommend corrective action and report on the progress made in implementing such corrective action. In addition to providing the Chairman with the results of completed audits and inspections, the Inspector General shall prepare statutorily required reports, identified as such, to include:

(1) Semiannual reports summarizing activities of the office during the preceding six month period (due to the Chairman by April 30 and October 31);

(2) Special reports specifically identifying any serious or flagrant problems, abuses or deficiencies (due to the Chairman immediately upon discovery of these matters by the Inspector General).

[54 FR 15194, Apr. 17, 1989]

OFFICE OF MEDIA RELATIONS

### § 0.15 Functions of the Office.

(a) Enhance public understanding of and compliance with the Commission's regulatory requirements through dissemination of information to the news media.

(b) Act as the principal channel for communicating information to the news media on Commission policies, programs, and activities.

(c) Advise the Commission on information dissemination as it affects liaison with the media.

(d) Manage the FCC's Internet site and oversee the agency's Web standards and guidelines.

(e) Maintain liaison with the Consumer and Governmental Affairs Bureau on press and media issues concerning consumer assistance and information including informal consumer complaints.

(f) Manage the FCC's audio/visual support services and maintain liaison with outside parties regarding the broadcast of Commission proceedings.

[64 FR 60716, Nov. 8, 1999, as amended at 67 FR 13217, Mar. 21, 2002; 67 FR 46112, July 12, 2002]

OFFICE OF LEGISLATIVE AFFAIRS

### § 0.17 Functions of the Office.

The Office of Legislative Affairs is directly responsible to the Commission. The Office has the following duties and responsibilities:

(a) Advise and make recommendations to the Commission with respect to legislation proposed by members of Congress or the Executive Branch and coordinate the preparation of Commission views thereon for submission to Congress or the Executive Branch.

(b) Coordinate with the Office of General Counsel responses to Congressional or Executive Branch inquiries as to the local ramifications of Commission policies, regulations, rules, and statutory interpretations.

(c) Assist the Office of the Managing Director in preparation of the annual report to Congress, the Commission budget and appropriations legislation to Congress; assist the Office of Media Relations in preparation of the Commission's Annual Report.

(d) Assist the Chairman and Commissioners in preparation for, and the coordination of their appearances before the Committees of Congress.

(e) Coordinate the annual Commission legislative program.

(f) Coordinate Commission and staff responses to inquiries by individual members of Congress, congressional committees and staffs.

(g) Coordinate with the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

[52 FR 42438, Nov. 5, 1987, as amended at 64 FR 60716, Nov. 8, 1999; 67 FR 13217, Mar. 21, 2002]

OFFICE OF STRATEGIC PLANNING AND POLICY ANALYSIS

**§ 0.21 Functions of the Office.**

The Office of Strategic Planning and Policy Analysis, as a staff office to the Commission, assists, advises and makes recommendations to the Commission with respect to the development and implementation of communications policies in all areas of Commission authority and responsibility. A principal function of the Office is to conduct independent policy analyses to assess the long-term effects of alternative Commission policies on domestic and international communication industries and services, with due consideration of the responsibilities and programs of other staff units, and to recommend appropriate Commission action. The Office is also responsible for coordinating the policy research and development activities of other staff units, with special concern for matters which transcend their individual areas of responsibility. The Office is composed of legal, engineering, economic, and sociological policy analysts and other personnel, and is headed by a chief having the following duties and responsibilities:

(a) To identify and define significant communications policy issues in all areas of Commission interest and responsibility;

(b) To conduct technical, economic, and sociological impact studies of existing and proposed communications policies and operations, including cooperative studies with other staff units and consultant and contract efforts as appropriate;

(c) To develop and evaluate alternative policy options and approaches for consideration by the Commission;

(d) To review and comment on all significant actions proposed to be taken by the Commission in terms of their overall policy implications;

(e) To recommend and evaluate governmental (state and federal), academic, and industry sponsored research affecting Commission policy issues;

(f) To prepare briefings, position papers, proposed Commission actions, or other agenda items as appropriate;

(g) To manage the Commission's policy research program, recommend budget levels and priorities for this program, and serve as central account manager for all contractual policy research studies funded by the Commission;

(h) To coordinate the formation and presentation of Commission positions in communications policy; represent the Commission at appropriate discussions and conferences.

(i) Develop and recommend procedures and plans for the effective handling of policy issues within the Commission.

(j) To help ensure that FCC policy encourages and promotes competitive market structures by providing bureaus and offices with the necessary support to identify, evaluate, and effectively and consistently resolve competitiveness issues.

[38 FR 17005, June 28, 1973, as amended at 45 FR 25400, Apr. 15, 1980; 51 FR 12615, Apr. 14, 1986; 60 FR 5323, Jan. 27, 1995; 64 FR 5950, Feb. 8, 1999; 68 FR 11747, Mar. 12, 2003]

OFFICE OF ENGINEERING AND TECHNOLOGY

**§ 0.31 Functions of the Office.**

The Office of Engineering and Technology has the following duties and responsibilities:

(a) To evaluate evolving technology for interference potential and to suggest ways to facilitate its introduction in response to Bureau initiatives, and advise the Commission and staff offices in such matters.

(b) Represent the Commission at various national conferences and meetings (and, in consultation with the International Bureau, at various international conferences and meetings) devoted to the progress of communications and the development of technical and other information and standards, and serve as Commission coordinator for the various national conferences when appropriate.

(c) To conduct scientific and technical studies in advanced phases of terrestrial and space communications, and special projects to obtain theoretical and experimental data on new or improved techniques.

(d) To advise the Commission concerning engineering matters, including (in consultation with the Public Safety and Homeland Security Bureau where appropriate) privacy and security of communications, involved in making or implementing policy or in resolving specific cases.

(e) To develop and implement procedures to acquire, store, and retrieve scientific and technical information useful in the engineering work of the Commission.

(f) To advise and represent the Commission on frequency allocation and spectrum usage matters.

(g) To render, in cooperation with the General Counsel and the Office of Strategic Planning and Policy Analysis, advice to the Commission, participate in and coordinate staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and render service and advice with respect to rule making matters and proceedings affecting more than one Bureau.

(h) To collaborate with and advise other Bureaus and Offices in the formulation of technical requirements of the Rules.

(i) To administer parts 2, 5, 15, and 18 of this chapter, including licensing, recordkeeping, and rule making.

(j) To perform all engineering and management functions of the Commission with respect to formulating rules and regulations, technical standards, and general policies for parts 15, 18 and § 63.100 of this chapter, and for type approval and acceptance, and certification of radio equipment for compliance with the Rules.

(k) To maintain liaison with other agencies of government, technical experts representing foreign governments, and members of the public and industry concerned with communications and frequency allocation and usage.

(l) To calibrate and standardize technical equipment and installations used by the Commission.

(m) To exercise authority as may be assigned or referred by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended.

(n) To assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

[45 FR 28718, Apr. 30, 1980, as amended at 46 FR 45342, Sept. 11, 1981; 51 FR 12615, Apr. 14, 1986; 60 FR 5323, Jan. 27, 1995; 62 FR 4170, Jan. 29, 1997; 63 FR 37499, July 13, 1998; 64 FR 60716, Nov. 8, 1999; 67 FR 13217, Mar. 21, 2002; 68 FR 11747, Mar. 12, 2003; 69 FR 70337, Dec. 3, 2004; 71 FR 69034, Nov. 29, 2006; 73 FR 9463, Feb. 21, 2008]

## OFFICE OF GENERAL COUNSEL

### § 0.41 Functions of the Office.

The Office of the General Counsel has the following duties and responsibilities:

(a) To advise and represent the Commission in matters of litigation.

(b) To advise and make recommendations to the Commission with respect to proposed legislation and submit agency views on legislation when appropriate.

(c) To interpret the statutes, international agreements, and international regulations affecting the Commission.

(d) To prepare and make recommendations and interpretations concerning procedural rules of general applicability and to review all rules for consistency with other rules, uniformity, and legal sufficiency.

(e) To conduct research in legal matters as directed by the Commission.

(f) In cooperation with the Office of Engineering and Technology, to participate in, render advice to the Commission, and coordinate the staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and to render advice with respect to rule making matters and proceedings affecting more than one bureau.

(g) To exercise such authority as may be assigned or referred to it by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended.

(h) To cooperate with the International Bureau on all matters pertaining to space satellite communications.

(i) To interpret statutes and executive orders affecting the Commission's national defense responsibilities, and to perform such functions involving implementation of such statutes and executive orders as may be assigned to it by the Commission or the Defense Commissioner.

(j) To perform all legal functions with respect to leases, contracts, tort claims and such other internal legal problems as may arise.

(k) To issue determinations on matters regarding the interception and recording of telephone conversations by Commission personnel. Nothing in this paragraph, however, shall affect the authority of the Inspector General to intercept or record telephone conversations as necessary in the conduct of investigations or audits.

(l) To advise the Commission in the preparation and revision of rules and the implementation and administration of ethics regulations and the Freedom of Information, Privacy, Government in the Sunshine and Alternative Dispute Resolution Acts.

(m) To assist and make recommendations to the Commission, and to individual Commissioners assigned to review initial decisions, as to the disposition of cases of adjudication and such other cases as, by Commission policy, are handled in the same manner and which have been designated for hearing.

(n) To serve as the principal operating office on *ex parte* matters involving restricted proceedings. To review and dispose of all *ex parte* communications received from the public and others.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

[28 FR 12392, Nov. 22, 1963; 37 FR 19372, Sept. 20, 1972, as amended at 40 FR 17253, Apr. 18, 1975; 43 FR 29006, July 5, 1978; 44 FR 39179, July 5, 1979; 46 FR 57050, Nov. 20, 1981; 49 FR 47604, Dec. 6, 1984; 50 FR 2985, Jan. 23, 1985; 50 FR 49048, Nov. 29, 1985; 51 FR 12615, Apr. 14, 1986; 60 FR 5323, Jan. 27, 1995; 60 FR 34901, July 5, 1995; 62 FR 4170, Jan. 29, 1997; 62 FR 15853, Apr. 3, 1997; 64 FR 5950, Feb. 8, 1999; 64 FR 57585, Oct. 26, 1999]

INTERNATIONAL BUREAU

### §0.51 Functions of the Bureau.

The International Bureau has the following duties and responsibilities:

(a) To initiate and direct the development and articulation of international telecommunications policies, consistent with the priorities of the Commission;

(b) To advise the Chairman and Commissioners on matters of international telecommunications policy, and on the adequacy of the Commission's actions to promote the vital interests of the American public in international commerce, national defense, and foreign policy;

(c) To develop, recommend, and administer policies, rules, standards, and procedures for the authorization and regulation of international telecommunications facilities and services, domestic and international satellite systems, and international broadcast services;

(d) To monitor compliance with the terms and conditions of authorizations and licenses granted by the Bureau, and to pursue enforcement actions in conjunction with appropriate bureaus and offices;

(e) To represent the Commission on international telecommunications matters at both domestic and international conferences and meetings, and to direct and coordinate the Commission's preparation for such conferences and meetings;

(f) To serve as the single focal point within the Commission for cooperation

and consultation on international telecommunications matters with other Federal agencies, international or foreign organizations, and appropriate regulatory bodies and officials of foreign governments;

(g) To develop, coordinate with other Federal agencies, and administer the regulatory assistance and training programs for foreign administrations to promote telecommunications development;

(h) To provide advice and technical assistance to U.S. trade officials in the negotiation and implementation of telecommunications trade agreements, and consult with other bureaus and offices as appropriate;

(i) To conduct economic, legal, technical, statistical, and other appropriate studies, surveys, and analyses in support of international telecommunications policies and programs.

(j) To collect and disseminate within the Commission information and data on international telecommunications policies, regulatory and market developments in other countries, and international organizations;

(k) To work with the Office of Legislative Affairs to coordinate the Commission's activities on significant matters of international policy with appropriate Congressional offices;

(l) To promote the international coordination of spectrum allocations and frequency and orbital assignments so as to minimize cases of international radio interference involving U.S. licensees;

(m) To direct and coordinate, in consultation with other bureaus and offices as appropriate, negotiation of international agreements to provide for arrangements and procedures for coordination of radio frequency assignments to prevent or resolve international radio interference involving U.S. licensees;

(n) To ensure fulfillment of the Commission's responsibilities under international agreements and treaty obligations, and, consistent with Commission policy, to ensure that the Commission's regulations, procedures, and frequency allocations comply with the mandatory requirements of all applicable international and bilateral agreements;

(o) To oversee and, as appropriate, administer activities pertaining to the international consultation, coordination, and notification of U.S. frequency and orbital assignments, including activities required by bilateral agreements, the international Radio Regulations, and other international agreements;

(p) To advise the Chairman on priorities for international travel and develop, coordinate, and administer the international travel plan;

(q) To exercise authority to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the International Bureau. Before issuing a subpoena, the International Bureau shall obtain the approval of the Office of General Counsel.

(r) To assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(s) To coordinate with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[60 FR 5323, Jan. 27, 1995, as amended at 60 FR 35504, July 10, 1995; 64 FR 60716, Nov. 8, 1999; 67 FR 13217, Mar. 21, 2002; 71 FR 69034, Nov. 29, 2006]

## MEDIA BUREAU

### § 0.61 Functions of the Bureau.

The Media Bureau develops, recommends and administers the policy and licensing programs for the regulation of media, including cable television, broadcast television and radio, and satellite services in the United States and its territories. The Bureau advises and recommends to the Commission, or acts for the Commission under delegated authority, in matters pertaining to multichannel video programming distribution, broadcast radio and television, direct broadcast satellite service policy, and associated

matters. The Bureau will, among other things:

(a) Process applications for authorization, assignment, transfer and renewal of media services, including AM, FM, TV, the cable TV relay service, and related services.

(b) Conduct rulemaking proceedings concerning the legal, engineering, and economic aspects of media service.

(c) Conduct comprehensive studies and analyses concerning the legal, engineering, and economic aspects of electronic media services.

(d) Administer and enforce rules and policies regarding equal employment opportunity.

(e) Administer and enforce rules and policies regarding political programming and related matters.

(f) Administer and enforce rules and policies regarding:

(1) Radio and television broadcast industry services;

(2) Cable television systems, operators, and services, including those relating to rates, technical standards, customer service, ownership, competition to cable systems, broadcast station signal retransmission and carriage, program access, wiring equipment, channel leasing, and federal-state/local regulatory relationships. This includes: acting, after Commission assumption of jurisdiction to regulate cable television rates for basic service and associated equipment, on cable operator requests for approval of existing or increased rates; reviewing appeals of local franchising authorities' rate making decisions involving rates for the basic service tier and associated equipment, except when such appeals raise novel or unusual issues; evaluating basic rate regulation certification requests filed by cable system franchising authorities; periodically reviewing and, when appropriate, revising standard forms used in administering: the certification process for local franchising authorities wishing to regulate rates, and the substantive rate regulation standards prescribed by the Commission;

(3) Open video systems;

(4) Preemption of restrictions on devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, and direct broadcast satellite services;

(5) The commercial availability of navigational devices;

(6) The accessibility of video programming to persons with disabilities;

(7) Program access and carriage;

(8) The Satellite Home Viewer Improvement Act; and

(9) Post-licensing for satellite consumer broadcast services (DBS, DTH and DARS).

NOTE TO PARAGRAPH (f): The Media Bureau's enforcement authority does not include enforcement in those areas assigned to the Enforcement Bureau. See 47 CFR 0.111.

(g) Conduct rulemaking and policy proceedings regarding pole attachments.

(h) Process and act on all applications for authorization, petitions for special relief, petitions to deny, waiver requests, requests for certification, objections, complaints, and requests for declaratory rulings and stays regarding the areas listed.

(i) Assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(j) Exercise authority to issue nonhearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the Media Bureau. Before issuing a subpoena, the Media Bureau shall obtain the approval of the Office of General Counsel.

(k) Carry out the functions of the Commission under the Communications Act of 1934, as amended, except as reserved to the Commission under §0.283.

(l) To coordinate with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[67 FR 13217, Mar. 21, 2002, as amended at 71 FR 69034, Nov. 29, 2006]

OFFICE OF WORKPLACE DIVERSITY

**§ 0.81 Functions of the Office.**

(a) The Office of Workplace Diversity (OWD), as a staff office to the Commission, shall develop, coordinate, evaluate, and recommend to the Commission policies, programs, and practices that foster a diverse workforce and promote and ensure equal opportunity for all employees and applicants for employment. A principal function of the Office is to lead, advise, and assist the Commission, including all of its component Bureau/Office managers, supervisors, and staff, at all levels, on ways to promote inclusion and full participation of all employees in pursuit of the Commission's mission. In accordance with this function, the Office shall:

(1) Conduct independent analyses of the Commission's policies and practices to ensure that those policies and practices foster diversity in the workplace and ensure equal opportunity and equal treatment for employees and applicants; and

(2) Advise the Commission, Bureaus, and Offices of their responsibilities under Title VII of the Civil Rights Act of 1964, as amended; Section 501 of the Rehabilitation Act of 1973, as amended; Age Discrimination in Employment Act of 1967, as amended; Executive Order 11478; and all other statutes, Executive Orders, and regulatory provisions relating to workplace diversity, equal employment opportunity, nondiscrimination, and civil rights.

(b) The Office has the following duties and responsibilities:

(1) Through its Director, serves as the principal advisor to the Chairman and Commission officials on all aspects of workplace diversity, affirmative recruitment, equal employment opportunity, non-discrimination, and civil rights;

(2) Provides leadership and guidance to create a work environment that values and encourages diversity in the workplace;

(3) Is responsible for developing, implementing, and evaluating programs and policies to foster a workplace whose diversity reflects the diverse makeup of the Nation, enhances the mission of the Commission, and demonstrates the value and effectiveness of a diverse workforce;

(4) Is responsible for developing, implementing, and evaluating programs and policies that promote understanding among members of the Commission's workforce of their differences and the value of those differences and provide a channel for communication among diverse members of the workforce at all levels;

(5) Develops, implements, and evaluates programs and policies to ensure that all members of the Commission's workforce and candidates for employment have equal access to opportunities for employment, career growth, training, and development and are protected from discrimination and harassment;

(6) Develops and recommends Commission-wide workforce diversity goals and reports on achievements;

(7) Is responsible for developing, implementing, and evaluating programs and policies to enable all Bureaus and Offices to manage a diverse workforce effectively and in compliance with all equal employment opportunity and civil rights requirements;

(8) Works closely with the Associate Managing Director—Human Resources Management to ensure compliance with Federal and Commission recruitment and staffing requirements;

(9) Manages the Commission's equal employment opportunity compliance program. Responsibilities in this area include processing complaints alleging discrimination, recommending to the Chairman final decisions on EEO complaints within the Commission, and providing counseling services to employees and applicants on EEO matters;

(10) Develops and administers the Commission's program of accessibility and accommodation for disabled persons in accordance with applicable regulations;

(11) Represents the Commission at meeting with other public and private groups and organizations on matters counseling workplace diversity and equal employment opportunity and workplace diversity issues;

(12) Maintains liaison with and solicits views of organizations within and

outside the Commission on matters relating to equal opportunity and workplace diversity.

[61 FR 2727, Jan. 29, 1996]

WIRELINE COMPETITION BUREAU

**§0.91 Functions of the Bureau.**

The Wireline Competition Bureau advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the regulation and licensing of communications common carriers and ancillary operations (other than matters pertaining exclusively to the regulation and licensing of wireless telecommunications services and facilities). The Bureau will, among other things:

(a) Develop and recommend policy goals, objectives, programs and plans for the Commission in rulemaking and adjudicatory matters concerning wireline telecommunications, drawing on relevant economic, technological, legislative, regulatory and judicial information and developments. Overall objectives include meeting the present and future wireline telecommunications needs of the Nation; fostering economic growth; ensuring choice, opportunity, and fairness in the development of wireline telecommunications; promoting economically efficient investment in wireline telecommunications infrastructure; promoting the development and widespread availability of wireline telecommunications services; and developing deregulatory initiatives where appropriate.

(b) Act on requests for interpretation or waiver of rules.

(c) Administer the provisions of the Communications Act requiring that the charges, practices, classifications, and regulations of communications common carriers providing interstate and foreign services are just and reasonable.

(d) Act on applications for service and facility authorizations, including applications from Bell operating companies for authority to provide in-region interLATA services and applications from wireline carriers for transfers of licenses and discontinuance of service.

(e) Develop and administer rules and policies relating to incumbent local exchange carrier accounting.

(f) Develop and administer recordkeeping and reporting requirements for telecommunications carriers.

(g) Provide federal staff support for the Federal-State Joint Board on Universal Service and the Federal-State Joint Board on Jurisdictional Separations.

(h) Review the deployment of advanced telecommunications capability to ensure that such deployment is reasonable and timely, consistent with section 706 of the Act, and, where appropriate, recommend action to encourage such deployment.

(i) Provide economic, financial, and technical analyses of telecommunications markets and carrier performance.

(j) Act on petitions for *de novo* review of decisions of the Administrative Council for Terminal Attachments regarding technical criteria pursuant to §68.614.

(k) Interact with the public, local, state, and other governmental agencies and industry groups on wireline telecommunications regulation and related matters. Assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(l) Review and coordinate orders, programs and actions initiated by other Bureaus and Offices in matters affecting wireline telecommunications to ensure consistency with overall Commission policy.

(m) Carry out the functions of the Commission under the Communications Act of 1934, as amended, except as reserved to the Commission under §0.331.

(n) Address audit findings relating to the schools and libraries support mechanism, subject to the overall authority of the Managing Director as the Commission's audit follow-up official.

(o) Coordinate with the Public Safety and Homeland Security Bureau on all

matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[67 FR 13218, Mar. 21, 2002, as amended at 68 FR 13850, Mar. 21, 2003; 69 FR 55109, Sept. 13, 2004; 71 FR 69034, Nov. 29, 2006]

OFFICE OF COMMUNICATIONS BUSINESS OPPORTUNITIES

### § 0.101 Functions of the office.

(a) The Office of Communications Business Opportunities (OCBO), as a staff office to the Commission, develops, coordinates, evaluates, and recommends to the Commission, policies, programs, and practices that promote participation by small entities, women, and minorities in the communications industry. A principal function of the Office is to lead, advise, and assist the Commission, including all of its component Bureau/Office managers, supervisors, and staff, at all levels, on ways to ensure that the competitive concerns of small entities, women, and minorities, are fully considered by the agency in notice and comment rulemakings. In accordance with this function, the Office:

(1) Conducts independent analyses of the Commission's policies and practices to ensure that those policies and practices fully consider the interests of small entities, women, and minorities.

(2) Advises the Commission, Bureaus, and Offices of their responsibilities under the Congressional Review Act provisions regarding small businesses; the Report to Congress regarding Market Entry Barriers for Small Telecommunications Businesses (47 U.S.C. 257); and the Telecommunications Development Fund (47 U.S.C. 614).

(b) The Office has the following duties and responsibilities:

(1) Through its director, serves as the principal small business policy advisor to the Commission;

(2) Develops, implements, and evaluates programs and policies that promote participation by small entities, women and minorities in the communications industry;

(3) Manages the Regulatory Flexibility Analysis process pursuant to the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act to ensure that small business interests are fully considered in agency actions;

(4) Develops and recommends Commission-wide goals and objectives for addressing the concerns of small entities, women, and minorities and reports of achievement;

(5) Acts as the principal channel for disseminating information regarding the Commission's activities and programs affecting small entities, women, and minorities;

(6) Develops, recommends, coordinates, and administers objectives, plans and programs to encourage participation by small entities, women, and minorities in the decision-making process;

(7) Promotes increased awareness within the Commission of the impact of policies on small entities, women, and minorities;

(8) Acts as the Commission's liaison to other federal agencies on matters relating to small business.

[69 FR 7376, Feb. 17, 2003]

ENFORCEMENT BUREAU

### § 0.111 Functions of the Bureau.

(a) Serve as the primary Commission entity responsible for enforcement of the Communications Act and other communications statutes, the Commission's rules, Commission orders and Commission authorizations, other than matters that are addressed in the context of a pending application for a license or other authorization or in the context of administration, including post-grant administration, of a licensing or other authorization or registration program.

(1) Resolve complaints, including complaints filed under section 208 of the Communications Act, regarding acts or omissions of common carriers (wireline, wireless and international).

NOTE TO PARAGRAPH (a)(1): The Consumer and Governmental Affairs Bureau has primary responsibility for informally resolving individual informal complaints from consumers against common carriers (wireline, wireless and international) and against other wireless licensees, and informal consumer complaints involving access to telecommunications services and equipment for persons with disabilities. The International Bureau

has primary responsibility for complaints regarding international settlements rules and policies.

(2) Resolve complaints regarding acts or omissions of non-common carriers subject to the Commission's jurisdiction under Title II of the Communications Act and related provisions, including complaints against aggregators under section 226 of the Communications Act and against entities subject to the requirements of section 227 of the Communications Act.

NOTE TO PARAGRAPH (a)(2): The Consumer and Governmental Affairs Bureau has primary responsibility for informally resolving individual informal complaints from consumers against non-common carriers subject to the Commission's jurisdiction under Title II of the Communications Act and related provisions.

(3) Resolve formal complaints regarding accessibility to communications services and equipment for persons with disabilities, including complaints filed pursuant to sections 225 and 255 of the Communications Act.

(4) Resolve complaints regarding radiofrequency interference and complaints regarding radiofrequency equipment and devices, including complaints of violations of sections 302 and 333 of the Communications Act.

NOTE TO PARAGRAPH (a)(4): The Office of Engineering and Technology has shared responsibility for radiofrequency equipment and device complaints.

(5) Resolve complaints regarding compliance with the Commission's Emergency Alert System rules.

(6) Resolve complaints regarding the lighting and marking of radio transmitting towers under section 303(q) of the Communications Act.

NOTE TO PARAGRAPH (a)(6): The Wireless Telecommunications Bureau has responsibility for administration of the tower registration program.

(7) Resolve complaints regarding compliance with statutory and regulatory provisions regarding indecent communications subject to the Commission's jurisdiction.

(8) Resolve complaints regarding the broadcast and cable television children's television programming commercial limits contained in section 102 of the Children's Television Act.

NOTE TO PARAGRAPH (a)(8): The Media Bureau has responsibility for enforcement of these limits in the broadcast television renewal context.

(9) Resolve complaints regarding unauthorized construction and operation of communications facilities, including complaints of violations of section 301 of the Communications Act.

(10) Resolve complaints regarding false distress signals under section 325(a) of the Communications Act.

(11) Resolves other complaints against Title III licensees and permittees, including complaints under §20.12(e) of this chapter.

NOTE TO PARAGRAPH (a)(11): The Media Bureau has primary responsibility for complaints regarding children's television programming requirements, and for political and related programming matters and equal employment opportunity matters involving broadcasters, cable operators and other multichannel video programming distributors. The relevant licensing Bureau has primary responsibility for complaints involving tower siting and the Commission's environmental rules. The Media Bureau has primary responsibility for complaints regarding compliance with conditions imposed on transfers of control and assignments of licenses of Cable Antenna Relay Service authorizations.

(12) Resolve complaints regarding pole attachments filed under section 224 of the Communications Act.

(13) Resolve complaints regarding multichannel video and cable television service under part 76 of the Commission's rules.

NOTE TO PARAGRAPH (a)(13): The Media Bureau has primary responsibility for complaints regarding the following: subpart A (general), with the exception of §76.11 of this chapter; subpart B (Registration Statements); subpart C (Federal-State/Local Relationships [Reserved]; subpart D (carriage of television broadcast signals); subpart E (equal employment opportunity requirements); subpart F (nonduplication protection and syndicated exclusivity); subpart G, §§76.205, 76.206 and 76.209 of this chapter (political broadcasting); subpart I (Forms and Reports); subpart J (ownership); subpart L (cable television access); subpart N, §76.944 of this chapter (basic cable rate appeals), and §§76.970, 76.971 and 76.977 of this chapter (cable leased access rates); subpart O (competitive access to cable programming); subpart P (competitive availability of navigation devices); subpart Q (regulation of carriage agreements); subpart S (Open Video

Systems); and subparts T, U and V to the extent related to the matters listed in this note.

(14) Resolve universal service suspension and debarment proceedings pursuant to § 54.521 of this chapter.

(15) Upon referral from the General Counsel pursuant to § 0.251(g), impose sanctions for violations of the Commission's *ex parte* rules including, but not limited to, the imposition of monetary forfeitures, consistent with § 0.311.

(16) Resolve complaints regarding other matters assigned to it by the Commission, matters that do not fall within the responsibility of another Bureau or Office or matters that are determined by mutual agreement with another Bureau or Office to be appropriately handled by the Enforcement Bureau.

(17) Identify and analyze complaint information, conduct investigations, conduct external audits and collect information, including pursuant to sections 218, 220, 308(b), 403 and 409(e) through (k) of the Communications Act, in connection with complaints, on its own initiative or upon request of another Bureau or Office.

(18) Issue or draft orders taking or recommending appropriate action in response to complaints or investigations, including, but not limited to, admonishments, damage awards where authorized by law or other affirmative relief, notices of violation, notices of apparent liability and related orders, notices of opportunity for hearing regarding a potential forfeiture, hearing designation orders, orders designating licenses or other authorizations for a revocation hearing and consent decrees. Issue or draft appropriate orders after a hearing has been terminated by an Administrative Law Judge on the basis of waiver. Issue or draft appropriate interlocutory orders and take or recommend appropriate action in the exercise of its responsibilities.

(19) Encourage cooperative compliance efforts.

(20) Mediate and settle disputes.

(21) Provide information regarding pending complaints, compliance with relevant requirements and the complaint process, where appropriate and to the extent the information is not available from the Consumer and Governmental Affairs Bureau or other Bureaus and Offices.

(22) Exercise responsibility for rulemaking proceedings regarding general enforcement policies and procedures.

(23) Advise the Commission or responsible Bureau or Office regarding the enforcement implications of existing and proposed rules.

(24) Serve as the primary point of contact for coordinating enforcement matters, including market and consumer enforcement matters, with other federal, state and local government agencies, as well as with foreign governments after appropriate consultation, and provide assistance to such entities. Refer matters to such entities, as well as to private sector entities, as appropriate.

(b) Serve as trial staff in formal hearings conducted pursuant to 5 U.S.C. 556 regarding applications, revocation, forfeitures and other matters designated for hearing.

(c) In coordination with the International Bureau, participate in international conferences dealing with monitoring and measurement; serve as the point of contact for the U.S. Government in matters of international monitoring, fixed and mobile direction-finding and interference resolution; and oversee coordination of non-routine communications and materials between the Commission and international or regional public organizations or foreign administrations.

(d) In conjunction with the Office of Engineering and Technology, work with technical standards bodies.

(e) Oversee the Commission's privatized ship radio safety inspection program.

(f) Provide field support for, and field representation of, the Bureau, other Bureaus and Offices and the Commission. Coordinate with other Bureaus and Offices as appropriate.

(g) Handle congressional and other correspondence relating to or requesting specific enforcement actions, specific complaints or other specific matters within the responsibility of the Bureau, to the extent not otherwise handled by the Consumer and Governmental Affairs Bureau, the Office of General Counsel (impermissible ex

parte presentations) or another Bureau or Office;

(h) Have authority to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the responsibility of the Bureau. Before issuing a subpoena, the Enforcement Bureau shall obtain the approval of the Office of General Counsel.

(i) Perform such other functions as may be assigned or referred to it by the Commission.

[64 FR 60716, Nov. 8, 1999, as amended at 67 FR 13218, Mar. 21, 2002; 68 FR 36942, June 20, 2003; 69 FR 30233, May 27, 2004; 71 FR 69034, Nov. 29, 2006; 76 FR 24381, May 2, 2011; 76 FR 26220, May 6, 2011]

EFFECTIVE DATE NOTE: At 76 FR 59232, Sept. 23, 2011, §0.111 was amended by adding paragraph (a)(24), effective Nov. 20, 2011. This paragraph was subsequently correctly numbered per the Sept. 30 final rule at 76 FR 60755. For the convenience of the user, the added text is set forth as follows:

**§0.111 Functions of the Bureau.**

(a) * * *

(25) Resolve complaints alleging violations of the open Internet rules.

* * * * *

**§0.121 Location of field installations.**

(a) Field offices are located throughout the United States. For the address and phone number of the closest office contact the Enforcement Bureau or see the U.S. Government Manual.

(b) Protected field offices are located at the following geographical coordinates (coordinates are referenced to North American Datum 1983 (NAD83)):

Allegan, Michigan, 42°36′20.1″ N. Latitude, 85°57′20.1″ W. Longitude
Belfast, Maine, 44°26′42.3″ N. Latitude, 69°04′56.1″ W. Longitude
Canandaigua, New York, 42°54′48.2″ N. Latitude, 77°15′57.9″ W. Longitude
Douglas, Arizona, 31°30′02.3″ N. Latitude, 109°39′14.3″ W. Longitude
Ferndale, Washington, 48°57′20.4″ N. Latitude, 122°33′17.6″ W. Longitude
Grand Island, Nebraska, 40°55′21.0″ N. Latitude, 98°25′43.2″ W. Longitude
Kenai, Alaska, 60°43′26.0″ N. Latitude, 151°20′15.0″ W. Longitude
Kingsville, Texas, 27°26′30.1″ N. Latitude, 97°53′01.0″ W. Longitude
Laurel, Maryland, 39°09′54.4″ N. Latitude, 76°49′15.9″ W. Longitude
Livermore, California, 37°43′29.7″ N. Latitude, 121°45′15.8″ W. Longitude
Powder Springs, Georgia, 33°51′44.4″ N. Latitude, 84°43′25.8″ W. Longitude
Santa Isabel, Puerto Rico, 18°00′18.9″ N. Latitude, 66°22′30.6″ W. Longitude
Vero Beach, Florida, 27°36′22.1″ N. Latitude, 80°38′05.2″ W. Longitude
Waipahu, Hawaii, 21°22′33.6″ N. Latitude, 157°59′44.1″ W. Longitude

[53 FR 29054, Aug. 2, 1988, as amended at 61 FR 8477, Mar. 5, 1996; 63 FR 68918, Dec. 14, 1998; 64 FR 60718, Nov. 8, 1999; 67 FR 13219, Mar. 21, 2002; 69 FR 58097, Sept. 29, 2004]

WIRELESS TELECOMMUNICATIONS BUREAU

**§0.131 Functions of the Bureau.**

The Wireless Telecommunications Bureau develops, recommends and administers the programs and policies for the regulation of the terms and conditions under which communications entities offer domestic wireless telecommunications services and of ancillary operations related to the provision of such services (satellite communications excluded). These functions include all wireless telecommunications service providers' and licensees' activities. The Bureau also performs the following specific functions:

(a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of wireless telecommunications, including ancillary operations related to the provision or use of such services; and any matters concerning wireless carriers that also affect wireline carriers in cooperation with the Wireline Competition Bureau. These activities include: policy development and coordination; conducting rulemaking and adjudicatory proceedings, including licensing and complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance

and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities.

(b) Develops and recommends policy goals, objectives, programs and plans for the Commission on matters concerning wireless telecommunications, drawing upon relevant economic, technological, legislative, regulatory and judicial information and developments. Such matters include meeting the present and future wireless telecommunications needs of the Nation; fostering economic growth by promoting efficiency and innovation in the allocation, licensing and use of the electromagnetic spectrum; ensuring choice, opportunity and fairness in the development of wireless telecommunications services and markets; promoting economically efficient investment in wireless telecommunications infrastructure and the integration of wireless communications networks into the public telecommunications network; enabling access to national communications services; promoting the development and widespread availability of wireless telecommunications services. Reviews and coordinates orders, programs and actions initiated by other Bureaus and Offices in matters affecting wireless telecommunications to ensure consistency of overall Commission policy.

(c) Serves as the Commission's principal policy and administrative staff resource with regard to spectrum auctions. Administers all Commission spectrum auctions. Develops, recommends and administers policies, programs and rules concerning auctions of spectrum for wireless telecommunications. Advises the Commission on policy, engineering and technical matters relating to auctions of spectrum used for other purposes. Administers procurement of auction-related services from outside contractors. Provides policy, administrative and technical assistance to other Bureaus and Offices on auction issues.

(d) Regulates the charges, practices, classifications, terms and conditions for, and facilities used to provide, wireless telecommunications services. Develops and recommends consistent, integrated policies, programs and rules for the regulation of commercial mobile radio services and private mobile radio services.

(e) Develops and recommends policy, rules, standards, procedures and forms for the authorization and regulation of wireless telecommunications facilities and services, including all facility authorization applications involving domestic terrestrial transmission facilities. Coordinates with and assists the International Bureau regarding frequency assignment, coordination and interference matters.

(f) Develops and recommends responses to legislative, regulatory or judicial inquiries and proposals concerning or affecting wireless telecommunications.

(g) Develops and recommends policies regarding matters affecting the collaboration and coordination of relations among Federal agencies, and between the Federal government and the states, concerning wireless telecommunications issues. Maintains liaison with Federal and state government bodies concerning such issues.

(h) Develops and recommends policies, programs and rules to ensure interference-free operation of wireless telecommunications equipment and networks. Coordinates with and assists other Bureaus and Offices, as appropriate, concerning spectrum management, planning, and interference matters and issues, and in compliance and enforcement activities. Studies technical requirements for equipment for wireless telecommunications services in accordance with standards established by the Chief, Office of Engineering and Technology.

(i) Advises and assists consumers, businesses and other government agencies on wireless telecommunications issues and matters related thereto. Also assists the Consumer and Governmental Affairs Bureau with informal consumer complaints and other general inquiries by consumers.

(j) Administers the Commission's commercial radio operator program

(part 13 of this chapter) and the Commission's program for registration, construction, marking and lighting of antenna structures (part 17 of this chapter).

(k) Coordinates with and assists the International Bureau with respect to treaty activities and international conferences concerning wireless telecommunications.

(l) Exercises such authority as may be assigned, delegated or referred to it by the Commission.

(m) Certifies frequency coordinators; considers petitions seeking review of coordinator actions; and engages in oversight of coordinator actions and practices.

(n) Administers the Commission's amateur radio programs (part 97 of this chapter) and the issuing of maritime mobile service identities (MMSIs).

(o) Exercises authority to issue nonhearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of wireless telecommunications operators for any alleged violation or violations of the Communications Act of 1934, as amended, or the Commission's rules and orders. Before issuing a subpoena, the Wireless Telecommunications Bureau shall obtain the approval of the Office of General Counsel.

(p) Certifies, in the name of the Commission, volunteer entities to coordinate maintain and disseminate a common data base of amateur station special event call signs, and issues Public Notices detailing the procedures of amateur service call sign systems.

(q) Coordinates with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[60 FR 35505, July 10, 1995, as amended at 61 FR 4361, Feb. 6, 1996; 62 FR 17567, Apr. 10, 1997; 64 FR 60718, Nov. 8, 1999; 65 FR 375, Jan. 5, 2000; 67 FR 13219, Mar. 21, 2002; 69 FR 24997, May 5, 2004; 71 FR 69035, Nov. 29, 2006]

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU

### §0.141 Functions of the Bureau.

The Consumer and Governmental Affairs Bureau develops and administers the Commission's consumer and governmental affairs policies and initiatives to enhance the public's understanding of the Commission's work and to facilitate the Agency's relationships with other governmental agencies and organizations. The Bureau is responsible for rulemaking proceedings regarding general consumer education policies and procedures and serves as the primary Commission entity responsible for communicating with the general public regarding Commission policies, programs, and activities in order to facilitate public participation in the Commission's decision-making processes. The Bureau also performs the following functions:

(a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in matters pertaining to consumers and governmental affairs. This includes policy development and coordination as well as adjudication and rulemaking.

(b) Collaborates with, and advises and assists, the public, state and local governments, and other governmental agencies and industry groups on consumer matters.

(c) Advises the Commission and other Bureaus and Offices of consumer and governmental affairs-related areas of concern or interest; initiates, reviews, and coordinates orders, programs and actions, in conjunction with other Bureaus and Offices, in matters regarding consumer education policies and procedures, and any other related issues affecting consumer policy; represents the Commission on consumer and governmental-related committees, working groups, task forces and conferences within and outside the Commission; and provides expert advice and assistance to Bureaus and Offices and consumers regarding compliance with applicable disability and accessibility requirements, rules, and regulations.

(d) Collects and analyzes information from industry, other Bureaus and Offices, and the media, as well as information received in the Bureau from informal consumer inquiries and complaints, rulemakings, and consumer forums; identifies trends that affect consumers; in consultation with the Office of the Managing Director, provides objectives and evaluation methods for the public information portion of the Commission's Government Performance and Results Act submissions and other Commission-wide strategic planning efforts.

(e) Researches, develops, and distributes materials to inform consumers about the Commission's rules, proposals, and events, and to promote consumer participation in Commission rulemakings and activities; maintains the Commission's Consumer Information Directory; develops a library of commonly requested materials on issues of interest to all consumers. Ensures that alternative translations of Commission materials are available to Commission employees, Bureaus, Offices, and members of the public.

(f) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in matters pertaining to persons with disabilities. Provides expert advice and assistance, as required, to other Bureaus and Offices, consumers, industry, and others on issues relevant to persons with disabilities. Initiates rulemakings, where appropriate; reviews relevant agenda items and other documents and coordinates with Bureaus and Offices to develop recommendations and propose policies to ensure that communications are accessible to persons with disabilities, in conformance with existing disability laws and policies, and that they support the Commission's goal of increasing accessibility of communications services and technologies for persons with disabilities.

(g) Plans, develops, and conducts consumer outreach and education initiatives to educate the public about important Commission regulatory programs. In coordination with other Bureaus and Offices, establishes liaison(s) for information sharing purposes to ensure coordination on all consumer outreach projects. Ensures that alternative translations of Commission materials are available to Commission employees, Bureaus, Offices and members of the public.

(h) Serves as the official FCC records custodian for designated records, including intake processing, organization and file maintenance, reference services, and retirement and retrieval of records; manages the Electronic Comment Filing System and certifies records for adjudicatory and court proceedings. Maintains manual and computerized files that provide for the public inspection of public record materials concerning Broadcast Ownership, AM/FM/TV, TV translators, FM Translators, Cable TV, Wireless, Auction, Common Carrier Tariff matters, International space station files, earth station files, DBS files, and other miscellaneous international files. Also maintains for public inspection Time Brokerage and Affiliation Agreements, court citation files, and legislative histories concerning telecommunications dockets. Provides the public and Commission staff prompt access to manual and computerized records and filing systems. Periodically reviews the status of open docketed proceedings and, following:

(1) Consultation with and concurrence from the relevant bureau or office with responsibility for a particular proceeding,

(2) The issuance of a public notice listing proceedings under consideration for termination, and;

(3) A reasonable period during which interested parties may comment, closes any docket in which no further action is required or contemplated (with termination constituting a final determination in any such proceeding).

(i) Provides informal mediation and resolution of individual informal consumer inquiries and complaints consistent with Commission regulations. Resolves certain classes of informal complaints, as specified by the Commission, through findings of fact and issuance of orders. Receives, reviews, and analyzes responses to informal complaints; maintains manual and computerized files that permit the public inspection of informal consumer complaints; mediates and attempts to

settle unresolved disputes in informal complaints as appropriate; and coordinates with other Bureaus and Offices to ensure that consumers are provided with accurate, up-to-date information. Develops and fosters partnerships with state regulatory entities to promote the sharing of information pertaining to informal complaint files maintained by the Bureau.

(j) Provides leadership to other Bureaus and Offices for dissemination of consumer information via the Internet.

(k) In coordination with other Bureaus and Offices, handles Congressional and other correspondence related to specific informal consumer complaints, or other specific matters within the responsibility of the Bureau, to the extent not otherwise handled by the Office of General Counsel or other Bureaus or Offices. Responds to and/or coordinates due diligence and other requests for information pertaining to informal inquiries and complaints under the responsibility of the Bureau with other Bureaus and Offices.

[67 FR 13219, Mar. 21, 2002, as amended at 76 FR 24388, May 2, 2011]

OFFICE OF ADMINISTRATIVE LAW JUDGES

### §0.151 Functions of the Office.

The Office of Administrative Law Judges consists of a Chief Administrative Law Judge, an Assistant Chief Administrative Law Judge, and as many other Administrative Law Judges qualified and appointed pursuant to the requirements of section 11 of the Administrative Procedure Act as the Commission may find necessary. It is responsible for hearing and conducting all adjudicatory cases designated for any evidentiary adjudicatory hearing other than those designated to be heard by the Commission en banc, those designated to be heard by one or more members of the Commission, and those involving the authorization of service in the Instructional Television Fixed Service. The Office of Administrative Law Judges is also responsible for conducting such other hearings as the Commission may assign.

[61 FR 10689, Mar. 15, 1996]

HOMELAND SECURITY, DEFENSE AND EMERGENCY PREPAREDNESS FUNCTIONS

### §0.181 The Defense Commissioner.

The Defense Commissioner is designated by the Commission. The Defense Commissioner directs the homeland security, national security and emergency preparedness, and defense activities of the Commission and has the following duties and responsibilities:

(a) To keep the Commission informed as to significant developments in the field of homeland security, emergency preparedness, defense, and any related activities that involve formulation or revision of Commission policy in any area of responsibility of the Commission.

(b) To represent the Commission in public safety, homeland security, national security, emergency preparedness, disaster management, defense and related matters requiring conferences or communications with other governmental officers, departments, or agencies.

(c) To act as the Homeland Security and Defense Coordinator in representations with other agencies with respect to planning for the continuity of the essential functions of the Commission under emergency conditions.

(d) To serve as a member of the Joint Telecommunications Resources Board (JTRB).

(e) To serve as the principal point of contact for the Commission on all matters pertaining to the Department of Homeland Security.

(f) To take such measures as will assure continuity of the Commission's functions under any foreseeable circumstances with a minimum of interruption. In the event of an emergency, the Defense Commissioner, in consultation with the Chief, Public Safety and Homeland Security Bureau, will decide whether to activate the Commission's Continuity of Operations (COOP) plan and/or initiate the Commission's emergency response procedures.

(g) In the event of enemy attack, or the imminent threat thereof, or other disaster resulting in the inability of the Commission to function at its offices in Washington, D.C., to assume all of the duties and responsibilities of the

Commission and the Chairman, until relieved or augmented by other Commissioners or members of the staff, as set forth in §§ 0.186 and 0.383.

(h) To approve national emergency plans and develop preparedness programs covering: provision of service by common carriers; broadcasting and cable facilities, satellite and the wireless radio services; radio frequency assignment; electromagnetic radiation; investigation and enforcement.

(i) To perform such other duties and assume such other responsibilities related to the Commission's defense activities as may be necessary for the continuity of functions and the protection of Commission personnel and property.

(j) The Commission may designate an Alternate Defense Commissioner who is authorized to perform the functions of the Defense Commissioner if he or she is not available.

(k) To decide, in response to a request by the Public Safety Broadband Licensee whether circumstances warrant emergency priority access by first responder public safety entities to the Upper 700 MHz D Block license spectrum.

[29 FR 14664, Oct. 28, 1964, as amended at 41 FR 31209, July 27, 1976; 64 FR 60720, Nov. 8, 1999; 69 FR 32033, May 27, 2004; 71 FR 69035, Nov. 29, 2006; 72 FR 48842, Aug. 24, 2007]

### § 0.185 Responsibilities of the bureaus and staff offices.

The head of each of the bureaus and staff offices, in rendering assistance to the Chief, Public Safety and Homeland Security Bureau in the performance of that person's duties with respect to homeland security, national security, emergency management and preparedness, disaster management, defense, and related activities will have the following duties and responsibilities:

(a) To keep the Chief, Public Safety and Homeland Security Bureau informed of the investigation, progress, and completion of programs, plans, or activities with respect to homeland security, national security and emergency preparedness, and defense in which they are engaged or have been requested to engage.

(b) To render assistance and advice to the Chief, Public Safety and Homeland Security Bureau, on matters which relate to the functions of their respective bureaus or staff offices.

(c) To render such assistance and advice to other agencies as may be consistent with the functions of their respective bureaus or staff offices and the Commission's policy with respect thereto.

(d) To perform such other duties related to the Commission's homeland security, national security, emergency management and preparedness, disaster management, defense, and related activities as may be assigned to them by the Commission.

(e) To serve as Public Safety/Homeland Security Liaison to the Public Safety and Homeland Security Bureau or designate a Deputy Chief of the Bureau or Office as such liaison.

[29 FR 14665, Oct. 28, 1964, as amended at 50 FR 27953, July 9, 1985; 59 FR 26971, May 25, 1994; 61 FR 8477, Mar. 5, 1996; 64 FR 60721, Nov. 8, 1999; 69 FR 30234, May 27, 2004; 71 FR 69035, Nov. 29, 2006]

### § 0.186 Emergency Relocation Board.

(a) As specified in the Commission's Continuity of Operations Plan and consistent with the exercise of the War Emergency Powers of the President as set forth in section 706 of the Communications Act of 1934, as amended, if the full Commission or a quorum thereof is unable to act, an Emergency Relocation Board will be convened at the Commission's Headquarters or other relocation site designated to serve as Primary FCC Staff to perform the functions of the Commission. Relocation may be required to accommodate a variety of emergency scenarios. Examples include scenarios in which FCC headquarters is unavailable or uninhabitable; or many, if not all, agencies must evacuate the immediate Washington, DC, area. The FCC's Continuity of Operations Plan (COOP) includes the deliberate and pre-planned movement of selected key principals and supporting staff to a relocation facility. As an example, a sudden emergency, such as a fire or hazardous materials incident, may require the evacuation of FCC headquarters with little or no advance notice, but for only a short duration. Alternatively, an emergency so severe that FCC headquarters

is rendered unusable and likely will be for a period long enough to significantly impact normal operations, may require COOP implementation. Nothing in this subsection shall be construed to diminish the authority of the Commission or its staff to perform functions of the Commission at the Commission's headquarters or other relocation site using existing authority provided for elsewhere in this Chapter.

(b) The Board shall comprise such Commissioners as may be present (including Commissioners available through electronic communications or telephone) and able to act. In the absence of the Chairman, the Commissioner present with the longest seniority in office will serve as acting Chairman. If no Commissioner is present and able to act, the person designated as next most senior official in the Commission's Continuity of Operations Plan will head the Board.

[69 FR 30234, May 27, 2004]

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU

**§ 0.191 Functions of the Bureau.**

The Public Safety and Homeland Security Bureau advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and ancillary operations. The Bureau has responsibility for coordinating public safety, homeland security, national security, emergency management and preparedness, disaster management, and related activities within the Commission. The Bureau also performs the following functions.

(a) Develops, recommends, and administers policy goals, objectives, rules, regulations, programs and plans for the Commission to promote effective and reliable communications for public safety, homeland security, national security, emergency management and preparedness, disaster management and related activities, including public safety communications (including 911, enhanced 911, and other emergency number issues), priority emergency communications, alert and warning systems (including the Emergency Alert System), continuity of government operations, implementation of Homeland Security Presidential Directives and Orders, disaster management coordination and outreach, communications infrastructure protection, reliability, operability and interoperability of networks and communications systems, the Communications Assistance for Law Enforcement Act (CALEA), and network security. Recommends policies and procedures for public safety, homeland security, national security, emergency management and preparedness, and recommends national emergency plans and preparedness programs covering Commission functions during national emergency conditions. Conducts outreach and coordination activities with, among others, state and local governmental agencies, hospitals and other emergency health care providers, and public safety organizations. Recommends national emergency plans, policies, and preparedness programs covering the provision of service by communications service providers, including telecommunications service providers, information service providers, common carriers, and non-common carriers; broadcasting and cable facilities; satellite and wireless radio services; radio frequency assignment; electro-magnetic radiation; investigation and enforcement.

(b) Under the general direction of the Defense Commissioner, coordinates the public safety, homeland security, national security, emergency management and preparedness, disaster management, and related activities of the Commission, including national security and emergency preparedness and defense mobilization, Continuity of Government (COG) planning, alert and warning systems (including the Emergency Alert System), and other functions as may be delegated during a national emergency or activation of the President's war emergency powers as specified in section 706 of the Communications Act. Provides support to the Defense Commissioner, including with respect to his or her participation in

the Joint Telecommunications Resources Board, and the National Security Telecommunications Advisory Committee and other public safety and homeland security organizations and committees. Represents the Defense Commissioner with other Government agencies and organizations, the communications industry, and Commission licensees on public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Keeps the Defense Commissioner informed as to significant developments in the fields of public safety, homeland security, national security, emergency management, and disaster management activities, and related areas.

(c) Develops and administers rules, regulations, and policies for priority emergency communications, including the Telecommunications Service Priority System. Supports the Chiefs of the Wireline Competition, International and Wireless Telecommunications Bureaus on matters involving assignment of Telecommunications Service Priority System priorities and in administration of that system.

(d) The Chief, Public Safety and Homeland Security Bureau, or that person's designee, acts as FCC Alternate Homeland Security and Defense Coordinator and principal to the National Communications System, and the Chief, Public Safety and Homeland Security Bureau, or that person's designee, shall serve as the Commission's representative on National Communications Systems Committees.

(e) Conducts rulemaking proceedings and acts on requests for interpretation or waiver of rules.

(f) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of public safety, homeland security, national security, emergency management and preparedness, and disaster management wireless telecommunications, including ancillary operations related to the provision or use of such services. These activities include: policy development and coordination; conducting rulemaking and adjudicatory proceedings, including complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities. In addition, advises and assists public safety entities on wireless telecommunications issues and matters related thereto. Administers all authority previously delegated to the Wireless Telecommunications Bureau (including those delegations expressly provided to the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau) in Improving Public Safety Communications in the 800 MHz Band, WT Docket 02–55.

(g) Conducts studies of public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Develops and administers recordkeeping and reporting requirements for communications companies pertaining to these issues. Administers any Commission information collection requirements pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues, including the communications disruption reporting requirements set forth in part 4 of this chapter and revision of the filing system and template used for the submission of those communications disruption reports.

(h) Interacts with the public, local, state, and other governmental agencies and industry groups (including advisory committees and public safety organizations and associations) on public safety, homeland security, national security, emergency management, disaster management and related issues. As requested, represents the Commission at meetings and conferences. Serves as the point of contact for the U.S. Government in matters of international monitoring, fixed and mobile

direction-finding and interference resolution; and oversees coordination of non-routine communications and materials between the Commission and international or regional public organizations or foreign administrations.

(i) Maintains and operates the Commission's public safety, homeland security, national security, emergency management and preparedness, and disaster management facilities and operations, including the Communications Center, the establishment of any Emergency Operations Center (EOC), and any liaison activities with other federal, state, or local government organizations.

(j) Reviews and coordinates orders, programs and actions initiated by other Bureaus and Offices in matters affecting public safety, homeland security, national security, emergency management and preparedness, disaster management and related issues to ensure consistency with overall Commission policy. Provides advice to the Commission and other Bureaus and offices regarding the public safety, homeland security, national security, emergency management, and disaster management implications of existing and proposed rules.

(k) Develops and recommends responses to legislative, regulatory or judicial inquiries and proposals concerning or affecting public safety, homeland security, national security, emergency management, disaster management and related issues. Responses to judicial inquiries should be developed with and recommended to the Office of General Counsel.

(l) Develops and maintains the Commission's plans and procedures, including the oversight, preparation, and training of Commission personnel, for Continuity of Operations (COOP), Continuity of Government functions, and Commission activities and responses to national emergencies and other similar situations.

(m) Acts on emergency requests for Special Temporary Authority during non-business hours when the other Offices and Bureaus of the Commission are closed. Such actions shall be coordinated with, if possible, and promptly reported to the responsible Bureau or Office.

(n) Maintains liaison with other Bureaus and Offices concerning matters affecting public safety, homeland security, national security, emergency management and preparedness, disaster management and related issues.

(o) [Reserved]

(p) Performs such other functions and duties as may be assigned or referred to it by the Commission or the Defense Commissioner.

(q) Oversees the Emergency Response Interoperability Center, establishes the intergovernmental advisory committees described under §0.192(b), and administers the agency's responsibilities in connection with such committees.

[71 FR 69035, Nov. 29, 2006, as amended at 73 FR 9463, Feb. 21, 2008; 75 FR 28207, May 20, 2010; 75 FR 78169, Dec. 15, 2010]

**§0.192 Emergency Response Interoperability Center.**

(a) The Emergency Response Interoperability Center acts under the general direction of the Chief of the Public Safety and Homeland Security Bureau to develop, recommend, and administer policy goals, objectives, rules, regulations, programs, and plans for the Commission in matters pertaining to the implementation of national interoperability standards and the development of technical and operational requirements and procedures for the 700 MHz public safety broadband wireless network and other public safety communications systems. These requirements and procedures may involve such issues as interoperability, roaming, priority access, gateway functions and interfaces, interconnectivity of public safety broadband networks, authentication and encryption, and requirements for common public safety broadband applications.

(b) To the extent permitted by applicable law, the Chief of the Public Safety and Homeland Security Bureau shall have delegated authority to establish one or more advisory bodies, consistent with the Federal Advisory Committee Act or other applicable law, to advise the Emergency Response Interoperability Center in the performance of its responsibilities. Such advisory bodies may include representatives from relevant Federal public safety and homeland security entities, representatives

from state and local public safety entities, industry representatives, and service providers.

[75 FR 28207, May 20, 2010]

## Subpart B—Delegations of Authority

AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

GENERAL

### § 0.201 General provisions.

(a) There are three basic categories of delegations made by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended:

(1) *Delegations to act in non-hearing matters and proceedings.* The great bulk of delegations in this category are made to bureau chiefs and other members of the Commission's staff. This category also includes delegations to individual commissioners and to boards or committees of commissioners.

(2) *Delegations to rule on interlocutory matters in hearing proceedings.* Delegations in this category are made to the Chief Administrative Law Judge.

NOTE TO PARAGRAPH (a)(2): Interlocutory matters which are not delegated to the Chief Administrative Law Judge are ruled on by the presiding officer by virtue of the authority vested in him to control the course and conduct of the hearing. This authority stems from section 7 of the Administrative Procedure Act and section 409 of the Communications Act rather than from delegations of authority made pursuant to section 5(c) of the Communications Act. (See §§ 0.218 and 0.341.).

(3) *Delegations to review an initial decision.* Delegations in this category are made to individual commissioners, to panels of commissioners.

(b) Delegations are arranged in this subpart under headings denoting the person, panel, or board to whom authority has been delegated, rather than by the categories listed in paragraph (a) of this section.

(c) Procedures pertaining to the filing and disposition of interlocutory pleadings in hearing proceedings are set forth in §§ 1.291 through 1.298 of this chapter. Procedures pertaining to appeals from rulings of the presiding officer are set forth in § 1.301. Procedures pertaining to reconsideration of the presiding officer's rulings are set forth in § 1.303. Procedures pertaining to reconsideration and review of actions taken pursuant to delegated authority are set forth in §§ 1.101, 1.102, 1.104, 1.106, 1.113, 1.115, and 1.117. Procedures pertaining to exceptions to initial decisions are set forth in §§ 1.276–1.279.

(d) The Commission, by vote of a majority of the members then holding office, may delegate its functions either by rule or by order, and may at any time amend, modify, or rescind any such rule or order.

(1) Functions of a continuing or recurring nature are delegated by rule. The rule is published in the FEDERAL REGISTER and is included in this subpart.

(2) Functions pertaining to a particular matter or proceeding are delegated by order. The order is published in the FEDERAL REGISTER and associated with the record of that matter or proceeding, but neither the order nor any reference to the delegation made thereby is included in this subpart.

[28 FR 12402, Nov. 22, 1963, as amended at 50 FR 26567, June 27, 1985; 62 FR 4170, Jan. 29, 1997]

### § 0.203 Authority of person, panel, or board to which functions are delegated.

(a) The person, panel, or board to which functions are delegated shall, with respect to such functions, have all the jurisdiction, powers, and authority conferred by law upon the Commission, and shall be subject to the same duties and obligations.

(b) Except as provided in § 1.102 of this chapter, any action taken pursuant to delegated authority shall have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the Commission.

[28 FR 12402, Nov. 22, 1963]

### § 0.204 The exercise of delegated authority.

(a) *Authority to issue orders and to enter into correspondence.* Any official

(or group of officials) to whom authority is delegated in this subpart is authorized to issue orders (including rulings, decisions, or other action documents) pursuant to such authority and to enter into general correspondence concerning any matter for which he is responsible under this subpart or subpart A of this part.

(b) *Authority of subordinate officials.* Authority delegated to any official to issue orders or to enter into correspondence under paragraph (a) of this section may be exercised by that official or by appropriate subordinate officials acting for him.

(c) *Signature.* (1) Other orders made by a committee, board or panel identify the body and are signed by the Secretary.

(2) Upon signing an order, the Secretary affixes the Commission's seal.

(3) General correspondence by a committee or board is signed by the committee or board chairman.

(4) All other orders and letters are signed by the official who has given final approval of their contents.

(5) With the exception of license forms requiring the signature of an appropriate official of the issuing bureau or office, license forms bear only the seal of the Commission.

(d) *Form of orders.* Orders may be issued in any appropriate form (e.g., as captioned orders, letters, telegrams) and may, if appropriate, be issued orally. Orders issued orally shall, if practicable, be confirmed promptly in writing.

(e) *Minutes entries.* Except as otherwise provided in this subpart, actions taken as provided in paragraph (d) of this section shall be recorded in writing and filed in the official minutes of the Commission.

[33 FR 8227, June 1, 1968, as amended at 38 FR 18550, July 12, 1973; 62 FR 4170, Jan. 29, 1997]

COMMISSIONERS

### §0.211 Chairman.

The responsibility for the general administration of internal affairs of the Commission is delegated to the Chairman of the Commission. The Chairman will keep the Commission advised concerning his actions taken under this delegation of authority. This authority includes:

(a) Actions of routine character as to which the Chairman may take final action.

(b) Actions of non-routine character which do not involve policy determinations. The Chairman may take final action on these matters but shall specifically advise the Commission on these actions.

(c) Actions of an important character or those which involve policy determinations. In these matters the Chairman will develop proposals for presentation to the Commission.

(d) To act within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, upon tort claims directed against the Commission where the amount of damages does not exceed $5,000.

(e) Authority to act as ''Head of the Agency'' or ''Agency Head'' for administrative determinations required by Federal Procurement Regulations and Federal Management Circulars.

(f) Authority to act as ''Head of the Agency'' or ''Agency Head'' for all administrative determinations pursuant to the Debt Collection Improvement Act of 1996, Public Laws 104–134, 110 Stat. 1321, 1358 (1996) (DCIA).

[28 FR 12402, Nov. 22, 1963, as amended at 41 FR 49095, Nov. 8, 1976; 51 FR 23550, June 30, 1986; 69 FR 27847, May 17, 2004]

### §0.212 Board of Commissioners.

(a) Whenever the Chairman or Acting Chairman of the Commission determines that a quorum of the Commission is not present or able to act, he may convene a Board of Commissioners. The Board shall be composed of all Commissioners present and able to act.

(b) The Board of Commissioners is authorized to act upon all matters normally acted upon by the Commission en banc, except the following:

(1) The final determination on the merits of any adjudicatory or investigatory hearing proceeding or of any rule making proceeding, except upon a finding by the Board that the public interest would be disserved by waiting the convening of a quorum of the Commission.

(2) Petitions for reconsideration of Commission actions.

(3) Applications for review of actions taken pursuant to delegated authority.

(c) The Board of Commissioners is authorized to act upon all matters normally acted upon by an individual Commissioner (when he or his alternates are not present or able to act) or by a committee of Commissioners (in the absence of a quorum of the committee).

(d) Actions taken by the Board of Commissioners shall be recorded in the same manner as actions taken by the Commission en banc.

(e) This section has no application in circumstances in which the Commission is unable to function at its offices in Washington, D.C. See §§ 0.181–0.186 and §§ 0.381–0.387.

[30 FR 9314, July 27, 1965]

### § 0.218 Authority of, and delegated to, an individual Commissioner or Commissioners.

(a) One or more members of the Commission may be designated to preside in a hearing proceeding. The Commissioner or Commissioners designated to preside at such a hearing shall fix the time and place of the hearing and shall act upon all motions, petitions or other matters which may arise while the proceeding is in hearing status.

(b) One or more members of the Commission may be designated to review an initial decision issued in any hearing case.

(c) Except for actions taken during the course of a hearing and upon the record thereof, actions taken by a Commissioner or Commissioners pursuant to the provisions of this section shall be recorded in writing and filed in the official minutes of the Commission.

[27 FR 7931, Aug. 10, 1962]

## MANAGING DIRECTOR

### § 0.231 Authority delegated.

(a) The Managing Director, or his designee, upon securing concurrence of the General Counsel, is delegated authority to act upon requests for waiver, reduction or deferment of fees, establish payment dates, and issue notices proposing amendments or adjustments to the fee schedules established under part 1, subpart G, of this chapter.

(b) The Managing Director, or his designee, is delegated authority to make nonsubstantive, editorial revisions of the Commission's rules and regulations upon approval of the bureau or staff office primarily responsible for the particular part or section involved.

(c) [Reserved]

(d) The Managing Director, or his designee, upon securing the concurrence of the General Counsel, is delegated authority, within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, to grant tort claims directed against the Commission where the amount of the claim does not exceed $5,000. In addition thereto, the Managing Director, or his designee, upon securing the concurrence of the General Counsel, is delegated authority to act in the disposition of claims arising under the Military Personnel and Civilian Employees' Claims Act, as amended, 31 U.S.C. 3701 and 3721, where the amount of the claim does not exceed $6,500.

(e) The Managing Director is delegated authority to act as Head of the Procurement Activity and Contracting Officer for the Commission and to designate appropriate subordinate officials to act as Contracting Officers for the Commission. As Head of the Procurement Activity, the Managing Director will refer all appeals filed against final decisions regarding procurement contracts to the Armed Services Board of Contract Appeals for resolution. Appeals will be handled in accordance with the Rules of the Board of Contract Appeals.

(f) (1) The Managing Director, or his designee, is delegated authority to perform all administrative determinations provided for by the Debt Collection Improvement Act of 1996, Public Laws 104–134, 110 Stat. 1321, 1358 (1996) (DCIA), including, but not limited to the provisions of Title 31, United States Code section 3711 to:

(i) Collect claims of the United States Government for money or property arising out of the activities of, or referred to, the Federal Communications Commission,

(ii) Compromise a claim of the Government of not more than $100,000 (excluding interest) or such higher amount as the Attorney General of the United States may from time to time prescribe, and

(iii) Suspend or end collection action on a claim of the Government of not more than $100,000 (excluding interest) when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(2)(i) This delegation does not include waiver authority provided by 31 U.S.C. 3720B.

(ii) The Chief Financial Officer, or the Deputy Chief Financial Officer, is delegated authority to perform all administrative determinations provided for by 31 U.S.C. 3720B.

(g) The Managing Director, after consultation with the Chairman shall establish, renew, and terminate all Federal advisory committees. He shall also exercise all management responsibilities under the Federal Advisory Committee Act as amended (Pub. L. No. 92–463, 5 U.S.C. App.).

(h) [Reserved]

(i) The Secretary, acting under the supervision of the Managing Director, serves as the official custodian of the Commission's documents and shall have authority to appoint a deputy or deputies for the purposes of custody and certification of documents located in Gettysburg, Pennsylvania or other established locations. The Secretary is delegated authority to rule on requests for extensions of time based on operational problems associated with the Commission's electronic comment filing system. See §1.46 of this chapter.

(j) The Managing Director or his designee is delegated the authority, after seeking the opinion of the General Counsel, to determine, in accordance with generally accepted accounting principles for federal agencies the organizations, programs (including funds), and accounts that are required to be included in the financial statements of the Commission.

(k) The Managing Director, or his designee, after seeking the opinion of the General Counsel, is delegated the authority to direct all organizations, programs (including funds), and accounts that are required to be included in the financial statements of the Commission to comply with all relevant and applicable federal financial management and reporting statutes.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303; 18 U.S.C. 207(j); 39 U.S.C. 3220; Notice of Preliminary Guidelines issued by the Department of Justice, 50 FR 46622, November 8, 1985)

CROSS REFERENCE: 47 CFR part 19, subpart E.

[29 FR 14666, Oct. 28, 1964]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §0.231, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

CHIEF ENGINEER

### §0.241 Authority delegated.

(a) The performance of functions and activities described in §0.31 is delegated to the Chief of the Office of Engineering and Technology: *Provided*, that the following matters shall be referred to the Commission en banc for disposition:

(1) Notices of proposed rulemaking and of inquiry and final orders in rulemaking proceedings, inquiry proceedings and non-editorial orders making changes, except that the Chief of the Office of Engineering and Technology is delegated authority, together with the Chief of the Wireless Telecommunications Bureau, to adopt certain technical standards applicable to hearing aid compatibility under §20.19 of this chapter, as specified in §20.19(k).

(2) Petitions for review of actions taken to delegated authority. See §1.115 of this chapter.

(3) Petitions and other requests for waivers of the Commission's rules, whether or not accompanied by an applications, when such petitions or requests contain new or novel arguments not previously considered by the Commission or present facts or arguments which appear to justify a change in Commission policy.

(4) Petitions and other requests for declaratory rulings, when such petitions or requests contain new or novel arguments not previously considered

by the Commission or preset facts or arguments which appear to justify a change in Commission policy.

(5) Any other petition, pleading or request presenting new or novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(6) Any other complaint or enforcement matter presenting new or novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(7) Authority to issued a notice of opportunity for hearing pursuant to § 1.80(g) of this chapter; and authority to issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under § 1.80(f) of this chapter, if the amount set out in the notice of apparent liability is more than $20,000.

(8) Proposed actions following any case remanded by the courts.

(b) The Chief of the Office of Engineering and Technology is delegated authority to administer the Equipment Authorization program as described in part 2 of this chapter.

(c) The Chief of the Office of Engineering and Technology is delegated authority to administer the Experimental Radio licensing program pursuant to part 5 of this chapter.

(d) The Chief of the Office of Engineering and Technology is delegated authority to examine all applications for certification (approval) of subscription television technical systems as acceptable for use under a subscription television authorization as provided for in this chapter, to notify the applicant that an examination of the certified technical information and data submitted in accordance with the provisions of this chapter indicates that the system does or does not appear to be acceptable for authorization as a subscription television system. This delegation shall be exercised in consultation with the Chief, Media Bureau.

(e) The Chief of the Office of Engineering and Technology is authorized to dismiss or deny petitions for rulemaking which are repetitive or moot or which for other reasons plainly do not warrant consideration by the Commission.

(f) The Chief of the Office of Engineering and Technology is authorized to enter into agreements with the National Institute of Standards and Technology and other accreditation bodies to perform accreditation of test laboratories pursuant to § 2.948(d) of this chapter. In addition, the Chief is authorized to make determinations regarding the continued acceptability of individual accrediting organizations and accredited laboratories.

(g) The Chief of the Office of Engineering and Technology is delegated authority to enter into agreements with the National Institute of Standards and Technology to perform accreditation of Telecommunication Certification Bodies (TCBs) pursuant to §§ 2.960 and 2.962 of this chapter. In addition, the Chief is delegated authority to develop specific methods that will be used to accredit TCBs, to designate TCBs, to make determinations regarding the continued acceptability of individual TCBs, and to develop procedures that TCBs will use for performing post-market surveillance.

(h) The Chief of the Office of Engineering and Technology is delegated authority to administer the database functions for unlicensed devices operating in the television broadcast bands (TV bands) as set forth in subpart H of part 15 of this chapter. The Chief is delegated authority to develop specific methods that will be used to designate TV bands database managers, to designate these database managers; to develop procedures that these database managers will use to ensure compliance with the requirements for database operations; to make determinations regarding the continued acceptability of individual database managers; and to perform other functions as needed for the administration of the TV bands databases. The Chief is also delegated authority jointly with the Chief of the Wireless Telecommunications Bureau to administer provisions of § 15.713(h)(8) of this chapter pertaining to the registration of event sites where large numbers of wireless microphones that operate on frequencies specified in § 74.802 of this chapter are used.

(i) The Chief of the Office of Engineering and Technology is delegated

authority to make nonsubstantive, editorial revisions to the Commission's rules and regulations contained in parts 2, 4, 5, 15, and 18 of this chapter.

[51 FR 41106, Nov. 13, 1986, as amended at 57 FR 18088, Apr. 29, 1992; 60 FR 5324, Jan. 27, 1995; 60 FR 32119, June 20, 1995; 61 FR 4918, Feb. 9, 1996; 61 FR 31045, June 19, 1996; 62 FR 48952, Sept. 18, 1997; 64 FR 4995, Feb. 2, 1999; 67 FR 13220, Mar. 21, 2002; 69 FR 70337, Dec. 3, 2004; 73 FR 9463, Feb. 21, 2008; 73 FR 25587, May 7, 2008; 75 FR 75835, Dec. 6, 2010]

### §0.247 Record of actions taken.

The application and authorization files and other appropriate files of the Office of Engineering and Technology are designated as the official minute entries of actions taken pursuant to §§0.241 and 0.243.

[33 FR 8228, June 1, 1968, as amended at 44 FR 39179, July 5, 1979; 51 FR 12615, Apr. 14, 1986]

GENERAL COUNSEL

### §0.251 Authority delegated.

(a) The General Counsel is delegated authority to act as the ''designated agency ethics official.''

(b) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the General Counsel is delegated authority:

(1) To act upon requests for extension of time within which briefs, comments or pleadings may be filed.

(2) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(3) To dismiss or deny petitions for rulemaking which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

(4) To dismiss as repetitious any petition for reconsideration of a Commission order denying an application for review which fails to rely on new facts or changed circumstances.

(c) The General Counsel is delegated authority in adjudicatory hearing proceedings which are pending before the Commission en banc to act on all requests for relief, and to issue all appropriate orders, except those which involve final disposition on the merits of a previously specified issue concerning an applicant's basic qualifications or two or more applicants' comparative qualifications.

(d) When an adjudicatory proceeding is before the Commission for the issuance of a final order or decision, the General Counsel will make every effort to submit a draft order or decision for Commission consideration within four months of the filing of the last responsive pleading. If the Commission is unable to adopt an order or decision in such cases within five months of the last responsive pleading, it shall issue an order indicating that additional time will be required to resolve the case.

(e) The official record of all actions taken by the General Counsel pursuant to §0.251 (c) and (d) is contained in the original docket folder, which is maintained by the Reference Information Center.

(f) The General Counsel is delegated authority to issue written determinations on matters regarding the interception of telephone conversations. Nothing in this paragraph, however, shall affect the authority of the Inspector General to intercept or record telephone conversations as necessary in the conduct of investigations or audits.

(g) The General Counsel is delegated authority to issue rulings on whether violations of the *ex parte* rules have occurred and to impose appropriate sanctions. The General Counsel shall refer to the Enforcement Bureau for disposition pursuant to §0.311(b) any matter in which a forfeiture or a citation under 47 U.S.C. 503(b)(5) may be warranted. If the Enforcement Bureau determines that forfeiture or a citation is not warranted, the matter shall be referred back to the General Counsel for appropriate action.

(h) The General Counsel is delegated authority to make determinations regarding and waive the applicability of section 4(b) of the Communications Act (47 U.S.C. §154(b)) and the Federal conflict of interest statutes (18 U.S.C. §§203, 205 and 208).

(i) The General Counsel is delegated authority to perform all administrative determinations provided for by the Debt Collection Improvement Act of

1996, Public Law 104–134, 110 Stat. 1321, 1358 (1996) (DCIA), including, but not limited to the provisions of Title 31, U.S.C. 3711 to:

(1) Collect claims of the United States Government of money or property arising out of the activities of, or referred to, the Federal Communications Commission,

(2) Compromise a claim of the Government of not more than $100,000 (excluding interest) or such higher amount as the Attorney General of the United States may from time to time prescribe, and

(3) Suspend or end collection action on a claim of the Government of not more than $100,000 (excluding interest) when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

NOTE TO PARAGRAPH (i): This delegation does not include waiver authority provided by 31 U.S.C. 3720B.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

[28 FR 12402, Nov. 22, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 0.251, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

INTERNATIONAL BUREAU

SOURCE: Sections 0.261 and 0.262 appear at 60 FR 5324, Jan. 27, 1995, unless otherwise noted.

### § 0.261 Authority delegated.

(a) Subject to the limitations set forth in paragraph (b) of this section, the Chief, International Bureau, is hereby delegated the authority to perform the functions and activities described in § 0.51, including without limitation the following:

(1) To recommend rulemakings, studies, and analyses (legal, engineering, social, and economic) of various petitions for policy or rule changes submitted by industry or the public, and to assist the Commission in conducting the same;

(2) To assume the principal representational role on behalf of the Commission in international conferences, meetings, and negotiations, and direct Commission preparation for such conferences, meetings, and negotiations with other bureaus and offices, as appropriate;

(3) To act upon applications for international telecommunications and services pursuant to relevant portions of part 63 of this chapter, and coordinate with the Wireline Competition Bureau as appropriate;

(4) To act upon applications for international and domestic satellite systems and earth stations pursuant to part 25 and part 100 of this chapter;

(5) To act upon applications for cable landing licenses pursuant to § 1.767 of this chapter;

(6) To act upon requests for designation of Recognized Private Operating Agency (RPOA) status under part 63 of this chapter;

(7) To act upon applications relating to international broadcast station operations, or for permission to deliver programming to foreign stations, under part 73 of this chapter;

(8) To administer and enforce the policies and rules on international settlements under part 64 of this chapter;

(9) To administer portions of part 2 of this chapter dealing with international treaties and call sign provisions, and to make call sign assignments, individually and in blocks, to U.S. Government agencies and FCC operating bureaus;

(10) To act upon applications for closure of public coast stations in the maritime service under part 63 of this chapter and to coordinate its efforts with the Wireless Telecommunications Bureau.

(11) To administer Commission participation in the International Telecommunication Union (ITU) Fellowship telecommunication training program for foreign officials offered through the U.S. Telecommunications Training Institute;

(12) In consultation with the affected Bureaus and Offices, to recommend revision of Commission rules and procedures as appropriate to conform to the outcomes of international conferences, agreements, or treaties;

(13) To notify the ITU of the United States' terrestrial and satellite assignments for inclusion in the Master International Frequency Register;

(14) To conduct studies and compile such data relating to international telecommunications as may be necessary for the Commission to develop and maintain an adequate regulatory program; and

(15) To interpret and enforce rules and regulations pertaining to matters under its jurisdiction and not within the jurisdiction of the Enforcement Bureau.

(b) Notwithstanding the authority delegated in paragraph (a) of this section, the Chief, International Bureau, shall not have authority:

(1) To act on any application, petition, pleading, complaint, enforcement matter, or other request that:

(i) Presents new or novel arguments not previously considered by the Commission;

(ii) Presents facts or arguments which appear to justify a change in Commission policy; or

(iii) Cannot be resolved under outstanding precedents and guidelines after consultation with appropriate Bureaus or Offices.

(2) To issue notices of proposed rulemaking, notices of inquiry, or reports or orders arising from rulemaking or inquiry proceedings;

(3) To act upon any application for review of actions taken by the Chief, International Bureau, pursuant to delegated authority, which application complies with § 1.115 of this chapter;

(4) To act upon any formal or informal radio application or section 214 application for common carrier services which is in hearing status;

(5) To designate for hearing any applications except:

(i) Mutually exclusive applications for radio facilities filed pursuant to parts 23, 25, 73, or 100 of this chapter; and

(ii) Applications for facilities where the issues presented relate solely to whether the applicant has complied with outstanding precedents and guidelines; or

(6) To impose, reduce, or cancel forfeitures pursuant to section 203 or section 503(b) of the Communications Act of 1934, as amended, in amounts of more than $80,000 for common carrier providers and $20,000 for non-common carrier providers.

[60 FR 5324, Jan. 27, 1995, as amended at 60 FR 35506, July 10, 1995; 64 FR 60721, Nov. 8, 1999; 67 FR 13220, Mar. 21, 2002; 75 FR 7972, Feb. 23, 2010]

### § 0.262 Record of actions taken.

The application and authorization files in the appropriate central files of the International Bureau are designated as the Commission's official records of actions by the Chief, International Bureau, pursuant to authority delegated to him.

## OFFICE OF STRATEGIC PLANNING AND POLICY ANALYSIS

### § 0.271 Authority delegated.

(a) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the Chief, Office of Strategic Planning and Policy Analysis is delegated authority to deny requests or to extend the time within which comments may be filed in dockets over which the Office of Strategic Planning and Policy Analysis has primary authority.

(b) [Reserved]

[45 FR 10347, Feb. 15, 1980, as amended at 68 FR 11747, Mar. 12, 2003]

## CHIEF, MEDIA BUREAU

### § 0.283 Authority delegated.

The Chief, Media Bureau, is delegated authority to perform all functions of the Bureau, described in § 0.61, provided that the following matters shall be referred to the Commission en banc for disposition:

(a) Notices of proposed rulemaking and of inquiry and final orders in such proceedings, with the exception of rulemaking proceedings involving the allotment of FM and television channels.

(b) Application for review of actions taken pursuant to delegated authority.

(c) Matters that present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines.

(d) The imposition, reduction or cancellation of forfeitures pursuant to section 503(b) of the Communications Act of 1934, as amended, in amounts of more than $20,000.

[67 FR 13220, Mar. 21, 2002]

### § 0.284 Actions taken under delegated authority.

(a) In discharging the authority conferred by § 0.283 of this part, the Chief, Media Bureau, shall establish working relationships with other bureaus and staff offices to assure the effective coordination of actions taken in the following areas of joint responsibility;

(1) Complaints arising under section 315 of the Communications Act—Office of General Counsel.

(2) Requests for waiver of tower painting and lighting specifications-Wireless Telecommunications Bureau.

(3) Requests for use of frequencies or bands of frequencies shared with private sector nonbroadcast or government services—Office of Engineering and Technology and appropriate operating bureau.

(4) Requests involving coordination with other agencies of government—Office of General Counsel, Office of Engineering and Technology and appropriate operating bureau.

(5) Proposals involving possible harmful impact on radio astronomy or radio research installations—Office of Engineering and Technology.

(b) With respect to non-routine applications granted under authority delegated in § 0.283 of this part, the Chief, Media Bureau or his designees, shall enter on the working papers associated with each application a narrative justification of the action taken. While not available for public inspection, these working papers shall, upon request, be made available to the Commissioners and members of their staffs.

[47 FR 47829, Oct. 28, 1982; 47 FR 56852, Dec. 21, 1982, as amended at 51 FR 12615, Apr. 14, 1986; 52 FR 5288, Feb. 20, 1987; 59 FR 32132, June 22, 1994; 59 FR 67092, Dec. 28, 1994; 61 FR 8477, Mar. 5, 1996; 64 FR 60721, Nov. 8, 1999; 67 FR 13220, Mar. 21, 2002; 71 FR 69036, Nov. 29, 2006]

### § 0.285 Record of actions taken.

The history card, the station file, and other appropriate files are designated to be the official records of action taken by the Chief of the Media Bureau. The official records of action are maintained in the Reference Information Center in the Consumer and Governmental Affairs Bureau.

[67 FR 13220, Mar. 21, 2002]

CHIEF, WIRELINE COMPETITION BUREAU

### § 0.291 Authority delegated.

The Chief, Wireline Competition Bureau, is hereby delegated authority to perform all functions of the Bureau, described in § 0.91, subject to the following exceptions and limitations.

(a) *Authority concerning applications.* (1) The Chief, Wireline Competition Bureau shall not have authority to act on any formal or informal common carrier applications or section 214 applications for common carrier services which are in hearing status.

(2) The Chief, Wireline Competition Bureau shall not have authority to act on any applications or requests which present novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines.

(b) *Authority concerning section 220 of the Act.* The Chief, Wireline Competition Bureau shall not have authority to promulgate regulations or orders prescribing permanent depreciation rates for common carriers, or to prescribe interim depreciation rates to be effective more than one year, pursuant to section 220 of the Communications Act of 1934, as amended.

(c) *Authority concerning forfeitures.* The Chief, Wireline Competition Bureau shall not have authority to impose, reduce or cancel forfeitures pursuant to Section 203 or Section 503(b) of the Communications Act of 1934, as amended, in amounts of more than $80,000.

(d) *Authority concerning applications for review.* The Chief, Wireline Competition Bureau shall not have authority to act upon any applications for review of actions taken by the Chief, Wireline Competition Bureau, pursuant to any delegated authority.

(e) *Authority concerning rulemaking and investigatory proceedings.* The Chief, Wireline Competition Bureau, shall not have authority to issue notices of proposed rulemaking, notices of inquiry,

or reports or orders arising from either of the foregoing, except that the Chief, Wireline Competition Bureau, shall have authority, in consultation and coordination with the Chief, International Bureau, to issue and revise a manual on the details of the reporting requirements for international carriers set forth in §43.61(d) of this chapter.

(f) *Authority concerning the issuance of subpoenas.* The Chief of the Wireline Competition Bureau or her/his designee is authorized to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the Wireline Competition Bureau. Before issuing a subpoena, the Bureau shall obtain the approval of the Office of General Counsel.

(g) The Chief, Wireline Competition Bureau, is delegated authority to enter into agreements with the National Institute of Standards and Technology to perform accreditation of Telecommunication Certification Bodies (TCBs) pursuant to §§68.160 and 68.162 of this chapter. In addition, the Chief is delegated authority to develop specific methods that will be used to accredit TCBs, to designate TCBs, to make determinations regarding the continued acceptability of individual TCBs and to develop procedures that TCBs will use for performing post-market surveillance.

(h) *Authority concerning petitions for pricing flexibility.* (1) The Chief, Wireline Competition Bureau, shall have authority to act on petitions filed pursuant to part 69, subpart H, of this chapter for pricing flexibility involving special access and dedicated transport services. This authority is not subject to the limitation set forth in paragraph (a)(2) of this section.

(2) The Chief, Wireline Competition Bureau, shall not have authority to act on petitions filed pursuant to part 69, subpart H, of this chapter for pricing flexibility involving common line and traffic sensitive services.

(i) *Authority concerning schools and libraries support mechanism audits.* The Chief, Wireline Competition Bureau, shall have authority to address audit findings relating to the schools and libraries support mechanism. This authority is not subject to the limitation set forth in paragraph (a)(2) of this section.

(Secs. 4, 5, 303, 48 Stat. 1066, 1068, 1082, as amended; 47 U.S.C. 154, 155, 303; secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1089; 47 U.S.C. 152, 153, 154, 155, 303, 307, 308, 309, 315, 317)

[44 FR 18501, Mar. 28, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §0.291, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

### §0.301 [Reserved]

### §0.302 Record of actions taken.

The application and authorization files are designated as the Commission's official records of action of the Chief, Wireline Competition Bureau pursuant to authority delegated to the Chief. The official records of action are maintained in the Reference Information Center in the Consumer and Governmental Affairs Bureau.

[67 FR 13221, Mar. 21, 2002]

### §0.303 [Reserved]

### §0.304 Authority for determinations of exempt telecommunications company status.

Authority is delegated to the Chief, Wireline Competition Bureau to act upon any application for a determination of exempt telecommunications company status filed pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 103 of the Telecommunications Act of 1996.

[64 FR 5950, Feb. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

## ENFORCEMENT BUREAU

### §0.311 Authority delegated.

The Chief, Enforcement Bureau, is delegated authority to perform all functions of the Bureau, described in §0.111, provided that:

(a) The following matters shall be referred to the Commission en banc for disposition:

(1) Notices of proposed rulemaking and of inquiry and final orders in such proceedings.

(2) Applications for review of actions taken pursuant to delegated authority.

(3) Matters that present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines.

(4) Forfeiture notices and forfeiture orders if the amount is more than $100,000 in the case of common carriers or more than $25,000 in the case of all other persons or entities.

(5) Orders concluding an investigation under section 208(b) of the Communications Act and orders addressing petitions for reconsideration of such orders.

(6) Release of information pursuant to section 220(f) of the Communications Act, except for release of such information to a state public utility commission or in response to a Freedom of Information Act Request.

(b) Action on complaints regarding compliance with section 705(a) of the Communications Act shall be coordinated with the Office of General Counsel.

[64 FR 60721, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002; 71 FR 69036, Nov. 29, 2006]

### § 0.314 Additional authority delegated.

The *Regional Director*, *Deputy Regional Director*, *District Director or Resident Agent* at each installation is delegated authority to act upon applications, requests, or other matters, which are not in hearing status, and direct the following activities necessary to conduct investigations or inspections:

(a) On informal requests from broadcast stations to extend temporary authority for operation without monitors, plate ammeter, plate volmeter, base current meter, common point meter, and transmission line meter from FM and television stations.

(b)(1) Extend the Communications Act Safety Radiotelephony Certificate for a period of up to 90 days beyond the specified expiration date.

(b)(2) Grant emergency exemption requests, extensions or waivers of inspection to ships in accordance with applicable provisions of the Communications Act, the Safety Convention, the Great Lakes Agreement or the Commission's rules.

(c) To act on and make determinations on behalf of the Commission regarding requests for assignments and reassignments of priorities under the Telecommunications Service Priority System, part 64 of the rules, when circumstances require immediate action and the common carrier seeking to provide service states that it cannot contact the National Communications System or the Commission office normally responsible for such assignments. To the extent possible, all such actions and determinations shall be made in coordination with the Public Safety and Homeland Security Bureau.

(d) Require special equipment and program tests during inspections or investigations to determine compliance with technical requirements specified by the Commission.

(e) Require stations to operate with the pre-sunrise and nighttime facilities during daytime hours in order that an inspection or investigation may be made by an authorized Commission representative to determine operating parameters.

(f) Issue notices and orders to operators of industrial, scientific, and medical (ISM) equipment, as provided in § 18.115 of this chapter.

(g) Act on requests for permission to resume operation of ISM equipment on a temporary basis, as provided by § 18.115 of this chapter, and requests for extensions of time within which to file final reports, as provided by § 18.117 of this chapter.

(h) Issue notices and orders to operators of part 15 devices, as provided in § 15.5 of this chapter.

(i) Issue notices and orders to suspend operations to multi-channel video programming distributors, as provided in § 76.613 of this chapter.

(j) Issue notices and orders to suspend operations to part 74 licensees, as provided in § 74.23 of this chapter.

[64 FR 60721, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002; 71 FR 69036, Nov. 29, 2006]

**§0.317 Record of action taken.**

The application, authorization, and other appropriate files of the Enforcement Bureau are designated as the Commission's official records of action taken pursuant to authority delegated under §§0.311 and 0.314, and shall constitute the official Commission minutes entry of such actions. The official records of action are maintained in the Reference Information Center in the Consumer Information Bureau.

[64 FR 60722, Nov. 8, 1999]

WIRELESS TELECOMMUNICATIONS BUREAU

**§0.331 Authority delegated.**

The Chief, Wireless Telecommunications Bureau, is hereby delegated authority to perform all functions of the Bureau, described in §0.131, subject to the exceptions and limitations in paragraphs (a) through (d) of this section, and also the functions described in paragraph (e) of this section.

(a) *Authority concerning applications.* (1) The Chief, Wireless Telecommunications Bureau shall not have authority to act on any radio applications that are in hearing status.

(2) The Chief, Wireless Telecommunications Bureau shall not have authority to act on any complaints, petitions or requests, whether or not accompanied by an application, when such complaints, petitions or requests present new or novel questions of law or policy which cannot be resolved under outstanding Commission precedents and guidelines.

(b) *Authority concerning forfeitures and penalties.* The Chief, Wireless Telecommunications Bureau, shall not have authority to impose, reduce, or cancel forfeitures pursuant to the Communications Act of 1934, as amended, and imposed under regulations in this chapter in amounts of more than $80,000 for commercial radio providers and $20,000 for private radio providers. Payments for bid withdrawal, default or to prevent unjust enrichment that are imposed pursuant to Section 309(j) of the Communications Act of 1934, as amended, and regulations in this chapter implementing Section 309(j) governing auction authority, are excluded from this restriction.

(c) *Authority concerning applications for review.* The Chief, Wireless Telecommunications Bureau shall not have authority to act upon any applications for review of actions taken by the Chief, Wireless Telecommunications Bureau pursuant to any delegated authority, except that the Chief may dismiss any such application that does not comply with the filing requirements of §1.115 (d) and (f) of this chapter.

(d) *Authority concerning rulemaking proceedings.* The Chief, Wireless Telecommunications Bureau shall not have the authority to act upon notices of proposed rulemaking and inquiry, final orders in rulemaking proceedings and inquiry proceedings, and reports arising from any of the foregoing except such orders involving ministerial conforming amendments to rule parts, or orders conforming any of the applicable rules to formally adopted international conventions or agreements where novel questions of fact, law, or policy are not involved. In addition, revisions to the airport terminal use list in §90.35(c)(61) of this chapter and revisions to the Government Radiolocation list in §90.371(b) of this chapter need not be referred to the Commission. Adoption of certain technical standards applicable to hearing aid compatibility under §20.19 of this chapter made together with the Chief of the Office of Engineering and Technology, as specified in §20.19(k) of this chapter, also need not be referred to the Commission. Also, the addition of new Marine VHF frequency coordination committee(s) to §80.514 of this chapter need not be referred to the Commission if they do not involve novel questions of fact, policy or law, as well as requests by the United States Coast Guard to:

(1) Designate radio protection areas for mandatory Vessel Traffic Services (VTS) and establish marine channels as VTS frequencies for these areas; or

(2) Designate regions for shared commercial and non-commercial vessel use of VHF marine frequencies.

(3) Designate by footnote to frequency table in § 80.373(f) of this chapter marine VHF frequencies are available for intership port operations communications in defined port areas.

(e) The Chief of the Wireless Telecommunications Bureau is delegated authority jointly with the Chief of the Office of Engineering and Technology to administer provisions of § 15.713(h)(8) of this chapter pertaining to the registration of event sites where large numbers of wireless microphones that operate on frequencies specified in § 74.802 of this chapter are used.

[60 FR 35506, July 10, 1995, as amended at 61 FR 26465, May 28, 1996; 62 FR 40285, July 28, 1997; 65 FR 43715, July 14, 2000; 67 FR 63284, Oct. 11, 2002; 69 FR 46440, Aug. 3, 2004; 73 FR 25587, May 7, 2008; 75 FR 75835, Dec. 6, 2010]

### § 0.332 Actions taken under delegated authority.

In discharging the authority conferred by § 0.331, the Chief, Wireless Telecommunications Bureau, shall establish working relationships with other bureaus and staff offices to assure the effective coordination of actions taken in the following areas of joint responsibility:

(a) [Reserved]

(b) Requests for waiver of tower painting and lighting specifications—Enforcement Bureau.

(c) Matters involving public safety, homeland security, national security, emergency management and preparedness, and disaster management communications—the Public Safety and Homeland Security Bureau.

(d) Complaints involving equal employment opportunities—Office of General Counsel.

(e) Requests for use of frequencies or bands of frequencies shared with broadcast, common carrier, or government services—Office of Engineering and Technology and appropriate operating bureau.

(f) Requests involving coordination with other Federal or state agencies when appropriate—Office of General Counsel, Office of Engineering and Technology or operating bureau.

(g) Proposals involving possible harmful impact on radio astronomy or radio research installations—Office of Engineering and Technology.

[40 FR 4423, Jan. 30, 1975, as amended at 44 FR 11070, Feb. 27, 1979; 44 FR 39180, July 5, 1979; 50 FR 27953, July 9, 1985; 51 FR 12615, Apr. 14, 1986; 51 FR 20290, June 4, 1986; 52 FR 5288, Feb. 20, 1987; 59 FR 26971, May 25, 1994; 60 FR 5325, Jan. 27, 1995; 60 FR 35507, July 10, 1995; 61 FR 8477, Mar. 5, 1996; 64 FR 60722, Nov. 8, 1999; 71 FR 69037, Nov. 29, 2006]

### §§ 0.333–0.337 [Reserved]

ADMINISTRATIVE LAW JUDGES

### § 0.341 Authority of administrative law judge.

(a) After an administrative law judge has been designated to preside at a hearing and until he has issued an initial decision or certified the record to the Commission for decision, or the proceeding has been transferred to another administrative law judge, all motions, petitions and other pleadings shall be acted upon by such administrative law judge, except the following:

(1) Those which are to be acted upon by the Commission. See § 1.291(a)(1) of this chapter.

(2) Those which are to be acted upon by the Chief Administrative Law Judge under § 0.351.

(b) Any question which would be acted upon by the administrative law judge if it were raised by the parties to the proceeding may be raised and acted upon by the administrative law judge on his own motion.

(c) Any question which would be acted upon by the Chief Administrative Law Judge or the Commission, if it were raised by the parties, may be certified by the administrative law judge, on his own motion, to the Chief Administrative Law Judge, or the Commission, as the case may be.

(d) In the conduct of routine broadcast comparative hearings involving applicants for only new facilities, i.e., cases that do not involve numerous applicants and/or motions to enlarge issues, the presiding administrative law judge shall make every effort to conclude the case within nine months of the release of the hearing designation order. In so doing, the presiding judge will make every effort to release an initial decision in such cases within

90 days of the filing of the last responsive pleading.

(e) Upon assignment by the Chief Administrative Law Judge, Administrative Law Judges, including the Chief Judge, will act as settlement judges in appropriate cases. See 47 CFR 1.244 of this chapter.

[29 FR 6442, May 16, 1964, as amended at 37 FR 19372, Sept. 20, 1972; 41 FR 14870, Apr. 8, 1976; 56 FR 792, Jan. 9, 1991; 62 FR 4170, Jan. 29, 1997]

EFFECTIVE DATE NOTE: At 76 FR 60671, Sept. 29, 2011, §0.341 was amended by adding paragraph (f), effective Oct. 31, 2011. For the convenience of the user, the added text is set forth as follows:

**§0.341 Authority of administrative law judge.**

* * * * *

(f)(1) For program carriage complaints filed pursuant to §76.1302 of this chapter that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the presiding administrative law judge shall release an initial decision in compliance with one of the following deadlines:

(i) 240 calendar days after a party informs the Chief Administrative Law Judge that it elects not to pursue alternative dispute resolution as set forth in §76.7(g)(2) of this chapter; or

(ii) If the parties have mutually elected to pursue alternative dispute resolution pursuant to §76.7(g)(2) of this chapter, within 240 calendar days after the parties inform the Chief Administrative Law Judge that they have failed to resolve their dispute through alternative dispute resolution.

(2) The presiding administrative law judge may toll these deadlines under the following circumstances:

(i) If the complainant and defendant jointly request that the presiding administrative law judge toll these deadlines in order to pursue settlement discussions or alternative dispute resolution or for any other reason that the complainant and defendant mutually agree justifies tolling; or

(ii) If complying with the deadline would violate the due process rights of a party or would be inconsistent with fundamental fairness; or

(iii) In extraordinary situations, due to a lack of adjudicatory resources available at the time in the Office of Administrative Law Judges.

**§0.347 Record of actions taken.**

The official record of all actions taken by an Administrative Law Judge, including initial and recommended decisions and actions taken pursuant to §0.341, is contained in the original docket folder, which is maintained in the Reference Information Center of the Consumer and Governmental Affairs Bureau.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

CHIEF ADMINISTRATIVE LAW JUDGE

**§0.351 Authority delegated.**

The Chief Administrative Law Judge shall act on the following matters in proceedings conducted by hearing examiners:

(a) Initial specifications of the time and place of hearings where not otherwise specified by the Commission and excepting actions under authority delegated by §0.296.

(b) Designation of the hearing examiner to preside at hearings.

(c) Orders directing the parties or their attorneys to appear at a specified time and place before the hearing examiner for an initial prehearing conference in accordance with §1.251(a) of this chapter. (The administrative law judge named to preside at the hearing may order an initial prehearing conference although the Chief Administrative Law Judge may not have seen fit to do so and may order supplementary prehearing conferences in accordance with §1.251(b) of this chapter.)

(d) Petitions requesting a change in the place of hearing where the hearing is scheduled to begin in the District of Columbia or where the hearing is scheduled to begin at a field location and all appropriate proceedings at that location have not been completed. (See §1.253 of this chapter.) However, if all parties to a proceeding concur in holding all hearing sessions in the District of Columbia rather than at any field location, the presiding administrative law judge may act on the request.

(e) In the absence of the administrative law judge who has been designated to preside in a proceeding, to discharge the administrative law judge's functions.

(f) All pleadings filed, or matters which arise, after a proceeding has been designated for hearing, but before a law judge has been designated, which

would otherwise be acted upon by the law judge, including all pleadings filed, or matters which arise, in cease and desist and/or revocation proceedings prior to the designation of a presiding officer.

(g) All pleadings (such as motions for extension of time) which are related to matters to be acted upon by the Chief Administrative Law Judge.

(h) If the administrative law judge designated to preside at a hearing becomes unavailable, to order a rehearing or to order that the hearing continue before another administrative law judge and, in either case, to designate the judge who is to preside.

(i) The consolidation of related proceedings pursuant to § 1.227(a) of this chapter, after designation of those proceedings for hearing.

[29 FR 6443, May 16, 1964, as amended at 37 FR 19372, Sept. 20, 1972; 38 FR 30559, Nov. 6, 1973; 43 FR 49307, Oct. 23, 1978; 44 FR 76295, Dec. 26, 1979]

### § 0.357 Record of actions taken.

The official record of all actions taken by the Chief Administrative Law Judge in docketed proceedings pursuant to § 0.351 is contained in the original docket folder, which is maintained by the Reference Information Center of the Consumer and Governmental Affairs Bureau.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU

### § 0.361 Authority delegated.

The Chief, Consumer and Governmental Affairs Bureau, is delegated authority to perform all functions of the Bureau, described in § 0.141, provided that the following matters shall be referred to the Commission en banc for disposition:

(a) Notices of proposed rulemaking and of inquiry and final orders in such proceedings.

(b) Application for review of actions taken pursuant to delegated authority.

(c) Matters that present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

## OFFICE OF COMMUNICATIONS BUSINESS OPPORTUNITIES

### § 0.371 Authority delegated.

The Director, Office of Communications Business Opportunities, or his/her designee, is hereby delegated authority to:

(a) Manage the Commission's compliance with the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act;

(b) Develop the Commission's goals and objectives regarding increased opportunities for small entities, women, and minorities;

(c) Collect and analyze data on the Commission's efforts toward ensuring full consideration of the interests of small entities, women, and minorities;

(d) Prepare and release reports on the opportunities available and obstacles faced by small entities, women, and minorities in the communications industry;

(e) Conduct studies and collect data on the issues and problems faced by small entities, women, and minorities in the communications industry;

(f) Assume representational role on behalf of the Commission before other federal agencies and at conferences, meetings, and hearings regarding small entities, women, and minorities in the communications industry;

(g) Develop programs and strategies designed to increase competition, employment opportunities and diversity of viewpoint through the promotion of ownership by small entities, women, and minorities;

(h) Manage the Commission's efforts to increase the awareness of small entities, women, and minorities and to ensure that all available information is accessible to the same.

[69 FR 7377, Feb. 17, 2003]

## NATIONAL SECURITY AND EMERGENCY PREPAREDNESS DELEGATIONS

### § 0.381 Defense Commissioner.

The authority delegated to the Commission under Executive Orders 12472

and 12656 is redelegated to the Defense Commissioner.

[69 FR 30234, May 27, 2004]

### § 0.383 Emergency Relocation Board, authority delegated.

(a) During any period in which the Commission is unable to function because of the circumstances set forth in § 0.186(b), all work, business or functions of the Federal Communications Commission arising under the Communications Act of 1934, as amended, is assigned and referred to the Emergency Relocation Board.

(b) The Board, acting by a majority thereof, shall have the power and authority to hear and determine, order, certify, report or otherwise act as to any of the said work, business or functions so assigned or referred to it, and in respect thereof shall have all the jurisdiction and powers conferred by law upon the Commission, and be subject to the same duties and obligations.

(c) Any order, decision or report made or other action taken by the said Board in respect of any matters so assigned or referred shall have the same effect and force, and may be made, evidenced, and enforced in the same manner, as if made or taken by the Commission.

[28 FR 12402, Nov. 22, 1963, as amended at 33 FR 8228, June 1, 1968; 53 FR 29055, Aug. 2, 1988]

### § 0.387 Other national security and emergency preparedness delegations; cross reference.

For authority of the Chief of the Public Safety and Homeland Security Bureau to declare a temporary communications emergency, see § 0.191(o).

[71 FR 69037, Nov. 29, 2006]

## OFFICE OF WORKPLACE DIVERSITY

### § 0.391 Authority delegated.

The Director, Office of Workplace Diversity, or his/her designee, is hereby delegated authority to:

(a) Manage the Commission's internal EEO compliance program pursuant to Title VII of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Equal Pay Act, and other applicable laws, rules, regulations, and Executive Orders, with authority that includes appointing EEO counselors, investigators, and mediators; investigating complaints of employment discrimination, and recommending to the Chairman final agency decisions on EEO complaints;

(b) Mediate EEO complaints;

(c) Develop the Commission's affirmative action goals and objectives;

(d) Collect and analyze data on the Commission's affirmative action and EEO activities and accomplishments;

(e) Prepare and release reports on EEO, affirmative action, workplace diversity, and related subjects;

(f) Review personnel activities, including hiring, promotions, discipline, training, awards, and performance recognition for conformance with EEO and workplace diversity goals, objectives and requirements;

(g) Conduct studies and collect data on workplace diversity issues and problems;

(h) Assume representational role on behalf of the Commission at conferences, meetings, and negotiations on EEO and workplace diversity issues;

(i) Develop programs and strategies designed to foster and encourage fairness, equality, and inclusion of all employees in the workforce.

[61 FR 2728, Jan. 29, 1996]

## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU

### § 0.392 Authority delegated.

The Chief, Public Safety and Homeland Security Bureau, is hereby delegated authority to perform all functions of the Bureau, described in §§ 0.191 and 0.192, subject to the following exceptions and limitations in paragraphs (a) through (e) of this section.

(a) The Chief, Public Safety and Homeland Security Bureau shall not have authority to act on any applications or requests that present novel questions of fact, law or policy that cannot be resolved under outstanding precedents and guidelines.

(b) The Public Safety and Homeland Security Bureau shall not have authority to act upon any applications for review of actions taken by the Chief,

Public Safety and Homeland Security Bureau, pursuant to any delegated authority.

(c) The Public Safety and Homeland Security Bureau shall not have authority to act upon any formal or informal radio application or section 214 application for common carrier services which is in hearing status.

(d) The Public Safety and Homeland Security Bureau shall not have authority to impose, reduce, or cancel forfeitures pursuant to section 203 or section 503(b) of the Communications Act of 1934, as amended, in amounts of more than $80,000 for common carrier providers and $20,000 for non-common carrier providers.

(e) The Chief, Public Safety and Homeland Security Bureau shall not have authority to issue notices of proposed rulemaking, notices of inquiry, or reports or orders arising from either of the foregoing except such orders involving ministerial conforming amendments to rule parts, or orders conforming any of the applicable rules to formally adopted international conventions or agreements where novel questions of fact, law, or policy are not involved.

(f) The Chief, Public Safety and Homeland Security Bureau or her/his designee has the authority to rule on emergency requests for Special Temporary Authority during non-business hours. Action on emergency requests for Special Temporary Authority during non-business hours shall be promptly reported to the responsible Bureau or Office.

(g) [Reserved]

(h) The Chief, Public Safety and Homeland Security Bureau or her/his designee is authorized to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the Public Safety and Homeland Security Bureau. Before issuing a subpoena, the Bureau shall obtain the approval of the Office of General Counsel.

(i) The Chief of the Public Safety and Homeland Security Bureau is delegated authority to administer the communications disruption reporting requirements contained in part 4 of this chapter and to revise the filing system and template used for the submission of such communications disruption reports.

[71 FR 69037, Nov. 29, 2006, as amended at 72 FR 39760, July 20, 2007; 73 FR 9463, Feb. 21, 2008; 75 FR 28207, May 20, 2010; 75 FR 78169, Dec. 15, 2010]

## Subpart C—General Information

GENERAL

### § 0.401 Location of Commission offices.

The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations set forth below will be returned to the applicant without processing. When an application or other filing does not involve the payment of a fee, the appropriate filing address or location is established elsewhere in the rules for the various types of submissions made to the Commission. The public should identify the correct filing location by reference to these rules. Applications or submissions requiring fees must be submitted in accordance with § 0.401(b) of the rules irrespective of the addresses that may be set out elsewhere in the rules for other submissions.

(a) General correspondence, as well as applications and filings not requiring the fees set forth at part 1, subpart G of the rules (or not claiming an exemption, waiver or deferral from the fee requirement), should be delivered to one of the following locations.

(1) The main office of the Commission is located at 445 12th Street, SW., Washington, DC 20554.

(i) Documents submitted by mail to this office should be addressed to: Federal Communications Commission, Washington, DC 20554.

(ii) Hand-carried documents should be delivered to the Secretary's Office at 445 12th Street, SW., Washington, DC 20554.

(iii) Electronic filings, where permitted, must be transmitted as specified by the Commission or relevant Bureau or Office.

(2) The Commission's laboratory is located near Columbia, Maryland. The mailing address is:

Federal Communications Commission, Equipment Authorization Division, 7435 Oakland Mills Road, Columbia, MD 21046

(3) The Commission also maintains offices at Gettysburg, PA.

(i) The address of the Wireless Telecommunications Bureau's licensing facilities are:

(A) Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325–7245; and

(B) Federal Communications Commission, Wireless Telecommunications Bureau, Washington, DC 20554.

(ii) The mailing address of the International Telecommunications Section of the Finance Branch is: Federal Communications Commission, P.O. Box IT–70, Gettysburg, PA 17326.

(4) The locations of the field offices of the Compliance and Information Bureau are listed in §0.121.

(5) The location of the Office of General Counsel is 445 12th Street, SW, Washington, DC 20554.

(b) Applications or filings requiring the fees set forth at part 1, subpart G of the rules must be delivered to the Commission's lockbox bank in St. Louis, Missouri with the correct fee and completed Fee Form attached to the application or filing, unless otherwise directed by the Commission. In the case of any conflict between this rule subpart and other rules establishing filing locations for submissions subject to a fee, this subpart shall govern.

NOTE: Applicants seeking a waiver or deferral of fees must submit their application or filing in accordance with the addresses set forth below. Applicants claiming a statutory exemption from the fees should file their applications in accordance with paragraph (a) of this section.

(1) Applications and filings submitted by mail shall be addressed to the U.S. Bank in St. Louis, Missouri. The bank maintains separate post office boxes for the receipt of different types of applications. It will also establish special post office boxes to receive responses to special filings such as applications filed in response to ''filing windows'' established by the Commission. The address for the submission of filings will be established in the Public Notice announcing the filing dates. In all other cases, applications and filings submitted by mail should be sent to the addresses listed in the appropriate fee rules.

NOTE: Wireless Telecommunications Bureau applications that require frequency coordination by certified coordinators must be submitted to the appropriate certified frequency coordinator before filing with the Commission. After coordination, the applications are filed with the Commission as set forth herein. (See §§90.127 and 90.175 of this chapter.)

(2) Applications and other filings may also be hand carried, in person or by courier, to the U.S. Bank, Government Lockbox, 1005 Convention Plaza, St. Louis, Missouri. All applications and filings delivered in this manner must be in an envelope clearly marked for the ''Federal Communications Commission,'' and identified with the appropriate Post Office Box address as set out in the fee schedule (§§1.1102 through 1.1109 of this chapter). Applications should be enclosed in a separate envelope for each Post Office Box. Hand-carried or couriered applications and filings may be delivered at any time on any day. Applications or filings received by the bank before midnight on any Commission business day will be treated as having been filed on that day. Materials received by the bank after midnight, Monday through Friday, or on weekends or holidays, will be treated as having been filed on the next Commission business day.

(3) Alternatively, applications and other filings may be sent electronically via the Universal Licensing System (ULS) or the Cable Operations and Licensing System (COALS) as appropriate for use of those systems.

[52 FR 10227, Mar 31, 1987]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §0.401, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

### § 0.403 Office hours.

The main offices of the Commission are open from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays, unless otherwise stated.

[52 FR 10228, Mar. 31, 1987]

### § 0.405 Statutory provisions.

The following statutory provisions, among others, will be of interest to persons having business with the Commission:

(a) The Federal Communications Commission was created by the Communications Act of 1934, 48 Stat. 1064, June 19, 1934, as amended, 47 U.S.C. 151–609.

(b) The Commission exercises authority under the Submarine Cable Landing Act, 42 Stat. 8, May 27, 1921, 47 U.S.C. 34–39. See section 5 of Executive Order 10530, 19 FR 2709, May 10, 1954, as amended, 3 CFR, 1965 ed., p. 463.

(c) The Commission exercises authority under the Communications Satellite Act of 1962, 76 Stat. 419, August 31, 1962, 47 U.S.C. 701–744.

(d) The Commission operates under the Administrative Procedure Act, 60 Stat. 237, June 11, 1946, as amended, originally codified as 5 U.S.C. 1001–1011. Pursuant to Pub. L. 89–554, September 6, 1966, 80 Stat. 378, the provisions of the Administrative Procedure Act now appear as follows in the Code:

| Administrative Procedure Act | 5 U.S.C. |
|---|---|
| Sec. 2–9 | 551–558 |
| Sec. 10 | 701–706 |
| Sec. 11 | 3105, 7521, 5362, 1305 |
| Sec. 12 | 559 |

[32 FR 10570, July 19, 1967]

### § 0.406 The rules and regulations.

Persons having business with the Commission should familiarize themselves with those portions of its rules and regulations pertinent to such business. All of the rules have been published and are readily available. See §§ 0.411(b), 0.412, and 0.415. For the benefit of those who are not familiar with the rules, there is set forth in this section a brief description of their format and contents.

(a) *Format*. The rules are set forth in the Code of Federal Regulations as chapter I of title 47. Chapter I is divided into parts numbered from 0–99. Each part, in turn, is divided into numbered sections. To allow for the addition of new parts and sections in logical sequence, without extensive renumbering, parts and sections are not always numbered consecutively. Thus, for example, part 2 is followed by part 5, and § 1.8 is followed by § 1.10; in this case, parts 3 and 4 and § 1.9 have been reserved for future use. In numbering sections, the number before the period is the part number; and the number after the period locates the section within that part. Thus, for example, § 1.1 is the first section of part 1 and § 5.1 is the first section in part 5. Except in the case of accounting regulations (parts 31–35), the period should not be read as a decimal point; thus, § 1.511 is not located between §§ 1.51 and 1.52 but at a much later point in the rules. In citing the Code of Federal Regulations, the citation, 47 CFR 5.1, for example, is to § 5.1 (in part 5) of chapter I of title 47 of the Code, and permits the exact location of that rule. No citation to other rule units (e.g., subpart or chapter) is needed.

(b) *Contents*. Parts 0–19 of the rules have been reserved for provisions of a general nature. Parts 20–69 of this chapter have been reserved for provisions pertaining to common carriers. Parts 20–29 and 80–109 of this chapter have been reserved for provisions pertaining to the wireless telecommunications services. In the rules pertaining to common carriers, parts 20–25 and 80–99 of this chapter pertain to the use of radio; In the rules pertaining to common carriers, parts 21, 23, and 25 of this chapter pertain to the use of radio; parts 31–66 of this chapter pertain primarily to telephone and telegraph companies. Persons having business with the Commission will find it useful to consult one or more of the following parts containing provisions of a general nature in addition to the rules of the radio or wire communication service in which they are interested:

(1) *Part 0, Commission organization*. Part 0 describes the structure and functions of the Commission, lists delegations of authority to the staff, and sets forth information designed to assist those desiring to obtain information

from, or to do business with, the Commission. This part is designed, among other things, to meet certain of the requirements of the Administrative Procedure Act, as amended.

(2) *Part 1 of this chapter, practice and procedure.* Part 1, subpart A, of this chapter contains the general rules of practice and procedure. Except as expressly provided to the contrary, these rules are applicable in all Commission proceedings and should be of interest to all persons having business with the Commission. Part 1, subpart A of this chapter also contains certain other miscellaneous provisions. Part 1, subpart B, of this chapter contains the procedures applicable in formal hearing proceedings (see §1.201 of this chapter). Part 1, subpart C, of this chapter contains the procedures followed in making or revising the rule or regulations. Part 1, subpart D, of this chapter contains rules applicable to applications for licenses in the Broadcast Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting upon such applications, and certain other matters. Part 1, subpart E, of this chapter contains general rules and procedures applicable to common carriers. Part 1, subpart F, of this chapter contain rules applicable to applications for licenses in the Wireless Telecommunications Bureau services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Part 1, subpart F, of this chapter contains rules applicable to applications for licenses in the Private Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Part 1, subpart G, of this chapter contains rules pertaining to the application processing fees established by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272, 100 Stat. 82 (1986)) and also contains rules pertaining to the regulatory fees established by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, 107 Stat. 397 (1993)). Part 1, subpart H, of this chapter, concerning *ex parte* presentations, sets forth standards governing communications with commission personnel in hearing proceedings and contested application proceedings. Part 1, subparts G and H, of this chapter will be of interest to all regulatees, and part 1, subpart H, of this chapter will, in addition, be of interest to all persons involved in hearing proceedings.

(3) *Part 2, frequency allocations and radio treaty matters; general rules and regulations.* Part 2 will be of interest to all persons interested in the use of radio. It contains definitions of technical terms used in the rules and regulations; provisions governing the allocation of radio frequencies among the numerous uses made of radio (e.g., broadcasting, land mobile) and radio services (e.g., television, public safety), including the Table of Frequency Allocations (§2.106); technical provisions dealing with emissions; provisions dealing with call signs and emergency communications; provisions governing authorization of radio equipment; and a list of treaties and other international agreements pertaining to the use of radio.

(4) *Part 5, experimental radio services (other than broadcast).* Part 5 deals with the temporary use of radio frequencies for research in the radio art, for communication involving other research projects, and for the development of equipment, data, or techniques.

(5) *Part 13, commercial radio operators.* Part 13 describes the procedures to be followed in applying for a commercial operator license, including the forms to be used and the examinations given, and sets forth rules governing licensed operators. It will be of interest to applicants for such licenses, licensed operators, and the licensees of radio stations which may be operated only by persons holding a commercial radio operator license.

(6) *Part 15, radio frequency devices.* Part 15 contains regulations designed to prevent harmful interference to radio communication from radio receivers and other devices which radiate radio frequency energy, and provides for the certification of radio receivers. It also provides for the certification of low power transmitters and for the operation of certificated transmitters without a license.

(7) *Part 17, construction, marking, and lighting of antenna structures.* Part 17 contains criteria for determining whether applications for radio towers require notification of proposed construction to the Federal Aviation Administration, and specifications for obstruction marking and lighting of antenna structures.

(8) *Part 18, industrial, scientific and medical equipment.* Part 18 contains regulations designed to prevent harmful interference to radio communication from ultrasonic equipment, industrial heating equipment, medical diathermy equipment, radio frequency stabilized arc welders, and other equipment which uses radio energy for purposes other than communication.

(9) *Part 19, employee responsibilities and conduct.* Part 19 prescribes standards of conduct for the members and staff of the Commission.

[32 FR 10571, July 19, 1967, as amended at 32 FR 12180, Aug. 24, 1967; 37 FR 20553, Sept. 30, 1972; 52 FR 5288, Feb. 20, 1987; 58 FR 13021, Mar. 9, 1993; 59 FR 30998, June 16, 1994; 60 FR 35507, July 10, 1995; 63 FR 36596, July 7, 1998]

## § 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act of 1995.

(a) *Purpose.* This section displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget (''OMB'') pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission intends that this section comply with the requirement that agencies ''display'' current control numbers and expiration dates assigned by the Director, OMB, for each approved information collection requirement. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and Records Management, (''AMD–PERM''), Office of Managing Director, Federal Communications Commission, Washington, DC 20554 by sending an e-mail to *Judith-B.Herman@fcc.gov*.

(b) *Display.*

| OMB Control No. | FCC form number or 47 CFR section or part, docket number or title identifying the collection | OMB expiration date |
|---|---|---|
| 3060–0004 | Secs. 1.1307 and 1.1311, Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93–62. | 03/31/11 |
| 3060–0009 | FCC 316 | 06/30/11 |
| 3060–0010 | FCC 323 | 01/31/09 |
| 3060–0016 | FCC 346 | 03/31/11 |
| 3060–0017 | FCC 347 | 05/31/09 |
| 3060–0027 | FCC 301 | 08/31/11 |
| 3060–0029 | FCC 302–DTV | 05/31/11 |
| 3060–0031 | FCC 314, FCC 315 | 06/30/11 |
| 3060–0053 | FCC 703 | 06/30/11 |
| 3060–0055 | FCC 327 | 10/31/09 |
| 3060–0056 | Part 68 | 05/31/11 |
| 3060–0057 | FCC 731 | 03/31/11 |
| 3060–0059 | FCC 740 | 02/28/10 |
| 3060–0061 | FCC 325 | Pending OMB Approval. |
| 3060–0065 | FCC 442 | 06/30/11 |
| 3060–0068 | FCC 702 | 06/30/11 |
| 3060–0075 | FCC 345 | 06/30/11 |
| 3060–0076 | FCC 395 | 12/31/10 |
| 3060–0084 | FCC 323–E | 03/31/11 |
| 3060–0093 | FCC 405 | 01/31/09 |
| 3060–0095 | FCC 395–A | Pending OMB Approval. |
| 3060–0106 | Part 43 | 05/31/10 |
| 3060–0110 | FCC 303–S | 06/30/11 |
| 3060–0113 | FCC 396/396–A | 12/31/09 |
| 3060–0126 | Sec. 73.1820 | 12/31/08 |
| 3060–0132 | FCC 1068A | 11/30/09 |
| 3060–0139 | FCC 854 | Pending OMB Approval. |

| OMB Control No. | FCC form number or 47 CFR section or part, docket number or title identifying the collection | OMB expiration date |
|---|---|---|
| 3060–0147 | Sec. 64.804 | 01/31/09 |
| 3060–0149 | Part 63, Section 214, Secs. 63.01, 63.602; 63.50, 63.51, 63.52, 63.53; 63.61, 63.62, 63.63; 63.65, 63.66; 63.71; 63.90; 63.500, 63.501; 63.504, 63.505 and 63.601. | 03/31/11 |
| 3060–0157 | Sec. 73.99 | 02/28/09 |
| 3060–0161 | Sec. 73.61 | 05/31/09 |
| 3060–0166 | Part 42 | 11/30/10 |
| 3060–0168 | Sec. 43.43 | 09/30/09 |
| 3060–0169 | Secs. 43.51 and 43.53 | Pending OMB Approval. |
| 3060–0170 | Sec. 73.1030 | 12/31/10 |
| 3060–0171 | Sec. 73.1125 | 12/31/10 |
| 3060–0174 | Secs. 73.1212, 76.1615, and 76.1715 | 02/28/09 |
| 3060–0175 | Sec. 73.1250 | 06/30/11 |
| 3060–0176 | Sec. 73.1510 | 02/28/09 |
| 3060–0178 | Sec. 73.1560 | 01/31/09 |
| 3060–0179 | Sec. 73.1590 | 10/31/10 |
| 3060–0180 | Sec. 73.1610 | 10/31/10 |
| 3060–0182 | Sec. 73.1620 | 05/31/10 |
| 3060–0184 | Sec. 73.1740 | 10/31/10 |
| 3060–0185 | Sec. 73.3613 | 02/28/11 |
| 3060–0188 | Call Sign Reservation and Authorization System | 11/30/10 |
| 3060–0190 | Sec. 73.3544 | 01/31/10 |
| 3060–0192 | Sec. 87.103 | 09/30/10 |
| 3060–0202 | Sec. 87.37 | 09/30/09 |
| 3060–0204 | Sec. 90.20(a)(2)(v) | 01/31/09 |
| 3060–0207 | Part 11 | 08/31/11 |
| 3060–0208 | Sec. 73.1870 | 09/30/09 |
| 3060–0213 | Sec. 73.3525 | 12/31/09 |
| 3060–0214 | Secs. 73.3526 and 73.3527; Secs. 76.1701 and 73.1943 | Pending OMB Approval. |
| 3060–0216 | Sec. 73.3538 and Sec. 73.1690(e) | 02/28/11 |
| 3060–0219 | Sec. 90.20(a)(2)(xi) | 11/30/08 |
| 3060–0221 | Sec. 90.155 (b) and (d) | 01/31/11 |
| 3060–0222 | Sec. 97.213 | 09/30/09 |
| 3060–0223 | Sec. 90.129 | 01/31/09 |
| 3060–0228 | Sec. 80.59 | 07/31/10 |
| 3060–0233 | Part 36 | 11/30/09 |
| 3060–0236 | Sec. 74.703 | 06/30/11 |
| 3060–0248 | Sec. 74.751 | 02/28/11 |
| 3060–0249 | Secs. 74.781, 74.1281, and 78.69 | 10/31/09 |
| 3060–0250 | Secs. 73.1207, 74.784 and 74.1284 | 10/31/10 |
| 3060–0259 | Sec. 90.263 | 09/30/09 |
| 3060–0261 | Sec. 90.215 | 06/30/10 |
| 3060–0262 | Sec. 90.179 | 03/31/11 |
| 3060–0264 | Sec. 80.413 | 09/30/09 |
| 3060–0265 | Sec. 80.868 | 05/31/10 |
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| 3060–1005 | Numbering Resource Optimization—Phase 3 | 07/31/11 |
| 3060–1007 | Streamlining and Other Revisions of Part 25 of the Commission's Rules | 07/31/10 |
| 3060–1008 | Reallocation and Service Rules for the 698–746 MHz Band (Television Channels 52–59). | Pending OMB Approval. |
| 3060–1009 | FCC 499–M | 01/31/09 |
| 3060–1013 | Mitigation of Orbital Debris | 03/31/11 |
| 3060–1014 | Ku-Band NGSO FSS | 04/30/09 |
| 3060–1015 | Ultra Wideband Transmission Systems Operating Under Part 15 | 04/30/09 |
| 3060–1021 | Sec. 25.139 | 06/30/11 |
| 3060–1022 | Sec. 101.1403 | 01/31/09 |
| 3060–1023 | Sec. 101.103 | 01/31/09 |
| 3060–1024 | Sec. 101.1413 | 01/31/09 |
| 3060–1025 | Sec. 101.1440 | 01/31/09 |
| 3060–1026 | Sec. 101.1417 | 01/31/09 |
| 3060–1027 | Sec. 27.602 | 03/31/09 |
| 3060–1028 | International Signaling Point Code (ISPC) | 05/31/11 |
| 3060–1029 | Data Network Identification Code (DNIC) | 08/31/11 |
| 3060–1030 | Service Rules for Advanced Wireless Services (AWS) in the 1.7 GHz and 2.1 GHz Bands. | 06/30/10 |
| 3060–1031 | Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems—Petition of City of Richardson, TX; Order on Reconsideration II. | 10/31/09 |
| 3060–1033 | FCC 396–C | 05/31/10 |
| 3060–1034 | Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service. | 12/31/10 |
| 3060–1035 | FCC 309, FCC 310 and FCC 311 | 01/31/09 |
| 3060–1036 | Potential Reporting Requirements on Local Exchange Carriers to Assist Expeditious Implementation of Wireless E911 Service. | 05/31/09 |
| 3060–1038 | Digital Television Transition Information Questionnaires | 01/31/10 |
| 3060–1039 | FCC 620 and FCC 621 | Pending OMB Approval. |
| 3060–1040 | Broadcast Ownership Rules, Report and Order in MB Docket No. 02–777 and MM Docket Nos. 02–235, 02–327, and 00–244. | 02/28/10 |
| 3060–1041 | Remedial Measures for Failure to Construct Digital Television Stations (DTV Policy Statement). | 06/30/09 |
| 3060–1042 | Request for Technical Support—Help Request Form | 11/30/10 |
| 3060–1043 | Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67. | 03/31/11 |
| 3060–1044 | Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01–338, and WC Docket No. 04–313, FCC 04–290, Order on Remand. | 03/31/10 |
| 3060–1045 | FCC 324 | 11/30/09 |
| 3060–1046 | Part 64, Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996. | 06/30/11 |
| 3060–1047 | Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order, CG Docket Nos. 03–123, FCC 05–203. | 02/28/09 |
| 3060–1048 | Sec. 1.929(c)(1) | 03/31/10 |
| 3060–1050 | Sec. 97.303 | 11/30/10 |

| OMB Control No. | FCC form number or 47 CFR section or part, docket number or title identifying the collection | OMB expiration date |
|---|---|---|
| 3060–1053 | Sec. 64.604, Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Two-Line Captioned Telephone Order,.... | 05/31/10 |
| 3060–1054 | FCC 422–IB | 02/28/10 |
| 3060–1055 | FCC 423–IB | 02/28/10 |
| 3060–1056 | FCC 421–IB | 02/28/10 |
| 3060–1057 | FCC 420–IB | 02/28/10 |
| 3060–1058 | FCC 608 | 01/31/11 |
| 3060–1059 | Global Mobile Personal Communications by Satellite (GMPCS)/E911 Call Centers. | 01/31/11 |
| 3060–1060 | Wireless E911 Coordination Initiative Letter | 10/31/10 |
| 3060–1061 | Earth Stations on Board Vessels (ESVs) | 04/30/11 |
| 3060–1062 | Schools and Libraries Universal Service Support Mechanism—Notification of Equipment Transfers. | 07/31/10 |
| 3060–1063 | Global Mobile Personal Communications by Satellite (GMPCS) Authorization, Marketing and Importation Rules. | 03/31/10 |
| 3060–1064 | Regulatory Fee Assessment True-Ups | 06/30/11 |
| 3060–1065 | Sec. 25.701 | 06/30/10 |
| 3060–1066 | FCC 312–R | 03/31/10 |
| 3060–1067 | FCC 312–EZ | 05/31/10 |
| 3060–1069 | Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets, NPRM, MB Docket No. 94–246, FCC 04–173. | 08/31/10 |
| 3060–1070 | Allocations and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands. | 12/31/08 |
| 3060–1078 | Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN–SPAM Act), CG Docket No. 04–53. | 11/30/10 |
| 3060–1079 | Sec. 15.240, Radio Frequency Identification Equipment (RFID) | 02/28/11 |
| 3060–1080 | Collections for the Prevention or Elimination of Interference and for the Reconfiguration of the 800 MHz Band. | 08/31/11 |
| 3060–1081 | Federal-State Joint Board on Universal Service, CC Docket No. 96–45 | 10/31/08 |
| 3060–1083 | Secs. 64.1300 through 64.1340 | 06/30/11 |
| 3060–1084 | Rules and Regulations Implementing Minimum Customer Account Record Obligations on All Local and Interexchange Carriers (CARE), CG Docket No. 02–386. | 06/30/10 |
| 3060–1085 | Collection of Location Information, Provision of Notice and Reporting on Interconnected Voice Over Internet Protocol (VoIP) E911 Compliance. | 01/31/09 |
| 3060–1086 | Secs. 74.786, 74.787, 74.790, 74.794 and 74.796 | 07/31/11 |
| 3060–1087 | Section 15.615, Broadband Over Power Lines (BPL) | 07/31/11 |
| 3060–1088 | FCC 1088 Series | 03/31/10 |
| 3060–1089 | Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Emergency Access Notice of Proposed Rulemaking and IP Relay/VRS Fraud..... | 10/31/10 |
| 3060–1092 | FCC 609–T and FCC 611–T | 01/31/11 |
| 3060–1094 | Licensing, Operation, and Transition of the 2500–2690 MHz Band | 10/31/09 |
| 3060–1095 | Surrenders of Authorization for International Carrier, Space Station and Earth Station Licensees. | 12/31/09 |
| 3060–1096 | Prepaid Calling Card Service Provider Certification, WC Docket No. 05–68 | 02/28/10 |
| 3060–1098 | Rural Health Care Support Mechanism | 03/31/10 |
| 3060–1100 | Sec. 15.117 | 09/30/10 |
| 3060–1101 | Children's Television Requests for Preemption Flexibility | 06/30/10 |
| 3060–1103 | Sec. 76.41 | 07/31/10 |
| 3060–1104 | Sec. 83.682(d) | 03/31/11 |
| 3060–1105 | Digital TV Transition Report | 06/30/11 |
| 3060–1108 | Consummations of Assignments and Transfers of Control Authorization | 09/30/10 |
| 3060–1110 | Sunset of the Cellular Radiotelephone Service Analog Service Requirement and Related Matters, MO&O, FCC 07–103. | 10/31/10 |
| 3060–1111 | Sections 225 and 255, Interconnected Voice Over Internet Protocol (VoIP) Services. | 01/31/11 |
| 3060–1112 | Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight. | 01/31/11 |
| 3060–1114 | Information Needed in Requests for Waiver of June 26, 2008 Deadline for Rebanding Completion. | 09/30/08 |
| 3060–1115 | Secs. 15.124, 27.20, 54.418, 73.674, and 76.1630 | Pending OMB Approval. |
| 3060–1116 | Submarine Cable Reporting | 10/31/08 |
| 3060–1117 | Viewer Notification Requirements in the Third DTV Periodic Report and Order, FCC 07–228. | Pending OMB Approval. |
| 3060–1118 | DTV Retailer Site Visit Program | 12/31/08 |
| 3060–1119 | Section 12.3, Information Collection Regarding Redundancy, Resiliency and Reliability of 911 and E911 Networks and/or Systems as Set Forth in the Commission's Rules. | 08/31/11 |
| 3060–XXXX | Service Quality Measurement Plan for Interstate Special Access and Monthly Useage Reporting Requirements (272 Sunset Rulemaking). | Pending OMB Approval. |

[73 FR 57544, Oct. 3, 2008]

### § 0.409 Commission policy on private printing of FCC forms.

The Commission has established a policy regarding the printing of blank FCC forms by private companies if they elect to do so as a matter of expediency and convenience to their clients or consumers. The policy is as follows:

(a) Blank FCC forms may be reproduced by private companies at their own expense provided the following conditions are met:

(1) Use a printing process resulting in a product that is at least comparable in quality to the original document, without change to the page size, image size, configuration of pages, folds or perforations, and matching as closely as possible the paper weight, paper color and ink color.

(2) Delete in its entirety any and all U.S. Government Printing Office (GPO) indicia that may appear in the margin(s).

(3) If the printer wishes to identify a foreign country in which the forms are printed, a marginal notation must be added stating ''No U.S. Government funds were used to print this document.''

(4) Do not add to the form any other symbol, word or phrase that might be construed as personalizing the form or advertising on it.

(5) Except as specified above, do not delete from or add to any part of the form, or attach anything thereto.

(6) Assure that the form being reproduced is an edition currently acceptable by the Commission, which will endeavor to keep the public advised of revisions to its forms, but cannot assume responsibility to the extent of eliminating any element of risk against the use of obsolete forms.

(b) These guidelines do not apply to forms which respondents may wish to reproduce as completed facsimiles on automated equipment to satisfy application or report requirements. Requests for permission to submit such forms to the Commission should be addressed to the Office of Managing Director.

[53 FR 27861, July 25, 1988]

## PRINTED PUBLICATIONS

### § 0.411 General reference materials.

The following reference materials are available in many libraries and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402:

(a) *Statutory materials*. Laws pertaining to communications are contained in Title 47 of the United States Code. Laws enacted since the printing of the last supplement to the Code are printed individually as slip laws, and these are compiled chronologically in the United States Statutes at Large. The Acts of Congress from 1910–62 pertaining to radio have been compiled in a single volume, Radio Laws of the United States (1962 ed.). See §§ 0.405 and 0.414.

(b) *Regulatory materials*—(1) *The Code of Federal Regulations*. The rules and regulations of the Commission are contained in chapter I of title 47 of the Code of Federal Regulations. Chapter I is divided into the following four subchapters, which may be purchased separately: Subchapter A—General; Subchapter B—Common Carrier Services; Subchapter C—Broadcast Radio Services; and Subchapter D—Private Radio Services. Most persons will find that they need subchapter A, containing the general rules, and one of the other volumes, depending upon their area of interest. These four volumes are revised annually to reflect changes in the rules. See §§ 0.406, 0.412, and 0.415. The Code of Federal Regulations is fully indexed and contains numerous finding aids. See 1 CFR appendix C.

(2) *The Federal Register*. As rules are adopted, amended, or repealed, the changes are published in the FEDERAL REGISTER, which is published daily except on legal holidays. Notices of proposed rule making, other rule making documents, statements of general policy, interpretations of general applicability, and other Commission documents having general applicability and legal effect are also published in the FEDERAL REGISTER. Summaries of the full Notices of proposed rule making

and other rule making decisions adopted by the Commission constitute rulemaking documents for purposes of FEDERAL REGISTER publication. The FEDERAL REGISTER is fully indexed and contains numerous findings aids.

[32 FR 10571, July 19, 1967, as amended at 44 FR 39180, July 5, 1979; 51 FR 7444, Mar. 4, 1986]

### §0.413 The Commission's printed publications.

The Commission's printed publications are described in §§0.414 through 0.420. These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[64 FR 60722, Nov. 8, 1999]

### §0.414 The Communications Act and other statutory materials.

This publication, with packets of revised pages, contains the Communications Act of 1934, with amendments through 1964; the Administrative Procedure Act, with amendments through 1964; the Judicial Review Act; the Communications Satellite Act of 1962; and selected sections of the Criminal Code pertaining to communications. It also contains indexes to the Communications Act and the Administrative Procedure Act. Persons who do not have ready access to the United States Code, or who refer frequently to these materials, may find this volume to be useful.

[32 FR 10571, July 19, 1967]

### §0.415 The rules and regulations (looseleaf service).

(a) In this service, the rules are divided into 10 volumes, each containing several related parts. Each volume may be purchased separately from the Superintendent of Documents. The purchase price for a volume includes a subscription to replacement pages reflecting changes in the rules contained therein until such time as the volume is revised. Each volume is revised periodically, depending primarily on the frequency with which the rules it contains have been amended. When a volume is revised, the revised volume and replacement pages therefor will be furnished to those who renew their subscriptions.

(b) [Reserved]

[41 FR 21449, May 26, 1976, as amended at 45 FR 49935, July 28, 1980; 51 FR 31304, Sept. 2, 1986]

### §0.416 The Federal Communications Commission Record.

Texts adopted by the Commission or a member of its staff on delegated authority and released through the Office of Media Relations are published in the FCC Record. The FCC Record is published biweekly in pamphlet form. The pamphlets are available on a subscription basis from the Superintendent of Documents. Each biweekly pamphlet contains a table of contents and current index. A consolidated index is published on a periodic basis.

[64 FR 60722, Nov. 8, 1999]

### §0.417 The Annual Reports.

At the end of each fiscal year, the Commission publishes an Annual Report containing general information concerning the Commission and the history of regulation, a summary of developments during the year, and selected industry statistics.

[32 FR 10571, July 19, 1967]

### §0.420 Other Commission publications.

The following additional Commission publications may be purchased from the Superintendent of Documents:

(a) Statistics of Communications Common Carriers.

(b) Figure M–3, Estimated AM Ground Conductivity of the United States (set of two maps).

(c) Television Network Program Procurement Report, 2d Interim Report, Part 2, by the Office of Network Study.

[32 FR 10571, July 19, 1967, as amended at 44 FR 39180, July 5, 1979]

## FORMS AND DOCUMENTS AVAILABLE UPON REQUEST

### §0.421 Application forms.

All forms for use in submitting applications for radio authorization, together with instructions and information as to filing such forms, may be obtained at the Washington offices of the Commission or at any of the field offices listed in §0.121. For information

concerning the forms to be used and filing requirements, see subparts D, E, F, and G, of part 1 of this chapter and the appropriate substantive rules.

[40 FR 17254, Apr. 18, 1975]

### § 0.422 Current action documents and public notices.

Documents adopted by the Commission, public notices and other public announcements are released through the Office of Media Relations. These documents are also available on the Commission's website at *www.fcc.gov* and can be obtained from the Commission's duplicating contractor.

[64 FR 60722, Nov. 8, 1999]

### § 0.423 Information bulletins.

Information bulletins and fact sheets containing information about communications issues and the Federal Communications Commission are available on the Commission's web site at *www.fcc.gov*, *ftp.fcc.gov* or may be requested from the Consumer and Governmental Affairs Bureau.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

## LISTS CONTAINING INFORMATION COMPILED BY THE COMMISSION

### § 0.431 The FCC service frequency lists.

Lists of frequency assignments to radio stations authorized by the Commission are recapitulated periodically by means of an automated record system. All stations licensed by the Commission are included, except the following: Aircraft, amateur, personal (except General Mobile Radio Service), Civil Air Patrol, and disaster. The resulting documents, the FCC service frequency lists, consist of several volumes arranged by nature of service, in frequency order, including station locations, call signs and other technical particulars of each assignment. These documents are available for public inspection in Washington, D.C., in the Office of Engineering and Technology. Copies may be purchased from the Commission's duplicating contractor. See § 0.465(a).

[64 FR 60722, Nov. 8, 1999]

### § 0.434 Data bases and lists of authorized broadcast stations and pending broadcast applications.

Periodically the FCC makes available copies of its data bases and lists containing information about authorized broadcast stations, pending applications for such stations, and rulemaking proceedings involving amendments to the TV and FM Table of Allotments. The data bases, and the lists prepared from the data bases, contain frequencies, station locations, and other particulars. The lists are available for public inspection at the FCC's Reference Information Center at 445 12th Street, SW., Washington, DC. Paper copies of the lists may be purchased from the FCC's duplicating contractor; see § 0.465(a). Many of the databases may be viewed at the Commission's web site at *www.fcc.gov* and *ftp.fcc.gov* under mass media services. Microfiche copies of these lists are maintained by the Reference Information Center. These lists are derived from the data bases and can be used as an alternative research source to the Broadcast Application Processing System (BAPS).

[64 FR 60722, Nov. 8, 1999]

## PUBLIC INFORMATION AND INSPECTION OF RECORDS

SOURCE: 74 FR 14078, Mar. 30, 2009, unless otherwise noted.

### § 0.441 General.

(a) Any person desiring to obtain information from the Commission may do so by contacting the Consumer and Governmental Affairs Bureau (CGB). Requests for information and general inquiries may be submitted by:

(1) Internet at *http://www.fcc.gov/cgb/fccinfo* or *http://www.fcc.gov/foia*.

(2) Telephone at 1–888–CALL–FCC (1–888–225–5322).

(3) TDD/TDY at 1–888–TELL–FCC (1–888–835–5322).

(4) Correspondence to: Consumer and Governmental Affairs Bureau, 445 12th Street, SW., Washington, DC 20554.

(5) Visiting the Reference Information Center of the Consumer and Governmental Affairs Bureau at Room CY–A257 of the Commission's main office

at 445 12th Street, SW., Washington, DC 20554.

(6) Facsimile at 1–866–418–0232.

(7) Contacting the Commission's Copy Contractor, see § 0.465(a).

(b) The Commission's FOIA Public Liaison is available to assist any person requesting information from the Commission in resolving any concerns related to a Freedom of Information Act request. See *http://www.fcc.gov/foia/*.

**§ 0.442 Disclosure to other Federal government agencies of information submitted to the Commission in confidence.**

(a) The disclosure of records to other Federal government agencies is generally governed by the Paperwork Reduction Act, 44 U.S.C. 3510, rather than the Freedom of Information Act. The acceptance of materials in confidence under § 0.457 or § 0.459, or any other statute, rule or Commission order, does not preclude their disclosure to other federal agencies.

(b) Information submitted to the Commission in confidence pursuant to § 0.457(c)(2) and (3), (d) and (g) or § 0.459, or any other statute, rule or order, may be disclosed to other agencies of the Federal government upon request or upon the Commission's own motion, provided:

(1) Specific Commission assurances against such disclosure have not been given;

(2) The other agency has established a legitimate need for the information;

(3) Disclosure is made subject to the provisions of 44 U.S.C. 3510(b); and

(4) Disclosure is not prohibited by the Privacy Act or other provisions of law.

(c) The Commission's staff may give assurances against disclosure of information to other Federal agencies only with the prior written approval of the General Counsel. In no event will assurance against disclosure to other agencies be given in advance of submission of the information to the Commission if submission is required by statute or by the provisions of this chapter; but the notice provisions of paragraph (d) of this section will apply to such required submissions.

(d)(1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, a party who furnished records to the Commission with a request for confidential treatment, see § 0.459, will be notified at the time that the request for disclosure is submitted and will be afforded ten calendar days in which to submit an opposition to disclosure. This notification may be made either individually or by public notice.

(2) If the agency requesting the records provides in writing to the satisfaction of the Commission that notice to the party who furnished the records to the Commission will interfere unduly with its law enforcement, national security or homeland defense activities and further states that it will notify that party of the Commission's disclosure once the potential for such interference is eliminated, the Commission will not give notice of disclosure.

(3) A party who furnished records to the Commission in confidence will not be afforded prior notice when the disclosure is made to the Comptroller General of the United States, in the Government Accountability Office. Such a party will instead be notified of disclosure of the records to the Comptroller General either individually or by public notice.

(4) If disclosure is opposed and the Commission decides to make the records available to the other agency, the party who furnished the records to the Commission will be afforded ten calendar days from the date of the ruling to move for a judicial stay of the Commission's action. If the party does not move for stay within this period, the records will be disclosed.

(e) Except as provided in paragraph (d)(3) of this section, nothing in this section is intended to govern disclosure of information to Congress or the Comptroller General.

**§ 0.445 Publication, availability and use of opinions, orders, policy statements, interpretations, administrative manuals, and staff instructions.**

(a) Adjudicatory opinions and orders of the Commission, or its staff acting on delegated authority, are mailed or delivered by electronic means to the parties, and as part of the record, are available for inspection in accordance with §§ 0.453 and 0.455.

(b) Texts adopted by the Commission or a member of its staff on delegated authority and released through the Office of Media Relations are published in the FCC Record. Older materials of this nature are available in the FCC Reports. In the event that such older materials are not published in the FCC Reports, reference should be made to the FEDERAL REGISTER or Pike and Fischer Communications Regulation.

(c) All rulemaking documents or summaries thereof are published in the FEDERAL REGISTER and are available on the Commission's Web site. The complete text of the Commission decision also is released by the Commission and is available for inspection and copying during normal business hours in the Office of Media Relations, the Reference Information Center, via the Electronic Comment Filing System (ECFS), or as otherwise specified in the rulemaking document published in the FEDERAL REGISTER. The complete texts of rulemaking decisions may also be purchased from the Commission's copy contractor.

(d) Formal policy statements and interpretations designed to have general applicability are published in the FEDERAL REGISTER, the FCC Record, FCC Reports, or Pike and Fischer Communications Regulation. Commission decisions and other Commission documents not entitled formal policy statements or interpretations may contain substantive interpretations and statements regarding policy, and these are published as part of the document in the FCC Record, FCC Reports or Pike and Fischer Communications Regulation. General statements regarding policy and interpretations furnished to individuals, in correspondence or otherwise, are not ordinarily published.

(e) If the documents described in paragraphs (a) through (d) of this section are published in the FEDERAL REGISTER, the FCC Record, FCC Reports, or Pike and Fischer Communications Regulation, they are indexed, and they may be relied upon, used or cited as precedent by the Commission or private parties in any manner. If they are not so published, they may not be relied upon, used or cited as precedent, except against persons who have actual notice of the document in question or by such persons against the Commission. No person is expected to comply with any requirement or policy of the Commission unless he or she has actual notice of that requirement or policy or a document stating it has been published as provided in this paragraph. Nothing in this paragraph, however, shall be construed as precluding a reference to a recent document that is pending publication.

(f) Subparts A and B of this part describe the functions of the staff and list the matters on which authority has been delegated to the staff. All general instructions to the staff and limitations upon its authority are set forth in those subparts or in decisions of the Commission published in the FEDERAL REGISTER. Instructions to the staff in particular matters or cases are privileged and/or protected and are not published or made available for public inspection.

(g) To the extent required to prevent a clearly unwarranted invasion of personal privacy, or to prevent disclosure of information required or authorized to be withheld by another statute, the Commission may delete identifying details or confidential information when it makes available or publishes any document described in this section. The justification for any such deletion will be fully explained in a preamble to the document.

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24388, May 2, 2011]

### § 0.451 Inspection of records: Generally.

(a) *Records which are routinely available for public inspection.* Sections 0.453 and 0.455 list those Commission records which are routinely available for public inspection and the places at which those records may be inspected. Procedures governing requests for inspection of such records are set out in § 0.460.

(b) *Records which are not routinely available for public inspection.* Records which are not listed in § 0.453 or § 0.455 are not routinely available for public inspection. Such records fall into two categories.

(1) The first category consists of those records or kinds of records listed in § 0.457 and of particular records withheld from public inspection under

§0.459. The Commission has determined that there is a statutory basis for withholding these records from public inspection. In some cases, the Commission is prohibited from permitting the inspection of records. In other cases, the records are the property of another agency, and the Commission has no authority to permit their inspection. In still other cases, the Commission is authorized, for reason of policy, to withhold records from inspection, but is not required to do so.

(2) The second category consists of records that are not listed in §0.453, §0.455, or §0.457 and have not been withheld from inspection under §0.459. In some cases, these records have not been identified for listing. In other cases (*e.g.*, the general correspondence files), the Commission is unable to determine either that all records in a class should be routinely available for inspection or that all records in that class should not be routinely available for inspection, and individualized determination is required.

(3) Procedures governing requests for inspection of these records are set forth in §0.461.

(4) Procedures governing demands by competent authority for inspection of these records are set forth in §0.463.

(5) Except as provided in §0.461 and §0.463, or pursuant to §19.735–203 of this chapter, no officer or employee of the Commission shall permit the inspection of records which are not routinely available for public inspection under §0.453 or §0.455, or disclose information contained therein.

(c) *Copies*. Section 0.465 applies to requests for copies of Commission records which are routinely available for public inspection under §0.453 and §0.455 and those which are made available for inspection under §0.461. Sections 0.467 and 0.465(c)(3) apply to requests for certified copies of Commission records.

(d) *Search and copying fees*. Section 0.465(c)(2) prescribes the per page fee for copying records made available for inspection under §0.460 or §0.461. Section 0.466 prescribes fees to cover the expense of searching for and reviewing records made available for inspection under §0.460 or §0.461. Review of initial fee determinations under §0.467 through §0.470 and initial fee reduction or waiver determinations under §0.470(e) may be sought under §0.461(j).

NOTE TO PARAGRAPH (d): The Commission may require advance payment pursuant to §0.469 before releasing documents.

### §0.453 Public reference rooms.

The Commission maintains the FCC Reference Information Center as its public reference room at its offices in Washington, DC. Much of the information available from the public reference room may also be retrieved from the Commission's main Web site at *http://www.fcc.gov* and its electronic reading room at *http://www.fcc.gov/foia/e-room.html*:

(a) *The Reference Information Center*. Maintains files containing the record of all docketed cases, petitions for rule making and related papers. A file is maintained for each docketed hearing case and for each docketed rule making proceeding. Cards summarizing the history of such cases for the years before 1984 are available for inspection. Information summarizing the history of such cases for the years from 1984 through present is available online on the Electronic Comment Filing System (ECFS).

(b) *Broadcast Services*. The following files and documents are available, including:

(1) Applications for radio and television broadcast station construction permits, licenses, modifications of facilities, license renewal, assignments and transfer of control, including any Commission correspondence or rulings pertaining to those applications;

(2) Petitions to deny, informal objections, and complaints directed against the stations and/or station applications;

(3) Ownership reports filed by licensees pursuant to §73.3615 of this chapter;

(4) Television network application contracts, radio and television time brokerage agreements, and other documents required to be filed under §73.3613 of this chapter;

(5) Children's television programming reports filed by commercial television licensees pursuant to §73.3526 of this chapter;

(6) Annual DTV ancillary/supplementary services reports filed by commercial and non-commercial educational digital television licensees pursuant to § 73.624 of this chapter;

(7) Station requests for declaratory rulings, special temporary authorizations, and other waivers;

(8) Annual employment reports filed by licensees and permittees of broadcast stations pursuant to § 73.3612 of this chapter; and.

(9) Responses from licensees to random audits of their Equal Employment Opportunity programs conducted pursuant to § 73.2080 of this chapter.

(c) *Common Carrier Services*, including:

(1) Annual reports filed by carriers under § 43.21 of this chapter;

(2) Reports of proposed changes in depreciation rates filed by carriers under § 43.43 of this chapter;

(3) Rate-of-return reports filed by price-cap and rate-of-return incumbent local exchange carriers under § 65.600 of this chapter;

(4) All applications for common carrier authorizations acted upon by the Enforcement Bureau, and related files;

(5) All formal and informal carrier-to-carrier complaints against common carriers filed under § 1.711 through § 1.735 of this chapter, all documents filed in connection therewith, and all communications related thereto;

(6) Annual employment reports filed by common carrier licensees or permittees pursuant to § 1.815 of this chapter;

(7) Enforcement proceedings and public inquiries and related materials;

(8) Cost Allocation Manuals and related materials;

(9) Currently effective tariffs filed by Communications Common Carriers pursuant to various FCC Rules and Regulations; and

(10) Recent revisions to tariff filings and the Reference Information Center Log, which is prepared daily and lists the tariff filings received the previous day.

(d) *Wireless Telecommunications Services and Auction* related data including:

(1) Pending files containing applications for additional facilities or modifications of existing facilities;

(2) Cellular and Paging Granted Station files and related materials;

(3) Pending cellular and paging applications and related files;

(4) Electronically stored application and licensing data for commercial radio operators and for all authorizations in the Wireless Radio services are available for public inspection via the Commission's Web site, *http://wireless.fcc.gov/uls*. Wireless Radio services include Commercial and Private Mobile Radio, Common Carrier and Private Operational Field point-to-point Microwave, Local Television Transmission Service (LTTS), Digital Electronic Message Service (DEMS), Aviation Ground and Marine Coast applications; and

(5) Petitions and related materials.

(e) *International Services* as follows, except to the extent they are excluded from routine public inspection under another section of this chapter:

(1) Satellite and earth station applications files and related materials under part 25 of this chapter;

(2) Section 214 applications and related files under part 63 of this chapter, to the extent that they concern international communications facilities and services;

(3) International Fixed Public Radio applications and related files under part 23 of this chapter;

(4) Files relating to submarine cable landing licenses and applications for such licenses since June 30, 1934, except for maps showing the exact location of submarine cables, which are withheld from inspection under sec. 4(j) of the Communications Act, 47 U.S.C. 154(j) (see § 0.457(c)(1)(i));

(5) International broadcast applications, applications for permission to deliver programming to foreign stations, and related files under part 73 of this chapter; and

(6) Contracts and other arrangements filed under § 43.51 of this chapter, except for those that are filed with a request for confidential treatment (see § 0.459) or are deemed confidential pursuant to sec. 412 of the Communications Act (see also § 0.457(c)(3)).

(f) *Cable and other Multichannel Video Program Distribution Services*. The following files and records are available, including:

(1) Complaints regarding multichannel video programming, all documents filed in connection therewith, and all communications related thereto, unless the cable operator has submitted a request pursuant to §0.459 that such information not be made routinely available for public inspection;

(2) Special relief petitions and files pertaining to cable television operations;

(3) Special relief petitions and files pertaining to DBS television operations;

(4) Petitions and related documents concerning the enforcement of regulations governing the installation of over-the-air reception devices (OTARD) pursuant to §1.4000 of this chapter;

(5) Filings by cable television operators, including Cable Signal Leakage Reports (Form 320 and §76.1804 of this chapter), Cable System Registration Statements (§76.1801 of this chapter), Cable System Operator Changes (§76.1610 of this chapter), Cable Aeronautical Frequency Notifications (§76.1804 of this chapter), Cable Annual Report (Form 325 and §76.403 of this chapter), and filings related to CARS licenses (Part 78 of this chapter).

NOTE TO PARAGRAPH (f)(5): This data also is available at *http://www.fcc.gov/coals*. Electronic submissions for cable filings (excluding CARS) are mandatory. Original forms are not available for information filed electronically, but the Reference Information Center or the Commission's Copy Contractor may assist in producing paper copies of information found in the COALS database;

(6) Annual employment reports filed by multichannel video programming distributors pursuant to §76.1802 of this chapter; and

(7) Responses from multichannel video programming distributors to random audits of their Equal Employment Opportunity programs conducted pursuant to §76.77 of this chapter.

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24389, May 2, 2011]

### §0.455 Other locations at which records may be inspected.

Except as provided in §0.453, §0.457, and §0.459, records are routinely available for inspection in the Reference Information Center or the offices of the Bureau or Office which exercises responsibility over the matters to which those records pertain (see §0.5), or will be made available for inspection at those offices upon request. Upon inquiry to the appropriate Bureau or Office, persons desiring to inspect such records will be directed to the specific location at which the particular records may be inspected. Examples of the records available from Bureaus and Offices are set forth in paragraphs (a) through (c).

(a) *Media Bureau*. (1) Rulings under secs. 312(a)(7), 315, and 317 of the Communications Act of 1934, as amended;

(2) All materials associated with a rate proceeding for basic cable service and associated equipment over which the Commission has assumed jurisdiction pursuant to §76.913 of this chapter;

(3) All materials associated with Commission review of franchise authority decisions concerning the rate charged for the basic cable service tier and associated equipment pursuant to §76.944 of this chapter;

(4) All materials associated with local government requests for authorization to regulate basic cable rates pursuant to §76.910 of this chapter (Form 328);

(5) All materials associated with the certification of Open Video System (OVS) operators pursuant to §76.1502 of this chapter;

(6) A list of all registered cable communities is maintained electronically at *http://www.fcc.gov/mb*; and

(7) Public notices issued related to CARS licenses, Cable Special Relief Petitions, and other filings are available electronically at *http://www.fcc.gov/Document_Indexes/Media/*.

(b) *Office of Managing Director*. (1) All minutes of Commission actions, containing a record of all final votes, minutes of actions and internal management matters as provided in §0.457(b)(1) and (c)(1)(i). These records and files are available for inspection in the Office of the Secretary.

(2) Files containing information concerning the history of the Commission's rules. These files are available for inspection in the Office of the Secretary.

(3) Reports filed by employees pursuant to 5 CFR Parts 2634 and 3902 and

applications for inspection of such reports. See § 0.460(k).

(c) *International Bureau.* (1) The treaties and other international and bilateral agreements listed in § 73.1650 of this chapter are available for inspection in the office of the Chief, Strategic Analysis and Negotiations Division, International Bureau.

(2) Contracts and other arrangement filed under § 43.51 of this chapter and reports of negotiations regarding foreign communication matters filed under § 43.52 of this chapter, except those kept confidential pursuant to sec. 412 of the Communications Act. See § 0.457(c)(3).

(3) Files relating to international settlements under part 64 of this chapter.

### § 0.457 Records not routinely available for public inspection.

The records listed in this section are not routinely available for public inspection pursuant to 5 U.S.C. 552(b). The records are listed in this section by category, according to the statutory basis for withholding those records from inspection; under each category, if appropriate, the underlying policy considerations affecting the withholding and disclosure of records in that category are briefly outlined. Except where the records are not the property of the Commission or where the disclosure of those records is prohibited by law, the Commission will entertain requests from members of the public under § 0.461 for permission to inspect particular records withheld from inspection under the provisions of this section, and will weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in the light of the facts of the particular case. In making such requests, there may be more than one basis for withholding particular records from inspection. The listing of records by category is not intended to imply the contrary but is solely for the information and assistance of persons making such requests. Requests to inspect or copy the transcripts, recordings or minutes of closed agency meetings will be considered under § 0.607 rather than under the provisions of this section.

(a) *Materials that are specifically authorized under criteria established by Executive Order (E.O.) to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, 5 U.S.C. 552(b)(1).* (1) Classified materials and information will not be made available for public inspection, including materials classified under E.O. 10450, ''Security Requirements for Government Employees''; E.O. 10501, as amended, ''Safeguarding Official Information in the Interests of the Defense of the United States''; and E.O. 12958, ''Classified National Security Information,'' or any other executive order concerning the classification of records. See also 47 U.S.C. 154(j).

(2) Materials referred to another Federal agency for classification will not be disclosed while such a determination is pending.

(b) *Materials that are related solely to the internal personnel rules and practices of the Commission, 5 U.S.C. 552(b)(2).* (1) Materials related solely to internal management matters, including minutes of Commission actions on such matters (see paragraph (f) of this section).

(2) Materials relating to the negotiation of contracts.

(c) *Materials that are specifically exempted from disclosure by statute (other than the Government in the Sunshine Act, 5 U.S.C. 552b, provided that such statute either requires that the materials be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of materials to be withheld).* The Commission is authorized under the following statutory provisions to withhold materials from public inspection.

(1) Section 4(j) of the Communications Act, 47 U.S.C. 154(j), provides, in part, that, ''The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense.'' Pursuant to that provision, it has been determined that the following materials should be withheld from public inspection (see also paragraph (a) of this section):

(i) Maps showing the exact location of submarine cables.

(ii) Minutes of Commission actions on classified matters.

(iii) Maps of nation-wide point-to-point microwave networks.

(2) Under section 213 of the Communications Act, 47 U.S.C. 213(f), the Commission is authorized to order, with the reasons therefor, that records and data pertaining to the valuation of the property of common carriers and furnished to the Commission by the carriers pursuant to the provisions of that section, shall not be available for public inspection. If such an order has been issued, the data and records will be withheld from public inspection, except under the provisions of §0.461. Normally, however, such data and information is available for inspection.

(3) Under sec. 412 of the Communications Act, 47 U.S.C. 412, the Commission may withhold from public inspection certain contracts, agreements and arrangements between common carriers relating to foreign wire or radio communication. Any person may file a petition requesting that such materials be withheld from public inspection. To support such action, the petition must show that the contract, agreement or arrangement relates to foreign wire or radio communications; that its publication would place American communication companies at a disadvantage in meeting the competition of foreign communication companies; and that the public interest would be served by keeping its terms confidential. If the Commission orders that such materials be kept confidential, they will be made available for inspection only under the provisions of §0.461.

(4) Section 605 of the Communications Act, 47 U.S.C. 605(a), provides, in part, that, ''no person not being authorized by the sender shall intercept any communication [by wire or radio] and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communications to any person.'' In executing its responsibilities, the Commission regularly monitors radio transmissions. Except as required for the enforcement of the communications laws, treaties and the provisions of this chapter, or as authorized in sec. 605, the Commission is prohibited from divulging information obtained in the course of these monitoring activities; and such information, and materials relating thereto, will not be made available for public inspection.

(5) Section 1905 of the federal criminal code, the Trade Secrets Act, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information. See paragraph (d) of this section and §19.735–203 of this chapter.

(d) *Trade secrets and commercial or financial information obtained from any person and privileged or confidential—categories of materials not routinely available for public inspection, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905.*

(1) The materials listed in this paragraph have been accepted, or are being accepted, by the Commission on a confidential basis pursuant to 5 U.S.C. 552(b)(4). To the extent indicated in each case, the materials are not routinely available for public inspection. If the protection afforded is sufficient, it is unnecessary for persons submitting such materials to submit therewith a request for non-disclosure pursuant to §0.459. A persuasive showing as to the reasons for inspection will be required in requests submitted under §0.461 for inspection of such materials.

(i) Financial reports submitted by radio or television licensees.

(ii) Applications for equipment authorizations (type acceptance, type approval, certification, or advance approval of subscription television systems), and materials relating to such applications, are not routinely available for public inspection prior to the effective date of the authorization. The effective date of the authorization will, upon request, be deferred to a date no earlier than that specified by the applicant. Following the effective date of the authorization, the application and related materials (including technical specifications and test measurements) will be made available for inspection upon request (see §0.460). Portions of applications for equipment certification of scanning receivers and related materials will not be made available for inspection.

(iii) Information submitted in connection with audits, investigations and examination of records pursuant to 47 U.S.C. 220.

(iv) Programming contracts between programmers and multichannel video programming distributors.

(v) The rates, terms and conditions in any agreement between a U.S. carrier and a foreign carrier that govern the settlement of U.S. international traffic, including the method for allocating return traffic, if the U.S. international route is exempt from the international settlements policy under § 43.51(e)(3) of this chapter.

(vi) Outage reports filed under Part 4 of this chapter.

(vii) The following records, relating to coordination of satellite systems pursuant to procedures codified in the International Telecommunication Union (ITU) Radio Regulations:

(A) Records of communications between the Commission and the ITU related to the international coordination process, and

(B) Documents prepared in connection with coordination, notification, and recording of frequency assignments and Plan modifications, including but not limited to minutes of meetings, supporting exhibits, supporting correspondence, and documents and correspondence prepared in connection with operator-to-operator arrangements.

NOTE TO PARAGRAPH (d): The content of the communications described in paragraph (d)(1)(vii)(A) of this section is in some circumstances separately available through the ITU's publication process, or through records available in connection with the Commission's licensing procedures.

(2) Unless the materials to be submitted are listed in paragraph (d)(1) of this section and the protection thereby afforded is adequate, any person who submits materials which he or she wishes withheld from public inspection under 5 U.S.C. 552(b)(4) must submit a request for non-disclosure pursuant to § 0.459. If it is shown in the request that the materials contain trade secrets or privileged or confidential commercial, financial or technical data, the materials will not be made routinely available for inspection; and a persuasive showing as to the reasons for inspection will be required in requests for inspection submitted under § 0.461. In the absence of a request for non-disclosure, the Commission may, in the unusual instance, determine on its own motion that the materials should not be routinely available for public inspection.

(e) *Interagency and intra-agency memoranda or letters, 5 U.S.C. 552(b)(5).* Interagency and intra-agency memoranda or letters and the work papers of members of the Commission or its staff will not be made available for public inspection, except in accordance with the procedures set forth in § 0.461. Normally such papers are privileged and not available to private parties through the discovery process, since their disclosure would tend to restrain the commitment of ideas to writing, would tend to inhibit communication among Government personnel, and would, in some cases, involve premature disclosure of their contents.

(f) *Personnel, medical and other files whose disclosure would constitute a clearly unwarranted invasion of personal privacy, 5 U.S.C. 552(b)(6).* Under E.O. 10561, the Commission maintains an Official Personnel Folder for each of its employees. Such folders are under the jurisdiction and control, and are a part of the records, of the U.S. Office of Personnel Management. Except as provided in the rules of the Office of Personnel Management (5 CFR 293.311), such folders will not be made available for public inspection by the Commission. In addition, other records of the Commission containing private, personal or financial information concerning particular employees and Commission contractors will be withheld from public inspection.

(g) *Under 5 U.S.C. 552(b)(7), records compiled for law enforcement purposes, to the extent that production of such records:*

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source;

(5) Would disclose investigative techniques or procedures or would disclose

investigative guidelines if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

**§0.458 Nonpublic information.**

Any person regulated by or practicing before the Commission coming into possession of written nonpublic information (including written material transmitted in electronic form) as described in §19.735–203(a) of this chapter under circumstances where it appears that its release was inadvertent or otherwise unauthorized shall be obligated to and shall promptly return the information to the Commission's Office of Inspector General without further distribution or use. See 47 CFR 19.735–203.

**§0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.**

(a)(1) *Procedures applicable to filings in non-electronic proceedings.* Any person submitting information or materials to the Commission may submit therewith a request that such information not be made routinely available for public inspection. (If the materials are specifically listed in §0.457, such a request is unnecessary.) A copy of the request shall be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies shall be physically separated from any materials to which the request does not apply; if this is not feasible, the portion of the materials to which the request applies shall be identified. In the latter circumstance, where confidential treatment is sought only for a portion of a document, the person submitting the document shall submit a redacted version for the public file.

(2) *Procedures applicable to filings in electronic proceedings.* In proceedings to which the electronic filing requirements set forth in §1.49(f) of this chapter apply, a party seeking confidential treatment of a portion of a filing must submit in electronic format either a redacted version of the document or an affidavit that it is impossible to submit a redacted document consistent with the filing requirements of this section. Where a party demonstrates that even the fact of a filing must remain confidential, and that this is consistent with the requirements of this section, this affidavit may be filed in paper format under seal.

(3) Comments and other materials may not be submitted by means of the Commission's Electronic Comment Filing System (ECFS) with a request for confidential treatment under this section.

(4) The Commission may use abbreviated means for indicating that the submitter of a record seeks confidential treatment, such as a checkbox enabling the submitter to indicate that the record is confidential. However, upon receipt of a request for inspection of such records pursuant to §0.461, the submitter will be notified of such request pursuant to §0.461(d)(3) and will be requested to justify the confidential treatment of the record, as set forth in paragraph (b) of this section.

(b) Except as provided in §0.459(a)(3), each such request shall contain a statement of the reasons for withholding the materials from inspection (see §0.457) and of the facts upon which those records are based, including:

(1) Identification of the specific information for which confidential treatment is sought;

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission;

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged;

(4) Explanation of the degree to which the information concerns a service that is subject to competition;

(5) Explanation of how disclosure of the information could result in substantial competitive harm;

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure;

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties;

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; and

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

(c) Casual requests (including simply stamping pages ''confidential'') which do not comply with the requirements of paragraphs (a) and (b) of this section will not be considered.

(d)(1) If a response in opposition to a confidentiality request is filed, the party requesting confidentiality may file a reply within ten business days. All responses or replies filed under this paragraph must be served on all parties.

(2) Requests which comply with the requirements of paragraphs (a) and (b) of this section will be acted upon by the appropriate custodian of records (see § 0.461(d)(1)), who is directed to grant the request if it demonstrates by a preponderance of the evidence that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. 552. If the request for confidentiality is granted, the ruling will be placed in the public file in lieu of the materials withheld from public inspection.

(3) The Commission may defer acting on requests that materials or information submitted to the Commission be withheld from public inspection until a request for inspection has been made pursuant to § 0.460 or § 0.461. The information will be accorded confidential treatment, as provided for in § 0.459(g) and § 0.461, until the Commission acts on the confidentiality request and all subsequent appeal and stay proceedings have been exhausted.

(e) If the materials are submitted voluntarily (*i.e.*, absent any requirement by statute, regulation, or the Commission), the person submitting them may request the Commission to return the materials without consideration if the request for confidentiality should be denied. In that event, the materials will ordinarily be returned (e.g., an application will be returned if it cannot be considered on a confidential basis). Only in the unusual instance where the public interest so requires will the materials be made available for public inspection. However, no materials submitted with a request for confidentiality will be returned if a request for inspection has been filed under § 0.461. If submission of the materials is required by the Commission and the request for confidentiality is denied, the materials will be made available for public inspection once the period for review of the denial has passed.

(f) If no request for confidentiality is submitted, the Commission assumes no obligation to consider the need for non-disclosure but, in the unusual instance, may determine on its own motion that the materials should be withheld from public inspection. *See* § 0.457(d).

(g) If a request for confidentiality is denied, the person who submitted the request may, within ten business days, file an application for review by the Commission. If the application for review is denied, the person who submitted the request will be afforded ten business days in which to seek a judicial stay of the ruling. If these periods expire without action by the person who submitted the request, the materials will be returned to the person who submitted them or will be placed in a public file. Notice of denial and of the time for seeking review or a judicial stay will be given by telephone, with follow-up notice in writing. The first day to be counted in computing the time periods established in this paragraph is the day after the date of oral notice. Materials will be accorded confidential treatment, as provided in § 0.459(g) and § 0.461, until the Commission acts on any timely applications for review of an order denying a request for confidentiality, and until a court acts on any timely motion for stay of such an order denying confidential treatment.

(h) If the request for confidentiality is granted, the status of the materials is the same as that of materials listed in § 0.457. Any person wishing to inspect them may submit a request for inspection under § 0.461.

(i) Third party owners of materials submitted to the Commission by another party may participate in the proceeding resolving the confidentiality of the materials.

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24389, May 2, 2011]

**§ 0.460 Requests for inspection of records which are routinely available for public inspection.**

(a) Sections 0.453 and 0.455 list those Commission records which are routinely available for public inspection and the places at which those records may be inspected. Subject to the limitations set out in this section, a person who wants to inspect such records need only appear at the specified location and ask to see the records. Many such records also are available through the Commission's Web site, located at *http://www.fcc.gov* and the Commission's electronic reading room, located on its Web site at *http://www.fcc.gov/foia/e-room.html*. Commission documents listed in § 0.416 and § 0.445 are published in the FCC Record, and many such documents or summaries thereof are also published in the FEDERAL REGISTER.

(b) A person who wishes to inspect the records must appear at the specified location during the office hours of the Commission and must inspect the records at that location. (Procedures governing requests for copies are set out in § 0.465.) However, arrangements may be made in advance, by telephone or by correspondence, to make the records available for inspection on a particular date, and there are many circumstances in which such advance arrangements will save inconvenience. If the request is for a large number of documents, for example, a delay in collecting them is predictable. Current records may be in use by the staff when the request is made. Older records may have been forwarded to another location for storage.

(c) The records in question must be reasonably described by the person requesting them so as to permit their location by staff personnel. The information needed to locate the records will vary, depending on the records requested. Advice concerning the kind of information needed to locate particular records will be furnished in advance upon request. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

(d) If it appears that there will be an appreciable delay in locating or producing the records (as where a large number of documents is the subject of a single request or where an extended search for a document appears to be necessary), the requester may be directed to submit or confirm the request in writing in appropriate circumstances.

(e)(1) Written requests for records routinely available for public inspection under §§ 0.453 and 0.455 shall be directed to the Commission's copy contractor pursuant to the procedures set forth in § 0.465. Requests shall be captioned ''Request For Inspection Of Records,'' shall be dated, shall list the mailing address, telephone number (if any) of the person making the request, and the e-mail address (if any) and for each document requested, shall set out all information known to the person making the request which would be helpful in identifying and locating the document. Written requests shall, in addition, specify the maximum search fee the person making the request is prepared to pay (*see* § 0.467).

(2) Written requests shall be delivered or mailed directly to the Commission's copy contractor (see § 0.465(a)).

(f) When a written request is received by the copy contractor, it will be date-stamped.

(g) All requests limited to records listed in § 0.453 and § 0.455 will be granted, subject to paragraph (k) of this section. Requests for records listed in those sections shall not be combined with requests for other records.

(h) The records will be produced for inspection at the earliest possible time.

(i) Records shall be inspected within 7 days after notice is given that they have been located and are available for inspection. After that period, they will be returned to storage and additional charges may be imposed for again producing them.

(j) In addition to the other requirements of this section, the following provisions apply to the reports filed

with the Commission pursuant to 5 CFR parts 2634 and 3902.

(1) Such reports shall not be obtained or used:

(i) For any unlawful purpose;

(ii) For any commercial purpose, other than by news and communications media for dissemination to the general public;

(iii) For determining or establishing the credit rating of any individual; or

(iv) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) Such reports may not be made available to any person nor may any copy thereof be provided to any person except upon a written application by such person stating:

(i) That person's name, occupation and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copying is requested; and

(iii) That such person is aware of the prohibitions on the obtaining or use of the report. Further, any such application for inspection shall be made available to the public throughout the period during which the report itself is made available to the public.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 397; 18 U.S.C. 207(j))

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24389, May 2, 2011]

### § 0.461 Requests for inspection of materials not routinely available for public inspection.

Any person desiring to inspect Commission records that are not listed in § 0.453 or § 0.455 shall file a request for inspection meeting the requirements of this section. The FOIA Public Liaison is available to assist persons seeking records under this section. See § 0.441(a).

(a)(1) Records include:

(i) Any information that would be an agency record subject to the requirements of the Freedom of Information Act when maintained by the Commission in any format, including an electronic format; and

(ii) Any information maintained for the Commission by an entity under Government contract, for purposes of records management.

(2) The records in question must be reasonably described by the person requesting them, so as to permit their location by staff personnel with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the title or name, author, recipient, and subject matter of the record. Requests should also specify the date or time period for the records sought. The custodian of records sought may contact the requester to obtain further information about the records sought to assist in locating them.

(3) The person requesting records under this section may specify the form or format of the records to be produced provided that the records may be made readily reproducible in the requested form or format.

(b)(1) Requests shall be captioned ''Freedom of Information Act Request,'' shall be dated, shall list the telephone number (if any), street address, and e-mail address (if any) of the person making the request, and should reasonably describe, for each document requested (see § 0.461(a)(1)), all information known to the person making the request that would be helpful in identifying and locating the document.

(2) The request shall, in addition, specify the maximum search fee the person making the request is prepared to pay or a request for waiver or reduction of fees if the requester is eligible (see § 0.470(e)). By filing a FOIA request, the requester agrees to pay all applicable fees charged under § 0.467, unless the person making the request seeks a waiver of fees (see § 0.470(e)), in which case the Commission will rule on the waiver request before proceeding with the search.

(c) If the records are of the kinds listed in § 0.457 or if they have been withheld from inspection under § 0.459, the request shall, in addition, contain a statement of the reasons for inspection and the facts in support thereof. In the case of other materials, no such statement need accompany the request, but the custodian of the records may require the submission of such a statement if he or she determines that the

materials in question may lawfully be withheld from inspection.

(d)(1) Requests shall be

(i) Delivered or mailed to the Managing Director, FCC, 445—12th Street, SW., Room 1–A836, Washington, DC 20554;

(ii) Sent by e-mail to *foia@fcc.gov*;

(iii) Filed electronically though the Internet at *http://www.fcc.gov/foia/#reqform*; or

(iv) Sent by facsimile to (202) 418–2826 or (202) 418–0521.If the request is filed by mail or facsimile, an original and two copies of the request shall be submitted. If the request is enclosed in an envelope, the envelope shall be marked, ''Freedom of Information Act Request.''

(2) For purposes of this section, the custodian of the records is the Chief of the Bureau or Office where the records are located. The Chief of the Bureau or Office may designate an appropriate person to act on a FOIA request.

(3) If the request is for materials submitted to the Commission by third parties and not open to routine public inspection under §0.457(d), §0.459, or another Commission rule or order, or if a request for confidentiality is pending pursuant to §0.459, or if the custodian of records has reason to believe that the information may contain confidential commercial information, one copy of the request will be provided by the custodian of the records (*see* §0.461(e)) to the person who originally submitted the materials to the Commission. If there are many persons who originally submitted the records and are entitled to notice under this paragraph, the custodian of records may use a public notice to notify the submitters of the request for inspection. The submitter or submitters will be given ten calendar days to respond to the FOIA request. *See* §0.459(d)(1). If a submitter has any objection to disclosure, he or she is required to submit a detailed written statement specifying all grounds for withholding any portion of the information (*see* §0.459). This response shall be served on the party seeking to inspect the records. The requester may submit a reply within ten calendar days unless a different period is specified by the custodian of records. The reply shall be served on all parties that filed a response. In the event that a submitter fails to respond within the time specified, the submitter will be considered to have no objection to disclosure of the information.

NOTE TO PARAGRAPH (d)(3): Under the ex parte rules, §1.1206(a)(7) of this chapter, a proceeding involving a FOIA request is a permit-but-disclose proceeding, but is subject to the special service rules in this paragraph. We also note that while the FOIA request itself is a permit-but-disclose proceeding, a pleading in a FOIA proceeding may also constitute a presentation in another proceeding if it addresses the merits of that proceeding.

(e)(1) When the request is received by the Managing Director, it will be assigned to the Freedom of Information Act (FOIA) Control Office, where it will be date-stamped and assigned to the appropriate custodian of the records. A FOIA request is then considered properly received. This will occur no later than ten calendar days after the request is first received by the agency.

(2)(i) Except for the purpose of making a determination regarding expedited processing under paragraph (h) of this section, the time for processing a request for inspection of records will be tolled

(A) While the custodian of records seeks reasonable clarification of the request;

(B) Until clarification with the requester of issues regarding fee assessment occurs, including:

(*1*) While there is an unresolved fee waiver issue pending under §0.470(e), unless the requester has provided a written statement agreeing to pay some or all of the fees pending the outcome of the waiver question;

(*2*) Following the denial of a fee waiver, unless the requester had provided a written statement agreeing to pay the fees if the fee waiver was denied;

(*3*) Where advance payment is required pursuant to §0.469 and has not been made.

(ii) Only one Commission request for information shall be deemed to toll the time for processing a request for inspection of records under §0.461(e)(2)(i)(A). Such request must be made no later than ten calendar days after a request is properly received by the custodian of records under §0.461(e)(1).

(3) The FOIA Control Office will send an acknowledgement to the requester notifying the requester of the control number assigned to the request, the due date of the response, and the telephone contact number (202–418–0440) to be used by the requester to obtain the status of the request. Requesters may also obtain the status of an FOIA request via e-mail at *foia@fcc.gov*.

(4) Multiple FOIA requests by the same or different FOIA requesters may be consolidated for disposition. See also § 0.470(b)(2).

(f) Requests for inspection of records will be acted on as follows by the custodian of the records.

(1) If the Commission is prohibited from disclosing the records in question, the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2)(i) If records in the possession of the Commission are the property of another agency, the request will be referred to that agency and the person who submitted the request will be so advised, with the reasons for referral.

(ii) If it is determined that the FOIA request seeks only records of another agency or department, the FOIA requester will be so informed by the FOIA Control Officer and will be directed to the correct agency or department.

(3) If it is determined that the Commission does not have authority to withhold the records from public inspection, the request will be granted.

(4) If it is determined that the Commission does have authority to withhold the records from public inspection, the considerations favoring disclosure and non-disclosure will be weighed in light of the facts presented, and the request will be granted, either conditionally or unconditionally, or denied.

(5) If there is a statutory basis for withholding part of a document from inspection, that part will be deleted and the remainder will be made available for inspection. Records disclosed in part shall be marked or annotated to show the amount of information deleted unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted and the exemption under which the deletion is made also shall be indicated on the record, if technically feasible.

(6) In locating and recovering records responsive to an FOIA request, only those records within the Commission's possession and control as of the date of its receipt of the request shall be considered.

(g)(1) The custodian of the records will make every effort to act on the request within twenty business days after it is received and date-stamped by the FOIA Control Office.However, if a request for clarification has been made under § 0.461(e)(2)(i)(A) or an issue is outstanding regarding the payment of fees for processing the FOIA request is pending under § 0.461(e)(2)(i)(B), the counting of time will start upon resolution of these requests. If it is not possible to locate the records and to determine whether they should be made available for inspection within twenty business days, the custodian may, in any of the following circumstances, extend the time for action by up to ten business days:

(i) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(ii) It is necessary to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) It is necessary to consult with another agency having a substantial interest in the determination of the request, or among two or more components of the Commission having substantial subject matter interest therein.

(2) The custodian of the records will notify the requester in writing of any extension of time exercised pursuant to paragraph (g) of this section. The custodian of the records may also call the requester to extend the time provided a subsequent written confirmation is provided. If it is not possible to locate the records and make the determination within the extended period, the person or persons who made the request will be provided an opportunity to limit the scope of the request so

that it may be processed within the extended time limit, or an opportunity to arrange an alternative time frame for processing the request or a modified request, and asked to consent to an extension or further extension. If the requester agrees to an extension, the custodian of the records will confirm the agreement in a letter or e-mail specifying the length of the agreed-upon extension. If he or she does not agree to an extension, the request will be denied, on the grounds that the custodian has not been able to locate the records and/or to make the determination within the period for a ruling mandated by the Freedom of Information Act, 5 U.S.C. 552. In that event, the custodian will continue to search for and/or assess the records and will advise the person who made the request of further developments; but that person may file an application for review by the Commission. When action is taken by the custodian of the records, written notice of the action will be given. Records will be made available with the written notice of action or as soon thereafter as is feasible.

(3) If the custodian of the records grants a request for inspection of records submitted to the Commission in confidence under §0.457(d), §0.459, or some other Commission rule or order, the custodian of the records will give the submitter written notice of the decision and of the submitter's right to seek review pursuant to §0.461(i).

(h)(1) Requesters who seek expedited processing of FOIA requests shall submit such requests, along with their FOIA requests, to the Managing Director, as described in §0.461(d). If the request is enclosed in an envelope, the envelope shall be marked ''Request for Expedited Proceeding—FOIA Request.'' An original and two copies of the request for expedition shall be submitted, but only one copy is necessary if submitted by e-mail or by the Internet. When the request is received by the Managing Director, it, and the accompanying FOIA request, will be assigned to the FOIA Control Office, where it will be date-stamped and assigned to the custodian of records.

(2) Expedited processing shall be granted to a requester demonstrating a compelling need that is certified by the requester to be true and correct to the best of his or her knowledge and belief.

(3) For purposes of this section, *compelling need* means—

(i) That failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public concerning actual or alleged Federal Government activity.

(4)(i) Notice of the determination whether to grant expedited processing shall be provided to the requester by the custodian of records within ten calendar days after receipt of the request by the FOIA Control Office. Once the determination has been made to grant expedited processing, the custodian shall process the FOIA request as soon as practicable.

(ii) If a request for expedited processing is denied, the person seeking expedited processing may file an application for review within five business days after the date of the written denial. The application for review and the envelope containing it (if any) shall be captioned ''Review of FOIA Expedited Proceeding Request.'' The application for review shall be delivered or mailed to the General Counsel. (For general procedures relating to applications for review, see §1.115 of this chapter.) The Commission shall act expeditiously on the application for review, and shall notify the custodian of records and the requester of the disposition of such an application for review.

(i)(1) If a request for inspection of records submitted to the Commission in confidence under §0.457(d), §0.459, or another Commission rule or order is granted in whole or in part, an application for review may be filed by the person who submitted the records to the Commission, by a third party owner of the records or by a person with a personal privacy interest in the records, or by the person who filed the request for inspection of records within the ten business days after the date of the written ruling. The application for review and the envelope containing it (if any) shall be captioned ''Review of

Freedom of Information Action.'' The application for review shall be filed within ten business days after the date of the written ruling, shall be delivered or mailed to the General Counsel, and shall be served on the person who filed the request for inspection of records and any other parties to the proceeding. The person who filed the request for inspection of records may respond to the application for review within ten business days after it is filed.

(2) The first day to be counted in computing the time period for filing the application for review is the day after the date of the written ruling. If an application for review is not filed within this period, the records will be produced for inspection.

(3) If an application for review is denied, the person filing the application for review will be notified in writing and advised of his or her rights.

(4) If an application for review filed by the person who submitted, owns, or has a personal privacy interest in the records to the Commission is denied, or if the records are made available on review which were not initially made available, the person will be afforded ten business days from the date of the written ruling in which to move for a judicial stay of the Commission's action. The first day to be counted in computing the time period for seeking a judicial stay is the day after the date of the written ruling. If a motion for stay is not made within this period, the records will be produced for inspection.

(j) Except as provided in paragraph (i) of this section, an application for review of an initial action on a request for inspection of records, a fee determination (*see* § 0.467 through § 0.470), or a fee reduction or waiver decision (see § 0.470(e)) may be filed only by the person who made the request. The application shall be filed within 30 calendar days after the date of the written ruling by the custodian of records. The application for review and the envelope (if any) shall be captioned, ''Review of Freedom of Information Action.'' The application shall be delivered or mailed to the General Counsel. If the proceeding involves records subject to confidential treatment under § 0.457 or § 0.459, or involves a person with an interest as described in § 0.461(i), the application for review shall be served on such persons. That person may file a response within ten business days after the application for review is filed. If the records are made available for review, the person who submitted them to the Commission will be afforded ten business days after the date of the written ruling to seek a judicial stay. See paragraph (i) of this section. The first day to be counted in computing the time period for filing the application for review or seeking a judicial stay is the day after the date of the written ruling.

NOTE TO PARAGRAPHS (i) AND (j): The General Counsel may review applications for review with the custodian of records and attempt to informally resolve outstanding issues with the consent of the requester. For general procedures relating to applications for review, see § 1.115 of this chapter.

(k)(1)(i) The Commission will make every effort to act on an application for review of an action on a request for inspection of records within twenty business days after it is filed. In the following circumstances and to the extent time has not been extended under paragraphs (g)(1)(i), (ii), or (iii) of § 0.461(g) of this section, the Commission may extend the time for acting on the application for review up to ten business days. (The total period of extensions taken under this paragraph and under paragraph (g) of this section without the consent of the person who submitted the request shall not exceed ten business days.):

(A) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) It is necessary to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(C) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the Commission having substantial subject matter interest therein.

(ii) If these circumstances are not present, the person who made the request may be asked to consent to an extension or further extension. If the requester or person who made the request agrees to an extension, the General Counsel will confirm the agreement in a letter specifying the length of the agreed-upon extension. If the requestor or person who made the request does not agree to an extension, the Commission will continue to search for and/or assess the records and will advise the person who made the request of further developments; but that person may file a complaint in an appropriate United States district court.

(2) The Commission may at its discretion or upon request consolidate for consideration related applications for review filed under § 0.461(i) or § 0.461(j).

(l)(1) Subject to the application for review and judicial stay provisions of paragraphs (i) and (j) of this section, if the request is granted, the records will be produced for inspection at the earliest possible time.

(2) If a request for inspection of records becomes the subject of an action for judicial review before the custodian of records has acted on the request, or before the Commission has acted on an application for review, the Commission may continue to consider the request for production of records.

(m) Staff orders and letters ruling on requests for inspection are signed by the official (or officials) who give final approval of their contents. Decisions of the Commission ruling on applications for review will set forth the names of the Commissioners participating in the decision.

(n) Records shall be inspected within seven days after notice is given that they have been located and are available for inspection. After that period, they will be returned to storage, and additional charges may be imposed for again producing them.

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24389, May 2, 2011]

### § 0.463 Disclosure of Commission records and information in legal proceedings in which the Commission is a non-party.

(a) This section sets forth procedures to be followed with respect to the production or disclosure of any material within the custody and control of the Commission, any information relating to such material, or any information acquired by any person while employed by the Commission as part of the person's official duties or because of the person's official status.

(b) In the event that a demand is made by a court or other competent authority outside the Commission for the production of records or testimony (e.g., a subpoena, order, or other demand), the General Counsel shall promptly be advised of such demand, the nature of the records or testimony sought, and all other relevant facts and circumstances. The General Counsel, in consultation with the Managing Director, will thereupon issue such instructions as he or she may deem advisable consistent with this subpart.

(c) A party in a court or administrative legal proceeding in which the Commission is a non-party who wishes to obtain records or testimony from the Commission shall submit a written request to the General Counsel. Such request must be accompanied by a statement setting forth the nature of the proceeding (including any relevant supporting documentation, e.g., a copy of the Complaint), the relevance of the records or testimony to the proceeding (including a proffer concerning the anticipated scope and duration of the testimony), a showing that other evidence reasonably suited to the requester's needs is not available from any other source (including a request submitted pursuant to § 0.460 or § 0.461 of the Commission's rules), and any other information that may be relevant to the Commission's consideration of the request for records or testimony. The purpose of the foregoing requirements is to assist the General Counsel in making an informed decision regarding whether the production of records or the testimony should be authorized.

(d) In deciding whether to authorize the release of records or to permit the testimony of present or former Commission personnel, the General Counsel, in consultation with the Managing Director, shall consider the following factors:

(1) Whether the request or demand would involve the Commission in issues

or controversies unrelated to the Commission's mission;

(2) Whether the request or demand is unduly burdensome;

(3) Whether the time and money of the Commission and/or the United States would be used for private purposes;

(4) The extent to which the time of employees for conducting official business would be compromised;

(5) Whether the public might misconstrue variances between personal opinions of employees and Commission policy;

(6) Whether the request or demand demonstrates that the records or testimony sought are relevant and material to the underlying proceeding, unavailable from other sources, and whether the request is reasonable in its scope;

(7) Whether, if the request or demand were granted, the number of similar requests would have a cumulative effect on the expenditure of Commission resources;

(8) Whether the requestor has agreed to pay search and review fees as set forth in § 0.467 of this subpart;

(9) Whether disclosure of the records or the testimony sought would otherwise be inappropriate under the circumstances; and

(10) Any other factor that is appropriate.

(e) Among those demands and requests in response to which compliance will not ordinarily be authorized are those with respect to which any of the following factors exist:

(1) Disclosure of the records or the testimony would violate a statute, Executive Order, rule, or regulation;

(2) The integrity of the administrative and deliberative processes of the Commission would be compromised;

(3) Disclosure of the records or the testimony would not be appropriate under the rules of procedure governing the case or matter in which the demand arose;

(4) Disclosure of the records, including release *in camera*, or the testimony, is not appropriate or required under the relevant substantive law concerning privilege;

(5) Disclosure of the records, except when *in camera* and necessary to assert a claim of privilege, or of the testimony, would reveal information properly classified or other matters exempt from unrestricted disclosure; or

(6) Disclosure of the records or the testimony could interfere with ongoing Commission enforcement proceedings or other legal or administrative proceedings, compromise constitutional rights, reveal the identity of an intelligence source or confidential informant, or disclose trade secrets or similarly confidential commercial or financial information.

(f) The General Counsel, following consultation with the Managing Director and any relevant Commission Bureau or Office, is authorized to approve non-privileged testimony by a present or former employee of the Commission or the production of non-privileged records in response to a valid demand issued by competent legal authority, or a request for records or testimony received under this section, and to assert governmental privileges on behalf of the Commission in litigation that may be associated with any such demand or request.

(g) Any employee or former employee of the Commission who receives a demand for records of the Commission or testimony regarding the records or activities of the Commission shall promptly notify the General Counsel so that the General Counsel may take appropriate steps to protect the Commission's rights.

(Secs. 4(i), 303(r), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r); 5 U.S.C. 301; 47 CFR 0.231(d))

### § 0.465 Request for copies of materials which are available, or made available, for public inspection.

(a) The Commission awards a contract to a commercial duplication firm to make copies of Commission records and offer them for sale to the public. In addition to the charge for copying, the contractor may charge a search fee for locating and retrieving the requested documents from the Commission's files.

NOTE TO PARAGRAPH (a): The name, address, telephone number, and schedule of fees for the current copy contractor are published at the time of contract award of renewal in a public notice and periodically thereafter. Current information is available at *http://*

*www.fcc.gov/foia* and *http://www.fcc.gov/cgb*. Questions regarding this information should be directed to the Reference Information Center of the Consumer and Governmental Affairs Bureau at 202–418–0270.

(b)(1) Records routinely available for public inspection under §§0.453 and 0.455 are available to the public through the Commission's current copy contractor. Section 0.461 does not apply to such records.

(2) Audio or video recordings or transcripts of Commission proceedings are available to the public through the Commission's current copy contractor. In some cases, only some of these formats may be available.

(c)(1) Contractual arrangements which have been entered into with commercial firms, as described in this section, do not in any way limit the right of the public to inspect Commission records or to retrieve whatever information may be desired. Coin-operated and debit card copy machines are available for use by the public.

(2) The Commission has reserved the right to make copies of its records for its own use or for the use of other agencies of the U.S. Government. When it serves the regulatory or financial interests of the U.S. Government, the Commission will make and furnish copies of its records free of charge. In other circumstances, however, if it should be necessary for the Commission to make and furnish copies of its records for the use of others, the fee for this service shall be ten cents ($0.10) per page or $5 per computer disk in addition to charges for staff time as provided in §0.467. For copies prepared with other media, such as computer tapes, microfiche, videotape, the charge will be the actual direct cost including operator time. Requests for copying should be accompanied by a statement specifying the maximum copying fee the person making the request is prepared to pay. If the Commission estimates that copying charges are likely to exceed the greater of $25 or the amount which the requester has indicated that he/she is prepared to pay, then it shall notify the requester of the estimated amount of fees. Such a notice shall offer the requester the opportunity to confer with Commission personnel with the object of revising or clarifying the request.

NOTE TO PARAGRAPH (c)(2): The criterion considered in acting on a waiver request is whether ''waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.'' 5 U.S.C. 552(a)(4)(A). A request for a waiver or reduction of fees will be decided by the General Counsel as set forth in §0.470(e).

(3) *Certified Documents*. Copies of documents which are available or made available, for inspection under §§0.451 through 0.465, will be prepared and certified, under seal, by the Secretary or his or her designee. Requests shall be in writing, specifying the exact documents, the number of copies desired, and the date on which they will be required. The request shall allow a reasonable time for the preparation and certification of copies. The fee for preparing copies shall be the same as that charged by the Commission as described in §0.465(c)(2). The fee for certification shall be $10 for each document.

(d)(1) Computer maintained databases produced by the Commission and available to the public may be obtained from the FCC's Web site at *http://www.fcc.gov* or if unavailable on the Commission's Web site, from the copy contractor.

NOTE TO PARAGRAPH (d)(1): The Commission awards a contract to provide the public with access to FCC databases from the copy contractor. See note to paragraph (a) of this section.

(2) Copies of computer generated data stored as paper printouts or electronic media and available to the public may also be obtained from the Commission's copy contractor (see paragraph (a) of this section).

(3) Copies of computer source programs and associated documentation produced by the Commission and available to the public may be obtained from the Office of the Managing Director.

(e) This section does not apply to records available on the Commission's Web site, *http://www.fcc.gov*, or printed publications which may be purchased from the Superintendent of Documents or private firms (see §§0.411 through 0.420), nor does it apply to application

forms or information bulletins, which are prepared for the use and information of the public and are available upon request (see §§ 0.421 and 0.423) or on the Commission's Web site, *http://www.fcc.gov/formpage.html*.

(f) Anyone requesting copies of documents pursuant to this section may either come in person to the Commission (*see* § 0.460(a)) or request that the copy contractor fulfill the request. If a request goes directly to the contractor, the requester will be charged by the contractor pursuant to the price list set forth in the latest contract.

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24389, May 2, 2011]

**§ 0.466 Definitions.**

(a) For the purpose of §§ 0.467 and 0.468, the following definitions shall apply:

(1) The term *direct costs* means those expenditures which the Commission actually incurs in searching for and duplicating (and in case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include the salary of the employee performing the work (the basic rate of pay for the employee plus twenty percent of that rate to cover benefits), and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses, such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material contained within documents. Such activity should be distinguished, however, from ''review'' of material in order to determine whether the material is exempt from disclosure (*see* paragraph (a)(3) of this section).

(3) The term *review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(4) of this section) to determine whether any portion of a document located is exempt from disclosure. It also includes processing any documents for disclosure, e.g., performing such functions that are necessary to excise them or otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of FOIA exemptions.

(4) The term *commercial use* request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial interests of the requester. In determining whether a requester properly falls within this category, the Commission shall determine the use to which a requester will put the documents requested. Where the Commission has reasonable cause to question the use to which a requester will put the documents sought, or where that use is not clear from the request itself, the Commission shall seek additional clarification before assigning the request to a specific category. The dissemination of records by a representative of the news media (*see* § 0.466(a)(7)) shall not be considered to be for a commercial use.

(5) The term *educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of professional education and an institution of vocational education, which operates a program or programs of scholarly research.

(6) The term *non-commercial scientific institution* refers to an institution that is not operated on a commercial basis as that term is referenced in paragraph (a)(4) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(7) The term *representative of the news media* refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term *news* means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of news) who make their products available for purchase or subscription by, or free distribution to, the general public. These examples are not all-inclusive. Moreover, as methods of news

delivery evolve (for example, the adoption of electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Commission may also consider the past publication record of the requester in making such a determination. See 5 U.S.C. 552(a)(4)(A)(ii).

(8) The term *all other requester* refers to any person not within the definitions in paragraphs (a)(4) through (a)(7) of this paragraph.

(b) [Reserved]

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24389, May 2, 2011]

### §0.467 Search and review fees.

(a)(1) Subject to the provisions of this section, an hourly fee shall be charged for recovery of the full, allowable direct costs of searching for and reviewing records requested under §0.460 or §0.461, unless such fees are reduced or waived pursuant to §0.470. The fee is based on the pay grade level of the FCC's employee(s) who conduct(s) the search or review, or the actual hourly rate of FCC contractors or other non-FCC personnel who conduct a search.

NOTE TO PARAGRAPH (a)(1): The fees for FCC employees will be modified periodically to correspond with modifications in the rate of pay approved by Congress and any such modifications will be announced by public notice and will be posted on the Commission's Web site, *http://www.fcc.gov/foia/#feeschedule*.

(2) The fees specified in paragraph (a)(1) of this section are computed at Step 5 of each grade level based on the General Schedule or the hourly rate of non-FCC personnel, including in addition twenty percent for personnel benefits. Search and review fees will be assessed in ¼ hour increments.

(b) Search fees may be assessed for time spent searching, even if the Commission fails to locate responsive records or if any records located are determined to be exempt from disclosure.

(c) The Commission shall charge only for the initial review, *i.e.*, the review undertaken initially when the Commission analyzes the applicability of a specific exemption to a particular record. The Commission shall not charge for review at the appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs of such a subsequent review, under these circumstances, are properly assessable.

(d) The fee charged will not exceed an amount based on the time typically required to locate records of the kind requested.

(e)(1) If the Commission estimates that search charges are likely to exceed the greater of $25 or the amount which the requester indicated he/she is prepared to pay, then it shall notify the requester of the estimated amount of fees. Such a notice shall offer the requester the opportunity to confer with Commission personnel with the object of revising or clarifying the request. See §0.465(c)(2) and §470(d).

(2) The time for processing a request for inspection shall be tolled while conferring with the requester about his or her willingness to pay the fees required to process the request. See §0.461(e).

(f) When the search has been completed, the custodian of the records will give notice of the charges incurred to the person who made the request.

(g) The fee shall be paid to the Financial Management Division, Office of Managing Director, or as otherwise directed by the Commission.

(h) Records shall be inspected within seven days after notice is given that they have been located and are available for inspection. See §0.461(n). After that period, they will be returned to storage, and additional charges may be imposed for again producing them.

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24390, May 2, 2011]

### §0.468 Interest.

Interest shall be charged those requesters who fail to pay the fees

charged. The agency will begin assessing interest charges on the amount billed starting on the 31st day following the day on which the billing was sent. The date on which the payment is received by the agency will determine whether and how much interest is due. The interest shall be set at the rate prescribed in 31 U.S.C. 3717.

**§ 0.469 Advance payments.**

(a) The Commission may not require advance payment of estimated FOIA fees except as provided in paragraph (b) or where the Commission estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250.00 and the requester has no history of payment. Where allowable charges are likely to exceed $250.00 and the requester has a history of prompt payment of FOIA fees the Commission may notify the requester of the estimated cost and obtain satisfactory assurance of full payment. Notification that fees may exceed $250.00 is not, however, a prerequisite for collecting fees above that amount.

(b) Where a requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing), the Commission may require the requester to pay the full amount owed plus any applicable interest as provided in § 0.468, and to make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request or a pending request from that requester.

(c) When the Commission acts under paragraph (a) of this section, the administrative time limits prescribed in §§ 0.461(g) and (k) (*i.e.*, twenty business days from receipt of initial requests and twenty business days from receipt of appeals from initial denials, plus permissible extensions of these time limits (see § 0.461(g)(1)(i) through (iii) and § 0.461(k)(1)(i) through (iii)) will begin only after the agency has received the fee payments described in this section. See § 0.461(e)(2)(ii) and § 0.467(e)(2).

**§ 0.470 Assessment of fees.**

(a)(1) *Commercial use requesters.* (i) When the Commission receives a request for documents for commercial use, it will assess charges that recover the full direct cost of searching for, reviewing and duplicating the records sought pursuant to § 0.466 and § 0.467, above.

(ii) Commercial use requesters shall not be assessed search fees if the Commission fails to comply with the time limits under § 0.461(g)(1), if no unusual or exceptional circumstances (§ 0.461(g)(1)(i) through (iii)) apply to the processing of the request.

(2) *Educational and non-commercial scientific institution requesters and requesters who are representatives of the news media.* (i) The Commission shall provide documents to requesters in these categories for the cost of reproduction only, pursuant to § 0.465 above, excluding reproduction charges for the first 100 pages, provided however, that requesters who are representatives of the news media shall be entitled to a reduced assessment of charges only when the request is for the purpose of distributing information.

(ii) Educational requesters or requesters who are representatives of the news media shall not be assessed fees for the cost of reproduction if the Commission fails to comply with the time limits under § 0.461(g)(1), if no unusual or exceptional circumstances (§ 0.461(g)(1)(i) through (iii)) apply to the processing of the request.

(3) *All other requesters.* (i) The Commission shall charge requesters who do not fit into any of the categories above fees which cover the full, reasonable direct cost of searching for and reproducing records that are responsive to the request, pursuant to § 0.465 and § 0.467, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

(ii) All other requesters shall not be assessed search fees if the Commission fails to comply with the time limits under § 0.461(g)(1), if no unusual or exceptional circumstances (§ 0.461(g)(1)(i) through (iii)) apply to the processing of the request.

(b)(1) The 100 page restriction on assessment of reproduction fees in paragraphs (a)(2) and (3) of this section refers to 100 paper copies of a standard

size, which will normally be ''8½ x 11'' or ''11 x 14.''

(2) When the agency reasonably believes that a requester or group of requesters is attempting to segregate a request into a series of separate individual requests for the purpose of evading the assessment of fees, the agency will aggregate any such requests and assess charges accordingly.

(c) When a requester believes he or she is entitled to a reduced fee assessment pursuant to paragraphs (a)(2) and (a)(3) of this section, or a waiver pursuant to paragraph (e) of this section, the requester must include, in his or her original FOIA request, a statement explaining with specificity, the reasons demonstrating that he or she qualifies for a reduced fee or a fee waiver. Included in this statement should be a certification that the information will not be used to further the commercial interests of the requester.

NOTE TO PARAGRAPH (c): Anyone requesting a reduced fee or a fee waiver must submit the request directly to the Commission and not to the contractor who will provide documents only at the contract price.

(d) If the Commission reasonably believes that a commercial interest exists, based on the information provided pursuant to paragraph (c) of this section, the requester shall be so notified and given an additional ten business days to provide further information to justify receiving a reduced fee. See §0.467(e)(2). During this time period, the materials will be available for inspection to the extent that the time period exceeds the time period for responding to FOIA requests, as appropriate.

(e)(1) Copying, search and review charges shall be waived or reduced by the General Counsel when ''disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.'' 5 U.S.C. 552(a)(4)(A)(iii). Simply repeating the fee waiver language of section 552(a)(4)(A)(iii) is not a sufficient basis to obtain a fee waiver.

(2) The criteria used to determine whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government include:

(i) Whether the subject of the requested records concerns the operations or activities of the government;

(ii) Whether the disclosure is likely to contribute to an understanding of government operations or activities; and

(iii) Whether disclosure of the requested information will contribute to public understanding as opposed to the individual understanding of the requester or a narrow segment of interested persons.

(3) The criteria used to determine whether disclosure is primarily in the commercial interest of the requester include:

(i) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(ii) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(4) This request for fee reduction or waiver must accompany the initial request for records and will be decided under the same procedures used for record requests.

(5) If no fees or de minimis fees would result from processing a FOIA request and a fee waiver or reduction has been sought, the General Counsel will not reach a determination on the waiver or reduction request.

(f) Whenever the total fee calculated under this section is $15 or less, no fee will be charged.

(g) Review of initial fee determinations under §0.467 through §0.470 and initial fee reduction or waiver determinations under §0.470(e) may be sought under §0.461(j).

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24390, May 2, 2011]

PLACES FOR MAKING SUBMITTALS OR REQUESTS, FOR FILING APPLICATIONS, AND FOR TAKING EXAMINATIONS

### § 0.471 Miscellaneous submittals or requests.

Persons desiring to make submittals or requests of a general nature should communicate with the Secretary of the Commission.

[36 FR 15121, Aug. 13, 1971]

### § 0.473 Reports of violations.

Reports of violations of the Communications Act or of the Commission's rules and regulations may be submitted to the Commission in Washington or to any field office.

[32 FR 10578, July 19, 1967]

### § 0.475 Applications for employment.

Persons who wish to apply for employment should communicate with the Associate Managing Director-Personnel Management.

(Secs. 4(i), 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[49 FR 13368, Apr. 4, 1984]

### § 0.481 Place of filing applications for radio authorizations.

For locations for filing applications, and appropriate fees, see §§ 1.1102 through 1.1107 of this chapter.

[69 FR 41130, July 7, 2004]

### § 0.482 Application for waiver of wireless radio service rules.

All requests for waiver of the rules (*see* § 1.925 of this chapter) governing the Wireless Radio Services (*see* § 1.907 of this chapter) that require a fee (*see* § 1.1102 of this chapter) shall be submitted via the Universal Licensing System or to the U.S. Bank, St. Louis, Missouri at the address set forth in § 1.1102. Waiver requests that do not require a fee should be submitted via the Universal Licensing System or to: Federal Communications Commission, 1270 Fairfield Road, Gettysburg, Pennsylvania 17325–7245. Waiver requests attached to applications must be submitted in accordance with § 0.401(b) or § 0.401(c) of the rules.

[63 FR 68919, Dec. 14, 1998, as amended at 73 FR 9018, Feb. 19, 2008]

### § 0.483 Applications for amateur or commercial radio operator licenses.

(a) Application filing procedures for amateur radio operator licenses are set forth in part 97 of this chapter.

(b) Application filing procedures for commercial radio operator licenses are set forth in part 13 of this chapter. Detailed information about application forms, filing procedures, and places to file applications for commercial radio operator licenses is contained in the bulletin ''Commercial Radio Operator Licenses and Permits.'' This bulletin is available from any Commission field office or the FCC, Washington, DC 20554.

[47 FR 53378, Nov. 26, 1982]

### § 0.484 Amateur radio operator examinations.

Generally, examinations for amateur radio operation licenses shall be administered at locations and times specified by volunteer examiners. (See § 97.509). When the FCC conducts examinations for amateur radio operator licenses, they shall take place at locations and times designated by the FCC.

[58 FR 13021, Mar. 9, 1993]

### § 0.485 Commercial radio operator examinations.

Generally, written and telegraphy examinations for commercial radio operator licenses shall be conducted at locations and times specified by commercial operator license examination managers. (See § 13.209 of this chapter). When the FCC conducts these examinations, they shall take place at locations and times specified by the FCC.

[58 FR 9124, Feb. 19, 1993]

### § 0.489 Applications for ship radio inspection and periodical survey.

Applications for ship radio inspection or for periodical survey shall be forwarded to the radio district office nearest the desired port of inspection or place of survey.

[28 FR 12413, Nov. 22, 1963. Redesignated at 32 FR 10578, July 19, 1967]

### § 0.491 Application for exemption from compulsory ship radio requirements.

Applications for exemption filed under the provisions of sections 352(b) or 383 of the Communications Act; Regulation 4, chapter I of the Safety Convention; Regulation 5, chapter IV of the Safety Convention; or Article IX of the Great Lakes Agreement, must be filed as a waiver request using the procedures specified in § 0.482 of this part. Emergency requests must be filed via the Universal Licensing System or at the Federal Communications Commission, Office of the Secretary.

[71 FR 15618, Mar. 29, 2006]

### § 0.493 Non-radio common carrier applications.

All such applications shall be filed at the Commission's offices in Washington, DC.

[28 FR 12413, Nov. 22, 1963. Redesignated at 32 FR 10578, July 19, 1967]

## Subpart D—Mandatory Declassification of National Security Information

AUTHORITY: Secs. 4(i), 303(r), Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303(r)).

SOURCE: 47 FR 53377, Nov. 26, 1982, unless otherwise noted.

### § 0.501 General.

Executive Order 12356 requires that information relating to national security be protected against unauthorized disclosure as long as required by national security considerations. The Order also provides that all information classified under Executive Order 12356 or predecessor orders be subject to a review for declassification upon receipt of a request made by a United States citizen or permanent resident alien, a Federal agency, or a state or local government.

### § 0.502 Purpose.

This subpart prescribes the procedures to be followed in submitting requests, processing such requests, appeals taken from denials of declassification requests and fees and charges.

### § 0.503 Submission of requests for mandatory declassification review.

(a) Requests for mandatory review of national security information shall be in writing, addressed to the Managing Director, and reasonably describe the information sought with sufficient particularity to enable Commission personnel to identify the documents containing that information and be reasonable in scope.

(b) When the request is for information originally classified by the Commission, the Managing Director shall assign the request to the appropriate bureau or office for action.

(c) Requests related to information, either derivatively classified by the Commission or originally classified by another agency, shall be forwarded, together with a copy of the record, to the originating agency. The transmittal may contain a recommendation for action.

### § 0.504 Processing requests for declassification.

(a) Responses to mandatory declassification review requests shall be governed by the amount of search and review time required to process the request. A final determination shall be made within one year from the date of receipt of the request, except in unusual circumstances.

(b) Upon a determination by the bureau or office that the requested material originally classified by the Commission no longer warrants protection, it shall be declassified and made available to the requester, unless withholding is otherwise authorized under law.

(c) If the information may not be declassified or released in whole or in part, the requester shall be notified as

to the reasons for the denial, given notice of the right to appeal the denial to the Classification Review Committee, and given notice that such an appeal must be filed within 60 days of the date of denial in order to be considered.

(d) The Commission's Classification Review Committee, consisting of the Managing Director (Chairman), the General Counsel or his designee, and the Chief, Internal Review and Security Division, shall have authority to act, within 30 days, upon all appeals regarding denials of requests for mandatory declassification of Commission-originated classifications. The Committee shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued classification is no longer required. If the Committee determines that continued classification is required under the criteria of the Order, the requester shall be promptly notified and advised that an application for review may be filed with the Commission pursuant to 47 CFR 1.115.

### § 0.505 Fees and charges.

(a) The Commission has designated a contractor to make copies of Commission records and offer them for sale (See § 0.465).

(b) An hourly fee is charged for recovery of the direct costs of searching for requested documents (See § 0.466).

### § 0.506 FOIA and Privacy Act requests.

Requests for declassification that are submitted under the provisions of the Freedom of Information Act, as amended, (See § 0.461), of the Privacy Act of 1974, (See § 0.554) shall be processed in accordance with the provisions of those Acts.

## Subpart E—Privacy Act Regulations

AUTHORITY: Secs. 4, 303, 49 Stat. as amended, 1066, 1082 (47 U.S.C. 154, 303).

SOURCE: 40 FR 44512, Sept. 26, 1975, unless otherwise noted.

### § 0.551 Purpose and scope; definitions.

(a) The purpose of this subpart is to implement the Privacy Act of 1974, 5 U.S.C. 552(a), and to protect the rights of the individual in the accuracy and privacy of information concerning him which is contained in Commission records. The regulations contained herein cover any group of records under the Commission's control from which information about individuals is retrievable by the name of an individual or by some other personal identifier.

(b) In this subpart:

(1) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(2) *Record* means any item, collection or grouping of information about an individual that is maintained by the Commission, including but not limited to, such individual's education, financial transactions, medical history, and criminal or employment history, and that contains such individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(3) *System of Records* means a group of records under the control of the Commission from which information is retrievable by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(4) *Routine Use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(5) *System Manager* means the Commission official responsible for the storage, maintenance, safekeeping, and disposal of a system of records.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13368, Apr. 4, 1984]

### § 0.552 Notice identifying Commission systems of records.

The Commission publishes in the FEDERAL REGISTER upon establishment or revision a notice of the existence and character of the system of records, including for each system of records:

(a) The name and location of the system;

(b) The categories of individuals on whom records are maintained in the system;

(c) The categories of records maintained in the system;

(d) Each routine use of the records contained in the system, including the categories of users and the purposes of such use;

(e) The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(f) The title and business address of the system manager;

(g) The address of the agency office to which inquiries should be addressed and the addresses of locations at which the individual may inquire whether a system contains records pertaining to himself;

(h) The agency procedures whereby an individual can be notified how access can be gained to any record pertaining to that individual contained in a system of records, and the procedure for correcting or contesting its contents; and

(i) The categories of sources of records in the system.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13368, Apr. 4, 1984]

### §0.553 New uses of information.

Before establishing a new routine use of a system of records, the Commission will publish a notice in the FEDERAL REGISTER of its intention to do so, and will provide at least 30 days for public comment on such use. The notice will contain:

(a) The name of the system of records for which the new routine use is to be established;

(b) The authority for the system;

(c) The categories of records maintained;

(d) The proposed routine use(s); and

(e) The categories of recipients for each proposed routine use.

### §0.554 Procedures for requests pertaining to individual records in a system of records.

(a) Upon request, the Commission will notify individuals as to whether it maintains information about them in a system of records and, subject to the provisons of §0.555(b), will disclose the substance of such information to that individual. In order to properly request notification or access to record information, reference must be made to the Notice described in §0.552. A table of contents, which is alphabetized by bureau or office, precedes the system descriptions and allows members of the public to easily identify record systems of interest to them. An individual may inquire into information contained in any or all systems of records described in the Notice. However, each inquiry shall be limited to information from systems located within a single bureau or office and shall be addressed to that bureau or office.

(b) Reasonable identification is required of all individuals making requests pursuant to paragraph (a) of this section in order to assure that disclosure of any information is made to the proper person.

(1) Individuals who choose to register a request for information in person may verify their identity by showing any two of the following: social security card; drivers license; employee identification card; medicare card; birth certificate; bank credit card; or other positive means of identification. Documents incorporating a picture and/or signature of the individual shall be produced if possible. If an individual cannot provide suitable documentation for identification, that individual will be required to sign an identity statement stipulating that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000.

NOTE: An individual's refusal to disclose his social security number shall not constitute cause in and of itself, for denial of a request.

(2) All requests for record information sent by mail shall be signed by the requestor and shall include his printed name, current address and telephone number (if any). Commission officials receiving such requests will attempt to verify the identity of the requestor by comparing his or her signature to those in the record. If the record contains no

signatures and if positive identification cannot be made on the basis of other information submitted, the requestor will be required to sign an identity statement and stipulate that knowingly or willfully seeking or obtaining access to records about another person under false pretense is punishable by a fine of up to $5,000.

(3) If positive identification cannot be made on the basis of the information submitted, and if data in the record is so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom the record pertains, the Commission reserves the right to deny access to the record pending the production of additional more satisfactory evidence of identity.

NOTE: The Commission will require verification of identity only where it has determined that knowledge of the existence of record information or its substance is not subject to the public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, as amended.

(c) All requests for notification of the existence of record information or for access to such information shall be delivered to the business address of the system manager responsible for the system of records in question, except that requests relating to official personnel records shall be addressed to the Associate Managing Director—Personnel Management. Such addresses can be found in the FEDERAL REGISTER Notice described in § 0.552.

(d) A written acknowledgement of receipt of a request for notification and/or access will be provided within 10 days (excluding Saturdays, Sundays, and legal public holidays) to the individual making the request. Such an acknowledgement may, if necessary, request any additional information needed to locate a record. A search of all systems of records identified in the individual's request will be made to determine if any records pertaining to the individual are contained therein, and the individual will be notified of the search results as soon as the search has been completed. Normally, a request will be processed and the individual notified of the search results within 30 days (excluding Saturdays, Sundays, and legal holidays) from the date the inquiry is received. However, in some cases, as where records have to be recalled from Federal Record Centers, notification may be delayed. If it is determined that a record pertaining to the individual making the request does exist, the notification will state approximately when the record will be available for personal review. No separate acknowledgement is required if the request can be processed and the individual notified of the search results within the ten-day period.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13368, Apr. 4, 1984]

### § 0.555 Disclosure of record information to individuals.

(a) Individuals having been notified that the Commission maintains a record pertaining to them in a system of records may request access to such record in one of three ways: by in person inspection at the system location; by transfer of the record to a nearer location; or by mail.

(1) Individuals who wish to review their records at the system location must do so during regular Commission business hours (8:00 a.m.–4:30 p.m., Monday through Friday). For personal and administrative convenience, individuals are urged to arrange to review a record by appointment. Preferences as to specific dates and times can be made by writing or calling the system manager responsible for the system of records in question at least two days in advance of the desired appointment date, and by providing a telephone number where the individual can be reached during the day in case the appointment must be changed. Verification of identity is required as in § 0.554(b)(1) before access will be granted an individual appearing in person. Individuals may be accompanied by a person of his or her own choosing when reviewing a record. However, in such cases, a written statement authorizing discussion of their record in the presence of a Commission representative having physical custody of the records.

(2) Individuals may request that a record be transferred to a Commission

field office or installation in the vicinity of his or her home and that access be granted at that location. The addresses of Commission field offices are listed in §0.121. A request to transfer records must specify the exact location where the records should be sent and a telephone number to call when the information is available for review at the field location. Paragraph (a)(1) of this section regarding personal appointments, verification of identity accompanying persons, and disclosure of original records applies equally to this paragraph.

(3) Individuals may request that copies of records be sent directly to them. In such cases, individuals must verify their identity as §0.554(b)(2) and provide an accurate return address. Records shall be sent only to that address.

(b) The disclosure of record information under this section is subject to the following limitations:

(1) Records containing medical information pertaining to an individual are subject to individual access under this section unless, in the judgment of the system manager having custody of the records after consultation with a medical doctor, access to such record information could have an adverse impact on the individual. In such cases, a copy of the record will be delivered to a medical doctor named by the individual.

(2) Classified material, investigative material compiled for law enforcement purposes, investigatory material compiled solely for determining suitability for Federal employment or access to classified information, and certain testing or examination material shall be removed from the records to the extent permitted in the Privacy Act of 1974, 5 U.S.C. 552(a). Section 0.561 of this subpart sets forth the systems of records maintained by the Commission which are either totally or partially exempt from disclosure under this subparagraph.

(c) No fee will be imposed if the number of pages of records requested is 25 or less. Requests involving more than 25 pages shall be submitted to the duplicating contractor (see §0.456(a)).

(d) The provisions of this section in no way give an individual the right to access any information compiled in reasonable anticipation of a civil action or proceeding.

(e) In the event that a determination is made denying an individual access to records pertaining to that individual for any reason, such individual may either:

(1) Seek administrative review of the adverse determination. Such a request shall be in writing and should be addressed to the system manager who made the initial decision. In addition, the request for review shall state specifically why the initial decision should be reversed.

(2) Seek judicial relief in the district courts of the United States pursuant to paragraph (g)(1)(B) of the Act.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 40 FR 58858, Dec. 19, 1975; 49 FR 13369, Apr. 4, 1984]

### §0.556 Request to correct or amend records.

(a) An individual may request the amendment of information contained in their record. Except as otherwise provided in this paragraph, the request to amend should be submitted in writing to the system manager responsible for the records. Requests to amend the official personnel records of active FCC employees should be submitted to the Associate Managing Director—Human Resources Management, 445 12th Street, SW., Washington, D.C. 20554. Requests to amend official personnel records of former FCC employees should be sent to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415. Any request to amend should contain as a minimum:

(1) The identity verification information required by §0.554(b)(2) and the information needed to locate the record as required by §0.554(a).

(2) A brief description of the item or items of information to be amended; and

(3) The reason for the requested change.

(b) A written acknowledgement of the receipt of a request to amend a record will be provided within 10 days (excluding Saturdays, Sundays, and legal public holidays) to the individual requesting the amendment. Such an acknowledgement may, if necessary, request any additional information needed to make a determination. There will be no acknowledgement if the request can be reviewed, processed, and the individual notified of compliance or denial within the 10 day period.

(c) The responsible system manager, or in the case of official personnel records of active FCC employees, the Associate Managing Director—Personnel Management, shall (normally within 30 days) take one of the following actions regarding a request to amend:

(1) If the system manager agrees that an amendment to the record is warranted, the system manager shall:

(i) So advise the individual in writing;

(ii) Correct the record in compliance with the individual's request; and

(iii) If an accounting of disclosures has been made, advise all previous recipients of the fact that the record has been corrected and of the substance of the correction.

(2) If the system manager, after an initial review, does not agree that all or any portion of the record merits amendment, the system manager shall:

(i) Notify the individual in writing of such refusal to amend and the reasons therefore;

(ii) Advise the individual that further administrative review of the initial decision by the full Commission may be sought pursuant to the procedures set forth in § 0.557. (In cases where the request to amend involves official personnel records, review is available exclusively from the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, DC 20415; and

(iii) Inform the individual of the procedures for requesting Commission review pursuant to § 0.557.

(d) In reviewing a record in response to a request to amend, the system manager shall assess the accuracy, relevance, timeliness, or completeness of the record in light of each data element placed into controversy and the use of the record in making decisions that could possibly affect the individual. Moreover, the system manager shall ajudge the merits of any request to delete information based on whether or not the information in controversy is both relevant and necessary to accomplish a statutory purpose required of the Commission by law or executive order of the President.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

### § 0.557 Administrative review of an initial decision not to amend a record.

(a) Individuals have 30 days from the date of the determination not to amend a record consistent with their request to seek further administrative review by the full Commisison. Such a request shall be in writing and should be addressed to either the system manager who made the initial adverse decision, or, in the case of official personnel records of active FCC employees, to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, DC 20415. Any request for administrative review must:

(1) Clearly identify the questions presented for review (e.g., whether the record information in question is, in fact, accurate; whether information subject to a request to delete is relevant and necessary to the purpose for which it is maintained);

(2) Specify with particularity why the decision reached by the system manager is erroneous or inequitable; and

(3) Clearly state how the record should be amended or corrected.

(b) The Commission shall conduct an independent review of the record in controversy using the standards of review set out in § 0.556(d). It may seek such additional information as is necessary to make its determination. Final administrative review shall be completed not later than 30 days (excluding Saturdays, Sundays and legal

public holidays) from the date on which the individual requests such review unless the Chairman determines that a fair and equitable review cannot be made within the 30 day period. In such event, the individual will be informed in writing of the reasons for the delay and the approximate date on which the review is expected to be completed.

(c) If upon review of the record in controversy the Commission agrees with the individual that the requested amendment is warranted, the Commission will proceed in accordance with § 0.556(c)(1) (i) through (iii).

(d) If after the review, the Commission also refuses to amend the record as requested, it shall:

(1) Notify the individual in writing of its refusal and the reasons therefore;

(2) Advise the individual that a concise statement of the reasons for disagreeing with the decision of the Commisison may be filed;

(3) Inform the individual:

(i) That such a statement should be signed and addressed to the system manager having custody of the record in question;

(ii) That the statement will be made available to any one to whom the record is subsequently disclosed together with, at the Commission's discretion, a summary of its reasons for refusing to amend the record; and

(iii) That prior recipients of the record will be provided a copy of the statement of dispute to the extent that an accounting of such disclosures is maintained; and

(4) Advise the individual that judicial review of the Commisison's decision not to amend the record in any district court of the United States is available.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984]

### § 0.558 Advice and assistance.

Individuals who have questions regarding the procedures contained in this subpart for gaining access to a particular system of records or for contesting the contents of a record, either administratively or judicially, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Office of General Counsel, 445 12th Street, SW., Washington, DC 20554.

Individuals who request clarification of the Notice described in § 0.552 or who have questions concerning the characterization of specific systems of records as set forth therein, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Performance Evaluation and Records Management, Office of the Managing Director, 445 12th Street, SW., Washington, DC 20554

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

### § 0.559 Disclosure of disputed information to persons other than the individual to whom it pertains.

If the Commission determines not to amend a record consistent with an individual's request, and if the individual files a statement of disagreement pursuant to § 0.557(d)(2), the Commission shall clearly annotate the record so that the disputed portion becomes apparent to anyone who may subsequently have access to, use or disclose the record. A copy of the individual's statement of disagreement shall accompany any subsequent disclosure of the record. In addition, the Commission may include a brief summary of its reasons for not amending the record when disclosing the record. Such statements become part of the individual's record for granting access, but are not subject to the amendment procedures of § 0.556.

### § 0.560 Penalty for false representation of identity.

Any individual who knowingly and willfully requests or obtains under false pretenses any record concerning an individual from any system of records maintained by the Commission shall be guilty of a misdemeanor and subject to a fine of not more than $5,000.

**§ 0.561 Exemptions.**

The following systems of records are totally or partially exempt from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from §§ 0.554 through 0.557 of this subpart:

(a) *System name.* Radio Operator Records—FCC/FOB–1. Parts of this system of records are exempt pursuant to Section (k)(2) of the Act because they contain investigatory material compiled solely for law enforcement purposes.

(b) *System name.* Violators File (records kept on individuals who have been subjects of FCC field enforcement actions)—FCC/FOB–2. Parts of this system of records are EXEMPT because they are maintained as a protective service for individuals described in section 3056 of title 18, and because they are necessary for Commission employees to perform their duties, pursuant to sections (k) (1), (2), and (3) of the Act.

(c) *System name.* Attorney Misconduct Files—FCC/OGC–2. This system of records is exempt pursuant to section 3(k)(2) of the Act because it is maintained for law enforcement purposes.

(d) *System name.* Licensees or Unlicensed Persons Operating Radio Equipment Improperly—FCC. Parts of this system of records are exempt pursuant to section 3(k)(2) of the Act because they embody investigatory material compiled solely for law enforcement purposes.

(e) *System name.* Personnel Investigation Records—FCC/Central–6. Parts of these systems of records are exempt because they emobdy investigatory material pursuant to sections 3(k)(2) and 3(k)(5) of the Act as applicable.

(f) *System name.* Criminal Investigative Files—FCC/OIG–1. Compiled for the purpose of criminal investigations. This system of records is exempt pursuant to section (j)(2) of the Act because the records contain investigatory material compiled for criminal law enforcement purposes.

(g) *System name.* General Investigative Files—FCC/OIG–2. Compiled for law enforcement purposes. This system of records is exempt pursuant to section (k)(2) of the Act because the records contain investigatory material compiled for law enforcement purposes.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13369, Apr. 4, 1984; 58 FR 11549, Feb. 26, 1993]

## Subpart F—Meeting Procedures

AUTHORITY: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).

SOURCE: 42 FR 12867, Mar. 7, 1977, unless otherwise noted.

**§ 0.601 Definitions.**

For purposes of this section:

(a) The term *agency* means:

(1) The Commission,

(2) A board of Commissioners (see § 0.212),

(3) The Telecommunications Committee (see § 0.215), and

(4) Any other group of Commissioners hereafter established by the Commission on a continuing or *ad hoc* basis and authorized to act on behalf of the Commission.

(b) The term *meeting* means the deliberations among a quorum of the Commission, a Board of Commissioners, or a quorum of a committee of Commissioners, where such deliberations determine or result in the joint conduct or disposition of official agency business, except that the term does not include deliberations to decide whether to announce a meeting with less than seven days notice, or whether a meeting should be open or closed. (The term includes conference telephone calls, but does not include the separate consideration of Commission business by Commissioners.) For purposes of this subpart each item on the agenda of a meeting is considered a meeting or a portion of a meeting.

[42 FR 12867, Mar. 7, 1977, as amended at 48 FR 56391, Dec. 21, 1983; 64 FR 2149, Jan. 13, 1999]

**§ 0.602 Open meetings.**

(a) All meetings shall be conducted in accordance with the provisions of this subpart.

(b) Except as provided in § 0.603, every portion of every meeting shall be open

to public observation. Observation does not include participation or disruptive conduct by observers, and persons engaging in such conduct will be removed from the meeting.

(c) The right of the public to observe open meetings does not alter those rules in this chapter which relate to the filing of motions, pleadings, or other documents. Unless such pleadings conform to the other procedural requirements of this chapter, pleadings based upon comments or discussions at open meetings, as a general rule, will not become part of the official record, will receive no consideration, and no further action by the Commission will be taken thereon.

(d) Deliberations, discussions, comments or observations made during the course of open meetings do not themselves constitute action of the Commission. Comments made by Commissioners may be advanced for purposes of discussion and may not reflect the ultimate position of a Commissioner.

[42 FR 12867, Mar. 7, 1977, as amended at 45 FR 63491, Sept. 25, 1980]

### § 0.603 Bases for closing a meeting to the public.

Except where the agency finds that the public interest requires otherwise, an agency or advisory committee meeting may be closed to the public, and information pertaining to such meetings which would otherwise be disclosed to the public under § 0.605 may be withheld, if the agency determines that an open meeting or the disclosure of such information is likely to:

(a) Disclose matters that: (1) Are specifically authorized under criteria established by executive order to be kept secret in the interest of national defense or foreign policy, and (2) are in fact properly classified pursuant to such executive order (see § 0.457(a));

(b) Relate solely to the internal personnel rules and practices of an agency (see § 0.457(b));

(c) Disclose matters specifically exempted from disclosure, by statute (other than the Freedom of Information Act, 5 U.S.C. 552). *Provided*, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld (see § 0.457(c));

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential (see § 0.457(d));

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (see § 0.457(f));

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except where the agency has already disclosed to the public the content or nature of the disclosed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or

international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures specified in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for hearing.

**§ 0.605 Procedures for announcing meetings.**

(a) Notice of all open and closed meetings will be given.

(b) The meeting notice will be submitted for publication in the FEDERAL REGISTER on or before the date on which the announcement is made. Copies will be available in the Press and News Media Division on the day the announcement is made. Copies will also be attached to ''FCC Actions Alert'', which is mailed to certain individuals and groups who have demonstrated an interest in representing the public in Commission proceedings.

(c)(1) If the agency staff determines that a meeting should be open to the public, it will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Chief, Press and News Media Division, who has been designated to respond to requests for information about the meeting.

(2) If the staff determines that a meeting should be closed to the public, it will refer the matter to the General Counsel, who will certify that there is (or is not) a legal basis for closing the meeting to the public. Following action by the General Counsel, the matter may be referred to the agency for a vote on the question of closing the meeting (See § 0.606).

(d)(1) If the question of closing a meeting is considered by the agency but no vote is taken, the agency will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Chief, Press and News Media Division.

(2) If a vote is taken, the agency will, in the same announcement and within one day after the vote, make public the vote of each participating Commissioner.

(3) If the vote is to close the meeting, the agency will also, in that announcement, set out a full written explanation of its action, including the applicable provision(s) of § 0.603, and a list of persons expected to attend the meeting, including Commission personnel, together with their affiliations. The Commissioners, their assistants, the General Counsel, the Executive Director, the Chief, Press and News Media Division, and the Secretary are expected to attend all Commission meetings. The appropriate Bureau or Office Chief and Division Chief are expected to attend meetings which relate to their responsibilities (see subpart A of this part).

(4) If a meeting is closed, the agency may omit from the announcement information usually included, if and to the extent that it finds that disclosure would be likely to have any of the consequences listed in § 0.603.

(e) If the prompt and orderly conduct of agency business requires that a meeting be held less than one week after the announcement of the meeting, or before that announcement, the agency will issue the announcement at the earliest practicable time. In addition to other information, the announcement will contain the vote of each member of the agency who participated in the decision to give less than seven days notice, and the particular reason for that decision.

(f) If, after announcement of a meeting, the time or place of the meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practicable time.

(g) If the subject matter or the determination to open or close a meeting is changed, the agency will publicly announce the change and the vote of each member at the earliest practicable time. The announcement will contain a finding that agency business requires the change and that no earlier announcement of the change was possible.

(47 U.S.C. 154, 155, 303)

[42 FR 12867, Mar. 7, 1977, as amended at 44 FR 12425, Mar. 7, 1979; 44 FR 70472, Dec. 7, 1979; 64 FE 2150, Jan. 13, 1999]

**§0.606 Procedures for closing a meeting to the public.**

(a) For every meeting closed under §0.603, the General Counsel will certify that there is a legal basis for closing the meeting to the public and will state each relevant provision of §0.603. The staff of the agency will refer the matter to the General Counsel for certification before it is referred to the agency for a vote on closing the meeting. Certifications will be retained in a public file in the Office of the Secretary.

(b) The agency will vote on the question of closing a meeting.

(1) If a member of the agency requests that a vote be taken;

(2) If the staff recommends that a meeting be closed and one member of the agency requests that a vote be taken; or

(3) If a person whose interests may be directly affected by a meeting requests the agency to close the meeting for any of the reasons listed in §0.603 (e), (f) or (g), or if any person requests that a closed meeting be opened, and a member of the agency requests that a vote be taken. (Such requests may be filed with the Secretary at any time prior to the meeting and should briefly state the reason(s) for opening or closing the meeting. To assure that they reach the Commission for consideration prior to the meeting, they should be submitted at the earliest practicable time and should be called specifically to the attention of the Secretary—in person or by telephone. It will be helpful if copies of the request are furnished to the members of the agency and the General Counsel. The filing of a request shall not stay the holding of a meeting.)

(c) A meeting will be closed to the public pursuant to §0.603 only by vote of a majority of the entire membership of the agency. The vote of each participating Commissioner will be recorded. No Commissioner may vote by proxy.

(d) A separate vote will be taken before any meeting is closed to the public and before any information is withheld from the meeting notice. However, a single vote may be taken with respect to a series of meetings proposed to be closed to the public, and with respect to information concerning such series of meetings (a vote on each question, if both are presented), if each meeting involves the same particular matters and is scheduled to be held no later than 30 days after the first meeting in the series.

(e) Less than seven days notice may be given only by majority vote of the entire membership of the agency.

(f) The subject matter or the determination to open or close a meeting will be changed only if a majority of the entire membership of the agency determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible.

[42 FR 12867, Mar. 7, 1977, as amended at 71 FR 15618, Mar. 29, 2006]

**§0.607 Transcript, recording or minutes; availability to the public.**

(a) The agency will maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting closed to the public, except that in a meeting closed pursuant to paragraph (h) or (j) of §0.603, the agency may maintain minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any item will be identified in the minutes.

(b) A public file of transcripts (or minutes) of closed meetings will be maintained in the Office of the Secretary. The transcript of a meeting will be placed in that file if, after the meeting, the responsible Bureau or Office Chief determines, in light of the discussion, that the meeting could have been open to the public or that the reason for withholding information concerning the matters discussed no longer pertains. Transcripts placed in the public file are available for inspection under §0.460. Other transcripts, and separable portions thereof which do not contain information properly withheld under §0.603, may be made available for inspection under §0.461. When a transcript, or portion thereof, is made available for inspection under

§ 0.461, it will be placed in the public file. Copies of transcripts may be obtained from the duplicating contractor pursuant to § 0.465(a). There will be no search or transcription fee. Requests for inspection or copies of transcripts shall specify the date of the meeting, the name of the agenda and the agenda item number; this information will appear in the notice of the meeting. Pursuant to § 0.465(c)(3), the Commission will make copies of the transcript available directly, free of charge, if it serves the financial or regulatory interests of the United States.

(c) The Commission will maintain a copy of the transcript or minutes for a period of at least two years after the meeting, or until at least one year after conclusion of the proceeding to which the meeting relates, whichever occurs later.

(d) The Commissioner presiding at the meeting will prepare a statement setting out the time and place of the meeting, the names of persons other than Commission personnel who were present at the meeting, and the names of Commission personnel who participated in the discussion. These statements will be retained in a public file in the Minute and Rules Branch, Office of the Secretary.

[42 FR 12867, Mar. 7, 1977, as amended at 71 FR 15618, Mar. 29, 2006]

## Subpart G—Intergovernmental Communication

SOURCE: 66 FR 8091, Jan. 29, 2001, unless otherwise noted.

### § 0.701 Intergovernmental Advisory Committee.

(a) *Purpose and term of operations.* The Intergovernmental Advisory Committee (IAC) is established to facilitate intergovernmental communication between municipal, county, state and tribal governments and the Federal Communications Commission. The IAC will commence operations with its first meeting convened under this section and is authorized to undertake its mission for a period of two years from that date. At his discretion, the Chairman of the Federal Communications Commission may extend the IAC's term of operations for an additional two years, for which new members will be appointed as set forth in paragraph (b) of this section. Pursuant to Section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1534(b), the IAC is not subject to, and is not required to follow, the procedures set forth in the Federal Advisory Committee Act. 5 U.S.C., App. 2 (1988).

(b) *Membership.* The IAC will be composed of the following 15 members (or their designated employees): Four elected municipal officials (city mayors and city council members); two elected county officials (county commissioners or council members); one elected or appointed local government attorney; one elected state executive (governor or lieutenant governor); three elected state legislators; one elected or appointed public utilities or public service commissioner; and three elected or appointed Native American tribal representatives. The Chairman of the Commission will appoint members through an application process initiated by a Public Notice, and will select a Chairman and a Vice Chairman to lead the IAC. The Chairman of the Commission will also appoint members to fill any vacancies and may replace an IAC member, at his discretion, using the appointment process. Members of the IAC are responsible for travel and other incidental expenses incurred while on IAC business and will not be reimbursed by the Commission for such expenses.

(c) *Location and frequency of meetings.* The IAC will meet in Washington, DC four times a year. Members must attend a minimum of fifty percent of the IAC's yearly meetings and may be removed by the Chairman of the IAC for failure to comply with this requirement.

(d) *Participation in IAC meetings.* Participation at IAC meetings will be limited to IAC members or employees designated by IAC members to act on their behalf. Members unable to attend an IAC meeting should notify the IAC Chairman a reasonable time in advance of the meeting and provide the name of the employee designated on their behalf. With the exception of Commission staff and individuals or groups having

business before the IAC, no other persons may attend or participate in an IAC meeting.

(e) *Commission support and oversight.* The Chairman of the Commission, or Commissioner designated by the Chairman for such purpose, will serve as a liaison between the IAC and the Commission and provide general oversight for its activities. The IAC will also communicate directly with the Chief, Consumer & Governmental Affairs Bureau, concerning logistical assistance and staff support, and such other matters as are warranted.

[68 FR 52519, Sept. 4, 2003]

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AUTHORITY: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), and 309.

EDITORIAL NOTE: Nomenclature changes to part 1 appear at 63 FR 54077, Oct. 8, 1998.

## Subpart A—General Rules of Practice and Procedure

SOURCE: 28 FR 12415, Nov. 22, 1963, unless otherwise noted.

GENERAL

### § 1.1 Proceedings before the Commission.

The Commission may on its own motion or petition of any interested party hold such proceedings as it may deem necessary from time to time in connection with the investigation of any matter which it has power to investigate under the law, or for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties or the formulation or amendment of its rules and regulations. For such purposes it may subpena witnesses and require the production of evidence. Procedures to be followed by the Commission shall, unless specifically prescribed in this part, be such as in the opinion of the Commission will best serve the purposes of such proceedings.

(Sec. 403, 48 Stat. 1094; 47 U.S.C. 403)

### § 1.2 Declaratory rulings.

(a) The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.

(b) The bureau or office to which a petition for declaratory ruling has been submitted or assigned by the Commission should docket such a petition within an existing or current proceeding, depending on whether the issues raised within the petition substantially relate to an existing proceeding. The bureau or office then should seek comment on the petition via public notice. Unless otherwise specified by the bureau or office, the filing deadline for responsive pleadings to a docketed petition for declaratory ruling will be 30 days from the release date of the public notice, and the default filing deadline for any replies will be 15 days thereafter.

[76 FR 24390, May 2, 2011]

### § 1.3 Suspension, amendment, or waiver of rules.

The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.

CROSS REFERENCE: See subpart C of this part for practice and procedure involving rulemaking.

### § 1.4 Computation of time.

(a) *Purpose.* The purpose of this rule section is to detail the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission. It also applies to computation of time for seeking both reconsideration and judicial review of Commission decisions. In addition, this rule section prescribes the method for computing the amount of time within which the Commission must act in response to deadlines established by statute, a Commission rule, or Commission order.

(b) *General Rule—Computation of Beginning Date When Action is Initiated by Commission or Staff.* Unless otherwise

provided, the first day to be counted when a period of time begins with an action taken by the Commission, an Administrative Law Judge or by members of the Commission or its staff pursuant to delegated authority is the *day after the day* on which public notice of that action is given. *See* §1.4(b) (1)–(5) of this section. Unless otherwise provided, all Rules measuring time from the date of the issuance of a Commission document entitled ''Public Notice'' shall be calculated in accordance with this section. *See* §1.4(b)(4) of this section for a description of the ''Public Notice'' document. Unless otherwise provided in §1.4 (g) and (h) of this section, it is immaterial whether the first day is a ''holiday.'' For purposes of this section, the term *public notice* means the date of any of the following events: *See* §1.4(e)(1) of this section for definition of ''holiday.''

(1) For all documents in notice and comment and non-notice and comment rulemaking proceedings required by the Administrative Procedure Act, 5 U.S.C. 552, 553, to be published in the FEDERAL REGISTER, including summaries thereof, the date of publication in the FEDERAL REGISTER.

NOTE TO PARAGRAPH (b)(1): Licensing and other adjudicatory decisions with respect to specific parties that may be associated with or contained in rulemaking documents are governed by the provisions of §1.4(b)(2).

*Example 1:* A document in a Commission rule making proceeding is published in the FEDERAL REGISTER on Wednesday, May 6, 1987. Public notice commences on Wednesday, May 6, 1987. The first day to be counted in computing the beginning date of a period of time for action in response to the document is Thursday, May 7, 1987, the ''day after the day'' of public notice.

*Example 2:* Section 1.429(e) provides that when a petition for reconsideration is timely filed in proper form, public notice of its filing is published in the FEDERAL REGISTER. Section 1.429(f) provides that oppositions to a petition for reconsideration shall be filed within 15 days after public notice of the petition's filing in the FEDERAL REGISTER. Public notice of the filing of a petition for reconsideration is published in the FEDERAL REGISTER on Wednesday, June 10, 1987. For purposes of computing the filing period for an opposition, the first day to be counted is Thursday, June 11, 1987, which is the day after the date of public notice. Therefore, oppositions to the reconsideration petition must be filed by Thursday, June 25, 1987, 15 days later.

(2) For non-rulemaking documents released by the Commission or staff, including the Commission's section 271 determinations, 47 U.S.C. 271, the release date.

*Example 3:* The Chief, Mass Media Bureau, adopts an order on Thursday, April 2, 1987. The text of that order is not released to the public until Friday, April 3, 1987. Public notice of this decision is given on Friday, April 3, 1987. Saturday, April 4, 1987, is the first day to be counted in computing filing periods.

(3) For rule makings of particular applicability, if the rule making document is to be published in the FEDERAL REGISTER and the Commission so states in its decision, the date of public notice will commence on the day of the FEDERAL REGISTER publication date. If the decision fails to specify FEDERAL REGISTER publication, the date of public notice will commence on the release date, even if the document is subsequently published in the FEDERAL REGISTER. *See Declaratory Ruling*, 51 FR 23059 (June 25, 1986).

*Example 4:* An order establishing an investigation of a tariff, and designating issues to be resolved in the investigation, is released on Wednesday, April 1, 1987, and is published in the FEDERAL REGISTER on Friday, April 10, 1987. If the decision itself specifies FEDERAL REGISTER publication, the date of public notice is Friday, April 10, 1987. If this decision does not specify FEDERAL REGISTER publication, public notice occurs on Wednesday, April 1, 1987, and the first day to be counted in computing filing periods is Thursday, April 2, 1987.

(4) If the full text of an action document is not to be released by the Commission, but a descriptive document entitled ''Public Notice'' describing the action is released, the date on which the descriptive ''Public Notice'' is released.

*Example 5:* At a public meeting the Commission considers an uncontested application to transfer control of a broadcast station. The Commission grants the application and does not plan to issue a full text of its decision on the uncontested matter. Five days after the meeting, a descriptive ''Public Notice'' announcing the action is publicly released. The date of public notice commences on the day of the release date.

*Example 6:* A Public Notice of petitions for rule making filed with the Commission is released on Wednesday, September 2, 1987; public notice of these petitions is given on September 2, 1987. The first day to be counted in computing filing times is Thursday, September 3, 1987.

(5) If a document is neither published in the FEDERAL REGISTER nor released, and if a descriptive document entitled ''Public Notice'' is not released, the date appearing on the document sent (e.g., mailed, telegraphed, etc.) to persons affected by the action.

*Example 7:* A Bureau grants a license to an applicant, or issues a waiver for non-conforming operation to an existing licensee, and no ''Public Notice'' announcing the action is released. The date of public notice commences on the day appearing on the license mailed to the applicant or appearing on the face of the letter granting the waiver mailed to the licensee.

(c) *General Rule—Computation of Beginning Date When Action is Initiated by Act, Event or Default.* Commission procedures frequently require the computation of a period of time where the period begins with the occurrence of an act, event or default and terminates a specific number of days thereafter. Unless otherwise provided, the first day to be counted when a period of time begins with the occurrence of an act, event or default is the day after the day on which the act, event or default occurs.

*Example 8:* Commission Rule §21.39(d) requires the filing of an application requesting consent to involuntary assignment or control of the permit or license within thirty days after the occurrence of the death or legal disability of the licensee or permittee. If a licensee passes away on Sunday, March 1, 1987, the first day to be counted pursuant to §1.4(c) is the day after the act or event. Therefore, Monday, March 2, 1987, is the first day of the thirty day period specified in §21.39(d).

(d) *General Rule—Computation of Terminal Date.* Unless otherwise provided, when computing a period of time the last day of such period of time is included in the computation, and any action required must be taken on or before that day.

*Example 9:* Paragraph 1.4(b)(1) of this section provides that ''public notice'' in a notice and comment rule making proceeding begins on the day of FEDERAL REGISTER publication. Paragraph 1.4(b) of this section provides that the first day to be counted in computing a terminal date is the ''day after the day'' on which public notice occurs. Therefore, if the commission allows or requires an action to be taken 20 days after public notice in the FEDERAL REGISTER, the first day to be counted is the day after the date of the FEDERAL REGISTER publication. Accordingly, if the FEDERAL REGISTER document is published on Thursday, July 23, 1987, public notice is given on Thursday, July 23, and the first day to be counted in computing a 20 day period is Friday, July 24, 1987. The 20th day or terminal date upon which action must be taken is Wednesday, August 12, 1987.

(e) Definitions for purposes of this section:

(1) The term holiday means Saturday, Sunday, officially recognized Federal legal holidays and any other day on which the Commission's Headquarters are closed and not reopened prior to 5:30 p.m., or on which a Commission office aside from Headquarters is closed (but, in that situation, the holiday will apply only to filings with that particular office). For example, a regularly scheduled Commission business day may become a holiday with respect to the entire Commission if Headquarters is closed prior to 5:30 p.m. due to adverse weather, emergency or other closing. Additionally, a regularly scheduled Commission business day may become a holiday with respect to a particular Commission office aside from Headquarters if that office is closed prior to 5:30 p.m. due to similar circumstances.

NOTE TO PARAGRAPH (e)(1): As of August 1987, officially recognized Federal legal holidays are New Year's Day, January 1; Martin Luther King's Birthday, third Monday in January; Washington's Birthday, third Monday in February; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Columbus Day, second Monday in October; Veterans Day, November 11; Thanksgiving Day, fourth Thursday in November; Christmas Day, December 25. If a legal holiday falls on Saturday or Sunday, the holiday is taken, respectively, on the preceding Friday or the following Monday. In addition, January 20, (Inauguration Day) following a Presidential election year is a legal holiday in the metropolitan Washington, DC area. If Inauguration Day falls on Sunday, the next succeeding day is a legal holiday. *See* 5 U.S.C. 6103; Executive Order No. 11582, 36 FR 2957

(Feb. 11, 1971). The determination of a ''holiday'' will apply only to the specific Commission location(s) designated as on ''holiday'' on that particular day.

(2) The term *business day* means all days, including days when the Commission opens later than the time specified in Rule §0.403, which are not ''holidays'' as defined above.

(3) The term *filing period* means the number of days allowed or prescribed by statute, rule, order, notice or other Commission action for filing any document with the Commission. It does not include any additional days allowed for filing any document pursuant to paragraphs (g), (h) and (j) of this section.

(4) The term *filing date* means the date upon which a document must be filed after all computations of time authorized by this section have been made.

(f) Except as provided in §0.401(b) of this chapter, all petitions, pleadings, tariffs or other documents not required to be accompanied by a fee and which are hand-delivered must be tendered for filing in complete form, as directed by the Rules, with the Office of the Secretary before 7 p.m., at 445 12th Street, SW., Washington, DC 20554. The Secretary will determine whether a tendered document meets the pre-7:00 p.m. deadline. Documents filed electronically pursuant to §1.49(f) must be received by the Commission's electronic filing system before midnight. Applications, attachments and pleadings filed electronically in the Universal Licensing System (ULS) pursuant to §1.939(b) must be received before midnight on the filing date. Media Bureau applications and reports filed electronically pursuant to §73.3500 of this chapter must be received by the electronic filing system before midnight on the filing date.

(g) Unless otherwise provided (e.g., §§1.773 and 76.1502(e)(1) of this chapter), if the filing period is less than 7 days, intermediate holidays shall not be counted in determining the filing date.

*Example 10:* A reply is required to be filed within 5 days after the filing of an opposition in a license application proceeding. The opposition is filed on Wednesday, June 10, 1987. The first day to be counted in computing the 5 day time period is Thursday, June 11, 1987. Saturday and Sunday are not counted because they are *holidays*. The document must be filed with the Commission on or before the following Wednesday, June 17, 1987.

(h) If a document is required to be served upon other parties by statute or Commission regulation and the document is in fact served by mail (see §1.47(f)), and the filing period for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed to all parties in the proceeding for filing a response. This paragraph (h) shall not apply to documents filed pursuant to §1.89, §1.120(d), §1.315(b) or §1.316. For purposes of this paragraph (h) service by facsimile or by electronic means shall be deemed equivalent to hand delivery.

*Example 11:* A reply to an opposition for a petition for reconsideration must be filed within 7 days after the opposition is filed. 47 CFR 1.106(h). The rules require that the opposition be served on the person seeking reconsideration. 47 CFR 1.106(g). If the opposition is served on the party seeking reconsideration by mail and the opposition is filed with the Commission on Monday, November 9, 1987, the first day to be counted is Tuesday, November 10, 1987 (the day after the day on which the event occurred, §1.4(c)), and the seventh day is Monday, November 16. An additional 3 days (excluding holidays) is then added at the end of the 7 day period, and the reply must be filed no later than Thursday, November 19, 1987.

*Example 12:* Assume that oppositions to a petition in a particular proceeding are due 10 days after the petition is filed and must be served on the parties to the proceeding. If the petition is filed on October 28, 1993, the last day of the filing period for oppositions is Sunday, November 7. If service is made by mail, the opposition is due three days after November 7, or Wednesday, November 10.

(i) If both paragraphs (g) and (h) of this section are applicable, make the paragraph (g) computation before the paragraph (h) computation.

*Example 13:* Section 1.45(b) requires the filing of replies to oppositions within five days after the time for filing oppositions has expired. If an opposition has been filed on the last day of the filing period (Friday, July 10, 1987), and was served on the replying party by mail, §1.4(i) of this section specifies that the paragraph (g) computation should be made before the paragraph (h) computation. Therefore, since the specified filing period is less than seven days, paragraph (g) is applied first. The first day of the filing period is Monday, July 13, 1987, and Friday, July 17, 1987 is the fifth day (the intervening weekend

was not counted). Paragraph (h) is then applied to add three days for mailing (excluding holidays). That period begins on Monday, July 20, 1987. Therefore, Wednesday, July 22, 1987, is the date by which replies must be filed, since the intervening weekend is again not counted.

(j) Unless otherwise provided (*e.g.* § 76.1502(e) of this chapter) if, after making all the computations provided for in this section, the filing date falls on a holiday, the document shall be filed on the next business day. *See* paragraph (e)(1) of this section. If a rule or order of the Commission specifies that the Commission must act by a certain date and that date falls on a holiday, the Commission action must be taken by the next business day.

*Example 14:* The filing date falls on Friday, December 25, 1987. The document is required to be filed on the next business day, which is Monday, December 28, 1987.

(k) Where specific provisions of part 1 conflict with this section, those specific provisions of part 1 are controlling. *See*, e.g.,§§ 1.45(d), 1.773(a)(3) and 1.773(b)(2). Additionally, where § 76.1502(e) of this chapter conflicts with this section, those specific provisions of § 76.1502 are controlling. *See* e.g. 47 CFR 76.1502(e).

(l) When Commission action is required by statute to be taken by a date that falls on a holiday, such action may be taken by the next business day (unless the statute provides otherwise).

[52 FR 49159, Dec. 30, 1987; 53 FR 44196, Nov. 2, 1988, as amended at 56 FR 40567, 40568, Aug. 15, 1991; 58 FR 17529, Apr. 5, 1993; 61 FR 11749, Mar. 22, 1996; 62 FR 26238, May 13, 1997; 63 FR 24124, May 1, 1998; 64 FR 27201, May 19, 1999; 64 FR 60725, Nov. 8, 1999; 65 FR 46109, July 27, 2000; 67 FR 13223, Mar. 21, 2002; 71 FR 15618, Mar. 29, 2006; 74 FR 68544, Dec. 28, 2009; 76 FR 24390, May 2, 2011]

### § 1.5 Mailing address furnished by licensee.

(a) Each licensee shall furnish the Commission with an address to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for this purpose.

(b) The licensee is responsible for making any arrangements which may be necessary in his particular circumstances to assure that Commission documents or correspondence delivered to this address will promptly reach him or some person authorized by him to act in his behalf.

### § 1.6 Availability of station logs and records for Commission inspection.

(a) Station records and logs shall be made available for inspection or duplication at the request of the Commission or its representative. Such logs or records may be removed from the licensee's possession by a Commission representative or, upon request, shall be mailed by the licensee to the Commission by either registered mail, return receipt requested, or certified mail, return receipt requested. The return receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. A receipt shall be furnished when the logs or records are removed from the licensee's possession by a Commission representative and this receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. When the Commission has no further need for such records or logs, they shall be returned to the licensee. The provisions of this rule shall apply solely to those station logs and records which are required to be maintained by the provisions of this chapter.

(b) Where records or logs are maintained as the official records of a recognized law enforcement agency and the removal of the records from the possession of the law enforcement agency will hinder its law enforcement activities, such records will not be removed pursuant to this section if the chief of the law enforcement agency promptly certifies in writing to the Federal Communications Commission that removal of the logs or records will hinder law enforcement activities of the agency, stating insofar as feasible the basis for his decision and the date when it can reasonably be expected that such records will be released to the Federal Communications Commission.

### § 1.7 Documents are filed upon receipt.

Unless otherwise provided in this Title, by Public Notice, or by decision of the Commission or of the Commission's staff acting on delegated authority, pleadings and other documents are considered to be filed with the Commission upon their receipt at the location designated by the Commission.

[60 FR 16055, Mar. 29, 1995]

### § 1.8 Withdrawal of papers.

The granting of a request to dismiss or withdraw an application or a pleading does not authorize the removal of such application or pleading from the Commission's records.

### § 1.10 Transcript of testimony; copies of documents submitted.

In any matter pending before the Commission, any person submitting data or evidence, whether acting under compulsion or voluntarily, shall have the right to retain a copy thereof, or to procure a copy of any document submitted by him, or of any transcript made of his testimony, upon payment of the charges therefor to the person furnishing the same, which person may be designated by the Commission. The Commission itself shall not be responsible for furnishing the copies.

[29 FR 14406, Oct. 20, 1964]

### § 1.12 Notice to attorneys of Commission documents.

In any matter pending before the Commission in which an attorney has appeared for, submitted a document on behalf of or been otherwise designated by a person, any notice or other written communication pertaining to that matter issued by the Commission and which is required or permitted to be furnished to the person will be communicated to the attorney, or to one of such attorneys if more than one is designated. If direct communication with the party is appropriate, a copy of such communication will be mailed to the attorney.

[29 FR 14406, Oct. 20, 1964]

### § 1.13 Filing of petitions for review and notices of appeals of Commission orders.

(a)(1) This section pertains to each party filing a petition for review in any United States court of appeals of a Commission Order, pursuant to section 402(a) of the Communications Act, 47 U.S.C. 402(a), and 28 U.S.C. 2342(1), that wishes to avail itself of procedures established for selection of a court in the case of multiple appeals, pursuant to 28 U.S.C. 2112(a). Each such party shall, within ten days after the issuance of that order, file with the General Counsel in the Office of General Counsel, Room 8–A741, 445 12th Street, SW., Washington, DC 20554, a copy of its petition for review as filed and date-stamped by the court of appeals within which it was filed. Such copies of petitions for review must be filed by 5:30 p.m. Eastern Time on the tenth day of the filing period. A stamp indicating the time and date received by the Office of General Counsel will constitute proof of filing. Upon receipt of any copies of petitions for review, the Commission shall follow the procedures established in section 28 U.S.C. 2112(a) to determine the court in which to file the record in that case.

(2) Computation of time of the ten-day period for filing copies of petitions for review of a Commission order shall be governed by Rule 26 of the Federal Rules of Appellate Procedure. The date of issuance of a Commission order for purposes of filing copies of petitions for review shall be the date of public notice as defined in §1.4(b) of the Commission's Rules, 47 CFR 1.4(b).

(b) Copies of notices of appeals filed pursuant to 47 U.S.C. 402(b) shall be served upon the General Counsel.

NOTE: For administrative efficiency, the Commission requests that any petitioner seeking judicial review of Commission actions pursuant to 47 U.S.C. 402(a) serve a copy of its petition on the General Counsel regardless of whether it wishes to avail itself of the procedures for multiple appeals set forth in 47 U.S.C. 2112(a).

[54 FR 12453, Mar. 27, 1989, as amended at 65 FR 14476, Mar. 17, 2000; 71 FR 6381, Feb. 8, 2006]

### § 1.14 Citation of Commission documents.

The appropriate reference to the FCC Record shall be included as part of the citation to any document that has been printed in the Record. The citation should provide the volume, page number and year, in that order (e.g., 1 FCC Rcd. 1 (1986). Older documents may continue to be cited to the FCC Reports, first or second series, if they were printed in the Reports (e.g., 1 FCC 2d 1 (1965)).

[51 FR 45890, Dec. 23, 1986]

### § 1.16 Unsworn declarations under penalty of perjury in lieu of affidavits.

Any document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person, except that, such declaration shall not be used in connection with: (a) A deposition, (b) an oath of office, or (c) an oath required to be taken before a specified official other than a notary public. Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States:

''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(Signature)''.

(2) If executed within the United States, its territories, possessions, or commonwealths:

''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)''.

[48 FR 8074, Feb. 25, 1983]

### § 1.17 Truthful and accurate statements to the Commission.

(a) In any investigatory or adjudicatory matter within the Commission's jurisdiction (including, but not limited to, any informal adjudication or informal investigation but excluding any declaratory ruling proceeding) and in any proceeding to amend the FM or Television Table of Allotments (with respect to expressions of interest) or any tariff proceeding, no person subject to this rule shall;

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.

(b) For purpose of paragraph (a) of this section, ''persons subject to this rule'' shall mean the following:

(1) Any applicant for any Commission authorization;

(2) Any holder of any Commission authorization, whether by application or by blanket authorization or other rule;

(3) Any person performing without Commission authorization an activity that requires Commission authorization;

(4) Any person that has received a citation or a letter of inquiry from the Commission or its staff, or is otherwise the subject of a Commission or staff investigation, including an informal investigation;

(5) In a proceeding to amend the FM or Television Table of Allotments, any person filing an expression of interest; and

(6) To the extent not already covered in this paragraph (b), any cable operator or common carrier.

[68 FR 15098, Mar. 28, 2003]

### § 1.18 Administrative Dispute Resolution.

(a) The Commission has adopted an initial policy statement that supports and encourages the use of alternative dispute resolution procedures in its administrative proceedings and proceedings in which the Commission is a party, including the use of regulatory negotiation in Commission rulemaking matters, as authorized under the Administrative Dispute Resolution Act and Negotiated Rulemaking Act.

(b) In accordance with the Commission's policy to encourage the fullest possible use of alternative dispute resolution procedures in its administrative proceedings, procedures contained in the Administrative Dispute Resolution Act, including the provisions dealing with confidentiality, shall also be applied in Commission alternative dispute resolution proceedings in which the Commission itself is not a party to the dispute.

[56 FR 51178, Oct. 10, 1991, as amended at 57 FR 32181, July 21, 1992]

### § 1.19 Use of metric units required.

Where parenthesized English units accompany metric units throughout this chapter, and the two figures are not precisely equivalent, the metric unit shall be considered the sole requirement; except, however, that the use of metric paper sizes is not currently required, and compliance with the English unit shall be considered sufficient when the Commission form requests that data showing compliance with that particular standard be submitted in English units.

[58 FR 44893, Aug. 25, 1993]

## PARTIES, PRACTITIONERS, AND WITNESSES

### § 1.21 Parties.

(a) Any party may appear before the Commission and be heard in person or by attorney.

(b) The appropriate Bureau Chief(s) of the Commission shall be deemed to be a party to every adjudicatory proceeding (as defined in the Administrative Procedure Act) without the necessity of being so named in the order designating the proceeding for hearing.

(c) When, in any proceeding, a pleading is filed on behalf of either the General Counsel or the Chief Engineer, he shall thereafter be deemed a party to the proceeding.

(d) Except as otherwise expressly provided in this chapter, a duly authorized corporate officer or employee may act for the corporation in any matter which has not been designated for an evidentiary hearing and, in the discretion of the presiding officer, may appear and be heard on behalf of the corporation in an evidentiary hearing proceeding.

[28 FR 12415, Nov. 22, 1963, as amended at 37 FR 8527, Apr. 28, 1972; 44 FR 39180, July 5, 1979; 51 FR 12616, Apr. 14, 1986]

### § 1.22 Authority for representation.

Any person, in a representative capacity, transacting business with the Commission, may be required to show his authority to act in such capacity.

### § 1.23 Persons who may be admitted to practice.

(a) Any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any state, territory or the District of Columbia, and who is not under any final order of any authority having power to suspend or disbar an attorney in the practice of law within any state, territory or the District of Columbia that suspends, enjoins, restrains, disbars, or otherwise restricts him or her in the practice of law, may represent others before the Commission.

(b) When such member of the bar acting in a representative capacity appears in person or signs a paper in practice before the Commission, his personal appearance or signature shall constitute a representation to the Commission that, under the provisions of this chapter and the law, he is authorized and qualified to represent the particular party in whose behalf he acts. Further proof of authority to act in a representative capacity may be required.

[28 FR 12415, Nov. 22, 1963, as amended at 57 FR 38285, Aug. 24, 1992]

**§ 1.24 Censure, suspension, or disbarment of attorneys.**

(a) The Commission may censure, suspend, or disbar any person who has practiced, is practicing or holding himself out as entitled to practice before it if it finds that such person:

(1) Does not possess the qualifications required by § 1.23;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the bar of any court of which he is a member;

(3) Is lacking in character or professional integrity; and/or

(4) Displays toward the Commission or any of its hearing officers conduct which, if displayed toward any court of the United States or any of its Territories or the District of Columbia, would be cause for censure, suspension, or disbarment.

(b) Except as provided in paragraph (c) of this section, before any member of the bar of the Commission shall be censured, suspended, or disbarred, charges shall be preferred by the Commission against such practitioner, and he or she shall be afforded an opportunity to be heard thereon.

(c) Upon receipt of official notice from any authority having power to suspend or disbar an attorney in the practice of law within any state, territory, or the District of Columbia which demonstrates that an attorney practicing before the Commission is subject to an order of final suspension (not merely temporary suspension pending further action) or disbarment by such authority, the Commission may, without any preliminary hearing, enter an order temporarily suspending the attorney from practice before it pending final disposition of a disciplinary proceeding brought pursuant to § 1.24(a)(2), which shall afford such attorney an opportunity to be heard and directing the attorney to show cause within thirty days from the date of said order why identical discipline should not be imposed against such attorney by the Commission.

(d) Allegations of attorney misconduct in Commission proceedings shall be referred under seal to the Office of General Counsel. Pending action by the General Counsel, the decision maker may proceed with the merits of the matter but in its decision may make findings concerning the attorney's conduct only if necessary to resolve questions concerning an applicant and may not reach any conclusions regarding the ethical ramifications of the attorney's conduct. The General Counsel will determine if the allegations are substantial, and, if so, shall immediately notify the attorney and direct him or her to respond to the allegations. No notice will be provided to other parties to the proceeding. The General Counsel will then determine what further measures are necessary to protect the integrity of the Commission's administrative process, including but not limited to one or more of the following:

(1) Recommending to the Commission the institution of a proceeding under paragraph (a) of this section;

(2) Referring the matter to the appropriate State, territorial, or District of Columbia bar; or

(3) Consulting with the Department of Justice.

[28 FR 12415, Nov. 22, 1963, as amended at 57 FR 38285, Aug. 24, 1992; 60 FR 53277, Oct. 13, 1995]

**§ 1.25 [Reserved]**

**§ 1.26 Appearances.**

Rules relating to appearances are set forth in §§ 1.87, 1.91, 1.221, and 1.703.

**§ 1.27 Witnesses; right to counsel.**

Any individual compelled to appear in person in any Commission proceeding may be accompanied, represented, and advised by counsel as provided in this section. (Regulations as to persons seeking voluntarily to appear and give evidence are set forth in § 1.225.)

(a) Counsel may advise his client in confidence, either upon his own initiative or that of the witness, before, during, and after the conclusion of the proceeding.

(b) Counsel for the witness will be permitted to make objections on the record, and to state briefly the basis for such objections, in connection with any examination of his client.

(c) At the conclusion of the examination of his client, counsel may ask clarifying questions if in the judgment

of the presiding officer such questioning is necessary or desirable in order to avoid ambiguity or incompleteness in the responses previously given.

(d) Except as provided by paragraph (c) of this section, counsel for the witness may not examine or cross-examine any witness, or offer documentary evidence, unless authorized by the Commission to do so.

(5 U.S.C. 555)

[29 FR 12775, Sept. 10, 1964]

### §§ 1.28–1.29 [Reserved]

PLEADINGS, BRIEFS, AND OTHER PAPERS

### § 1.41 Informal requests for Commission action.

Except where formal procedures are required under the provisions of this chapter, requests for action may be submitted informally. Requests should set forth clearly and concisely the facts relied upon, the relief sought, the statutory and/or regulatory provisions (if any) pursuant to which the request is filed and under which relief is sought, and the interest of the person submitting the request. In application and licensing matters pertaining to the Wireless Radio Services, as defined in § 1.904 of this part, such requests may also be sent electronically, via the ULS.

[28 FR 12415, Nov. 22, 1963, as amended at 63 FR 68919, Dec. 14, 1998]

### § 1.42 Applications, reports, complaints; cross-reference.

(a) Rules governing applications and reports are contained in subparts D, E, and F of this part.

(b) Special rules governing complaints against common carriers arising under the Communications Act are set forth in subpart E of this part.

(c) Rules governing the FCC Registration Number (FRN) are contained in subpart W of this part.

[28 FR 12415, Nov. 22, 1963, as amended at 66 FR 47895, Sept. 14, 2001]

### § 1.43 Requests for stay; cross-reference.

General rules relating to requests for stay of any order or decision are set forth in §§ 1.41, 1.44(e), 1.45 (d) and (e), and 1.298(a). See also §§ 1.102, 1.106(n), and 1.115(h).

### § 1.44 Separate pleadings for different requests.

(a) Requests requiring action by the Commission shall not be combined in a pleading with requests for action by an administrative law judge or by any person or persons acting pursuant to delegated authority.

(b) Requests requiring action by an administrative law judge shall not be combined in a pleading with requests for action by the Commission or by any person or persons acting pursuant to delegated authority.

(c) Requests requiring action by any person or persons pursuant to delegated authority shall not be combined in a pleading with requests for action by any other person or persons acting pursuant to delegated authority.

(d) Pleadings which combine requests in a manner prohibited by paragraph (a), (b), or (c) of this section may be returned without consideration to the person who filed the pleading.

(e) Any request to stay the effectiveness of any decision or order of the Commission shall be filed as a separate pleading. Any such request which is not filed as a separate pleading will not be considered by the Commission.

NOTE: Matters which are acted on pursuant to delegated authority are set forth in subpart B of part 0 of this chapter. Matters acted on by the hearing examiner are set forth in § 0.341.

### § 1.45 Pleadings; filing periods.

Except as otherwise provided in this chapter, pleadings in Commission proceedings shall be filed in accordance with the provisions of this section. Pleadings associated with licenses, applications, waivers and other documents in the Wireless Radio Services may be filed via the ULS.

(a) *Petitions*. Petitions to deny may be filed pursuant to § 1.939 of this part.

(b) *Oppositions*. Oppositions to any motion, petition, or request may be filed within 10 days after the original pleading is filed.

(c) *Replies*. The person who filed the original pleading may reply to oppositions within 5 days after the time for

filing oppositions has expired. The reply shall be limited to matters raised in the oppositions, and the response to all such matters shall be set forth in a single pleading; separate replies to individual oppositions shall not be filed.

(d) *Requests for temporary relief; shorter filing periods.* Oppositions to a request for stay of any order or to a request for other temporary relief shall be filed within 7 days after the request is filed. Replies to oppositions should not be filed and will not be considered. The provisions of §1.4(h) shall not apply in computing the filing date for oppositions to a request for stay or for other temporary relief.

(e) *Ex parte disposition of certain pleadings.* As a matter of discretion, the Commission may rule *ex parte* upon requests for continuances and extensions of time, requests for permission to file pleadings in excess of the length prescribed in this chapter, and requests for temporary relief, without waiting for the filing of oppositions or replies.

NOTE: Where specific provisions contained in part 1 conflict with this section, those specific provisions are controlling. See, in particular, §§1.294(c), 1.298(a), and 1.773.

[28 FR 12415, Nov. 22, 1963, as amended at 33 FR 7153, May 15, 1968; 45 FR 64190, Sept. 29, 1980; 54 FR 31032, July 26, 1989; 54 FR 37682, Sept. 12, 1989; 63 FR 68919, Dec. 14, 1998]

### § 1.46 Motions for extension of time.

(a) It is the policy of the Commission that extensions of time shall not be routinely granted.

(b) Motions for extension of time in which to file responses to petitions for rulemaking, replies to such responses, comments filed in response to notice of proposed rulemaking, replies to such comments and other filings in rulemaking proceedings conducted under Subpart C of this part shall be filed at least 7 days before the filing date. If a timely motion is denied, the responses and comments, replies thereto, or other filings need not be filed until 2 business days after the Commission acts on the motion. In emergency situations, the Commission will consider a late-filed motion for a brief extension of time related to the duration of the emergency and will consider motions for acceptance of comments, reply comments or other filings made after the filing date.

(c) If a motion for extension of time in which to make filings in proceedings other than notice and comment rule making proceedings is filed less than 7 days prior to the filing day, the party filing the motion shall (in addition to serving the motion on other parties) orally notify other parties and Commission staff personnel responsible for acting on the motion that the motion has been (or is being) filed.

[39 FR 43301, Dec. 12, 1974, as amended at 41 FR 9550, Mar. 5, 1976; 41 FR 14871, Apr. 8, 1976; 42 FR 28887, June 6, 1977; 63 FR 24124, May 1, 1998]

### § 1.47 Service of documents and proof of service.

(a) Where the Commission or any person is required by statute or by the provisions of this chapter to serve any document upon any person, service shall (in the absence of specific provisions in this chapter to the contrary) be made in accordance with the provisions of this section. Documents that are required to be served by the Commission in agency proceedings (*i.e.,* not in the context of judicial proceedings, Congressional investigations, or other proceedings outside the Commission) may be served in electronic form. In proceedings involving a large number of parties, and unless otherwise provided by statute, the Commission may satisfy its service obligation by issuing a public notice that identifies the documents required to be served and that explains how parties can obtain copies of the documents.

NOTE TO PARAGRAPH (a): Section 1.47(a) grants staff the authority to decide upon the appropriate format for electronic notification in a particular proceeding, consistent with any applicable statutory requirements. The Commission expects that service by public notice will be used only in proceedings with 20 or more parties.

(b) Where any person is required to serve any document filed with the Commission, service shall be made by that person or by his representative on or before the day on which the document is filed.

(c) Commission counsel who formally participate in any proceeding shall be served in the same manner as other

persons who participate in that proceeding. The filing of a document with the Commission does not constitute service upon Commission counsel.

(d) Except in formal complaint proceedings against common carriers under §§1.720 through 1.736, documents may be served upon a party, his attorney, or other duly constituted agent by delivering a copy or by mailing a copy to the last known address. See §1.736. Documents that are required to be served must be served in paper form, even if documents are filed in electronic form with the Commission, unless the party to be served agrees to accept service in some other form.

(e) Delivery of a copy pursuant to this section means handing it to the party, his attorney, or other duly constituted agent; or leaving it with the clerk or other person in charge of the office of the person being served; or, if there is no one in charge of such office, leaving it in a conspicuous place therein; or, if such office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

(f) Service by mail is complete upon mailing.

(g) Proof of service, as provided in this section, shall be filed before action is taken. The proof of service shall show the time and manner of service, and may be by written acknowledgement of service, by certificate of the person effecting the service, or by other proof satisfactory to the Commission. Failure to make proof of service will not affect the validity of the service. The Commission may allow the proof to be amended or supplied at any time, unless to do so would result in material prejudice to a party.

(h) Every common carrier and interconnected VoIP provider, as defined in §54.5 of this chapter, that is subject to the Communications Act of 1934, as amended, shall designate an agent in the District of Columbia, and may designate additional agents if it so chooses, upon whom service of all notices, process, orders, decisions, and requirements of the Commission may be made for and on behalf of such carrier or interconnected VoIP provider in any proceeding before the Commission. Such designation shall include, for both the carrier or interconnected VoIP provider and its designated agents, a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address. Such carrier or interconnected VoIP provider shall additionally list any other names by which it is known or under which it does business, and, if the carrier or interconnected VoIP provider is an affiliated company, the parent, holding, or management company. Within thirty (30) days of the commencement of provision of service, such carrier or interconnected VoIP provider shall file such information with the Chief of the Enforcement Bureau's Market Disputes Resolution Division. Such carriers and interconnected VoIP providers may file a hard copy of the relevant portion of the Telecommunications Reporting Worksheet, as delineated by the Commission in the FEDERAL REGISTER, to satisfy this requirement. Each Telecommunications Reporting Worksheet filed annually by a common carrier or interconnected VoIP provider must contain a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address for its designated agents, regardless of whether such information has been revised since the previous filing. Carriers and interconnected VoIP providers must notify the Commission within one week of any changes in their designation information by filing revised portions of the Telecommunications Reporting Worksheet with the Chief of the Enforcement Bureau's Market Disputes Resolution Division. A paper copy of this designation list shall be maintained in the Office of the Secretary of the Commission. Service of any notice, process, orders, decisions or requirements of the Commission may be made upon such carrier or interconnected VoIP provider by leaving a copy thereof with such designated agent at his office or usual place of residence. If such carrier or interconnected VoIP provider fails to designate such an agent, service of any notice or other process in any proceeding before the Commission, or of any order,

decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the Office of the Secretary of the Commission.

[28 FR 12415, Nov. 22, 1963, as amended at 40 FR 55644, Dec. 1, 1975; 53 FR 11852, Apr. 11, 1988; 63 FR 1035, Jan. 7, 1998; 63 FR 24124, May 1, 1998; 64 FR 41330, July 30, 1999; 64 FR 60725, Nov. 8, 1999; 71 FR 38796, July 10, 2006; 76 FR 24390, May 2, 2011]

### § 1.48 Length of pleadings.

(a) Affidavits, statements, tables of contents and summaries of filings, and other materials which are submitted with and factually support a pleading are not counted in determining the length of the pleading. If other materials are submitted with a pleading, they will be counted in determining its length; and if the length of the pleadings, as so computed, is greater than permitted by the provisions of this chapter, the pleading will be returned without consideration.

(b) It is the policy of the Commission that requests for permission to file pleadings in excess of the length prescribed by the provisions of this chapter shall not be routinely granted. Where the filing period is 10 days or less, the request shall be made within 2 business days after the period begins to run. Where the period is more than 10 days, the request shall be filed at least 10 days before the filing date. (See §1.4.) If a timely request is made, the pleading need not be filed earlier than 2 business days after the Commission acts upon the request.

[41 FR 14871, Apr. 8, 1976, and 49 FR 40169, Oct. 15, 1984]

### § 1.49 Specifications as to pleadings and documents.

(a) All pleadings and documents filed in paper form in any Commission proceeding shall be typewritten or prepared by mechanical processing methods, and shall be filed on A4 (21 cm. × 29.7 cm.) or on 8½ × 11 inch (21.6 cm. × 27.9 cm.) paper with the margins set so that the printed material does not exceed 6 ½ × 9½ inches (16.5 cm. × 24.1 cm.). The printed material may be in any typeface of at least 12-point (0.42333 cm. or 12/72″) in height. The body of the text must be double spaced with a minimum distance of 7/32 of an inch (0.5556 cm.) between each line of text. Footnotes and long, indented quotations may be single spaced, but must be in type that is 12-point or larger in height, with at least 1/16 of an inch (0.158 cm.) between each line of text. Counsel are cautioned against employing extended single spaced passages or excessive footnotes to evade prescribed pleading lengths. If single-spaced passages or footnotes are used in this manner the pleading will, at the discretion of the Commission, either be rejected as unacceptable for filing or dismissed with leave to be refiled in proper form. Pleadings may be printed on both sides of the paper. Pleadings that use only one side of the paper shall be stapled, or otherwise bound, in the upper left-hand corner; those using both sides of the paper shall be stapled twice, or otherwise bound, along the left-hand margin so that it opens like a book. The foregoing shall not apply to printed briefs specifically requested by the Commission, official publications, charted or maps, original documents (or admissible copies thereof) offered as exhibits, specially prepared exhibits, or if otherwise specifically provided. All copies shall be clearly legible.

(b) Except as provided in paragraph (d) of this section, all pleadings and documents filed with the Commission, the length of which as computed under this chapter exceeds ten pages, shall include, as part of the pleading or document, a table of contents with page references.

(c) Except as provided in paragraph (d) of this section, all pleadings and documents filed with the Commission, the length of which filings as computed under this chapter exceeds ten pages, shall include, as part of the pleading or document, a summary of the filing, suitably paragraphed, which should be a succinct, but accurate and clear condensation of the substance of the filing. It should not be a mere repetition of the headings under which the filing is arranged. For pleadings and documents exceeding ten but not twenty-five pages in length, the summary should seldom exceed one and never two pages; for pleadings and documents exceeding

twenty-five pages in length, the summary should seldom exceed two and never five pages.

(d) The requirements of paragraphs (b) and (c) of this section shall not apply to:

(1) Interrogatories or answers to interrogatories, and depositions;

(2) FCC forms or applications;

(3) Transcripts;

(4) Contracts and reports;

(5) Letters; or

(6) Hearing exhibits, and exhibits or appendicies accompanying any document or pleading submitted to the Commission.

(e) Petitions, pleadings, and other documents associated with licensing matters in the Wireless Radio Services may be filed electronically in ULS. See § 22.6 for specifications.

(f)(1) In the following types of proceedings, all pleadings, including permissible ex parte submissions, notices of ex parte presentations, comments, reply comments, and petitions for reconsideration and replies thereto, must be filed in electronic format:

(i) Formal complaint proceedings under Section 208 of the Act and rules in §§ 1.720 through 1.736, and pole attachment complaint proceedings under Section 224 of the Act and rules in §§ 1.1401 through 1.1418;

(ii) Proceedings, other than rulemaking proceedings, relating to customer proprietary network information (CPNI);

(iii) Proceedings relating to cable special relief petitions;

(iv) Proceedings involving Over-the-Air Reception Devices; and

(v) Common carrier certifications under rule in § 54.314 of this chapter.

(2) Unless required under paragraph (f)(1) of this section, in the following types of proceedings, all pleadings, including permissible ex parte submissions, notices of ex parte presentations, comments, reply comments, and petitions for reconsideration and replies thereto, may be filed in electronic format:

(i) General rulemaking proceedings other than broadcast allotment proceedings;

(ii) Notice of inquiry proceedings;

(iii) Petition for rulemaking proceedings (except broadcast allotment proceedings); and

(iv) Petition for forbearance proceedings.

(3) For purposes of paragraphs (b) and (c) of this section, and any prescribed pleading lengths, the length of any document filed in electronic form shall be equal to the length of the document if printed out and formatted according to the specifications of paragraph (a) of this section, or shall be no more that 250 words per page.

NOTE TO § 1.49: The table of contents and the summary pages shall not be included in complying with any page limitation requirements as set forth by Commission rule.

[40 FR 19198, May 2, 1975, as amended at 47 FR 26393, June 18, 1982; 51 FR 16322, May 2, 1986; 54 FR 31032, July 26, 1989; 58 FR 44893, Aug. 25, 1993; 59 FR 37721, July 25, 1994; 63 FR 24125, May 1, 1998; 63 FR 68920, Dec. 14, 1998; 74 FR 39227, Aug. 6, 2009; 76 FR 24390, May 2, 2011]

### § 1.50 Specifications as to briefs.

The Commission's preference is for briefs that are either typewritten, prepared by other mechanical processing methods, or, in the case of matters in the Wireless Radio Services, composed electronically and sent via ULS. Printed briefs will be accepted only if specifically requested by the Commission. Typewritten, mechanically produced, or electronically transmitted briefs must conform to all of the applicable specifications for pleadings and documents set forth in § 1.49.

[63 FR 68920, Dec. 14, 1998]

### § 1.51 Number of copies of pleadings, briefs, and other papers.

(a) In hearing proceedings, unless otherwise specified by Commission rules, an original and one copy shall be filed, along with-an additional copy for each additional presiding officer at the hearing, if more than one.

(b) In rulemaking proceedings which have not been designated for hearing, *see* § 1.419.

(c) In matters other than rulemaking and hearing cases, unless otherwise specified by Commission rules, an original and one copy shall be filed. If the matter relates to part 22 of the rules, *see* § 22.6 of this chapter.

(d) Where statute or regulation provides for service by the Commission of papers filed with the Commission, an additional copy of such papers shall be filed for each person to be served.

(e) The parties to any proceeding may, on notice, be required to file additional copies of any or all filings made in that proceeding.

(f) For application and licensing matters involving the Wireless Radio Services, pleadings, briefs or other documents may be filed electronically in ULS, or if filed manually, one original and one copy of a pleading, brief or other document must be filed.

(g) Participants that file pleadings, briefs or other documents electronically in ULS need only submit one copy, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments. (*See* § 1.49)

(h) Pleadings, briefs or other documents filed electronically in ULS by a party represented by an attorney shall include the name, street address, and telephone number of at least one attorney of record. Parties not represented by an attorney that file electronically in ULS shall provide their name, street address, and telephone number.

[76 FR 24391, May 2, 2011]

### § 1.52 Subscription and verification.

The original of all petitions, motions, pleadings, briefs, and other documents filed by any party represented by counsel shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign and verify the document and state his address. Either the original document, the electronic reproduction of such original document containing the facsimile signature of the attorney or represented party, or, in the case of matters in the Wireless Radio Services, an electronic filing via ULS is acceptable for filing. If a facsimile or electronic reproduction of such original document is filed, the signatory shall retain the original until the Commission's decision is final and no longer subject to judicial review. If pursuant to § 1.429(h) a document is filed electronically, a signature will be considered any symbol executed or adopted by the party with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses. Except when otherwise specifically provided by rule or statute, documents signed by the attorney for a party need not be verified or accompanied by affidavit. The signature or electronic reproduction thereof by an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If the original of a document is not signed or is signed with intent to defeat the purpose of this section, or an electronic reproduction does not contain a facsimile signature, it may be stricken as sham and false, and the matter may proceed as though the document had not been filed. An attorney may be subjected to appropriate disciplinary action, pursuant to § 1.24, for a willful violation of this section or if scandalous or indecent matter is inserted.

[63 FR 24125, May 1, 1998, as amended at 63 FR 68920, Dec. 14, 1998]

## FORBEARANCE PROCEEDINGS

### § 1.53 Separate pleadings for petitions for forbearance.

In order to be considered as a petition for forbearance subject to the one-year deadline set forth in 47 U.S.C. 160(c), any petition requesting that the Commission exercise its forbearance authority under 47 U.S.C. 160 shall be filed as a separate pleading and shall be identified in the caption of such pleading as a petition for forbearance under 47 U.S.C. 160(c). Any request which is not in compliance with this rule is deemed not to constitute a petition pursuant to 47 U.S.C. 160(c), and is not subject to the deadline set forth therein.

[65 FR 7460, Feb. 15, 2000]

### § 1.54 Petitions for forbearance must be complete as filed.

(a) *Description of relief sought.* Petitions for forbearance must identify the requested relief, including:

(1) Each statutory provision, rule, or requirement from which forbearance is sought.

(2) Each carrier, or group of carriers, for which forbearance is sought.

(3) Each service for which forbearance is sought.

(4) Each geographic location, zone, or area for which forbearance is sought.

(5) Any other factor, condition, or limitation relevant to determining the scope of the requested relief.

(b) *Prima facie case*. Petitions for forbearance must contain facts and arguments which, if true and persuasive, are sufficient to meet each of the statutory criteria for forbearance.

(1) A petition for forbearance must specify how each of the statutory criteria is met with regard to each statutory provision or rule, or requirement from which forbearance is sought.

(2) If the petitioner intends to rely on data or information in the possession of third parties, the petition must identify:

(i) The nature of the data or information.

(ii) The parties believed to have or control the data or information.

(iii) The relationship of the data or information to facts and arguments presented in the petition.

(3) The petitioner shall, at the time of filing, provide a copy of the petition to each third party identified as possessing data or information on which the petitioner intends to rely.

(c) *Identification of related matters*. A petition for forbearance must identify any proceeding pending before the Commission in which the petitioner has requested, or otherwise taken a position regarding, relief that is identical to, or comparable to, the relief sought in the forbearance petition. Alternatively, the petition must declare that the petitioner has not, in a pending proceeding, requested or otherwise taken a position on the relief sought.

(d) *Filing requirements*. Petitions for forbearance shall comply with the filing requirements in § 1.49.

(1) Petitions for forbearance shall be e-mailed to *forbearance@fcc.gov* at the time for filing.

(2) All filings related to a forbearance petition, including all data, shall be provided in a searchable format. To be searchable, a spreadsheet containing a significant amount of data must be capable of being manipulated to allow meaningful analysis.

(e) *Contents*. Petitions for forbearance shall include:

(1) A plain, concise, written summary statement of the relief sought.

(2) A full statement of the petitioner's *prima facie* case for relief.

(3) Appendices that list:

(i) The scope of relief sought as required in § 1.54(a);

(ii) All supporting data upon which the petition intends to rely, including a market analysis; and

(iii) Any supporting statements or affidavits.

(f) *Supplemental information*. The Commission will consider further facts and arguments entered into the record by a petitioner only:

(1) In response to facts and arguments introduced by commenters or opponents.

(2) By permission of the Commission.

[74 FR 39227, Aug. 6, 2009]

### § 1.55 Public notice of petitions for forbearance.

(a) Filing a petition for forbearance initiates the statutory time limit for consideration of the petition.

(b) The Commission will issue a public notice when it receives a properly filed petition for forbearance. The notice will include:

(1) A statement of the nature of the petition for forbearance.

(2) The scope of the forbearance sought and a description of the subjects and issues involved.

(3) The docket number assigned to the proceeding.

(4) A statement of the time for filing oppositions or comments and replies thereto.

[74 FR 39227, Aug. 6, 2009]

### § 1.56 Motions for summary denial of petitions for forbearance.

(a) Opponents of a petition for forbearance may submit a motion for summary denial if it can be shown that the petition for forbearance, viewed in the light most favorable to the petitioner, cannot meet the statutory criteria for forbearance.

(b) A motion for summary denial may not be filed later than the due date for comments and oppositions announced in the public notice.

(c) Oppositions to motions for summary denial may not be filed later than the due date for reply comments announced in the public notice.

(d) No reply may be filed to an opposition to a motion for summary denial.

[74 FR 39227, Aug. 6, 2009]

### § 1.57 Circulation and voting of petitions for forbearance.

(a) If a petition for forbearance includes novel questions of fact, law or policy which cannot be resolved under outstanding precedents and decisions, the Chairman will circulate a draft order no later than 28 days prior to the statutory deadline, unless all Commissioners agree to a shorter period.

(b) The Commission will vote on any circulated order resolving a forbearance petition not later than seven days before the last day that action must be taken to prevent the petition from being deemed granted by operation of law.

[74 FR 39227, Aug. 6, 2009]

### § 1.58 Forbearance petition quiet period prohibition.

The prohibition in § 1.1203(a) on contacts with decisionmakers concerning matters listed in the Sunshine Agenda shall also apply to a petition for forbearance for a period of 14 days prior to the statutory deadline under 47 U.S.C. 160(c) or as announced by the Commission.

[74 FR 39227, Aug. 6, 2009]

### § 1.59 Withdrawal or narrowing of petitions for forbearance.

(a) A petitioner may withdraw or narrow a petition for forbearance without approval of the Commission by filing a notice of full or partial withdrawal at any time prior to the end of the tenth business day after the due date for reply comments announced in the public notice.

(b) Except as provided in paragraph (a) of this section, a petition for forbearance may be withdrawn, or narrowed so significantly as to amount to a withdrawal of a large portion of the forbearance relief originally requested by the petitioner, only with approval of the Commission.

[74 FR 39227, Aug. 6, 2009]

## General Application Procedures

### § 1.61 Procedures for handling applications requiring special aeronautical study.

(a) Antenna Structure Registration is conducted by the Wireless Telecommunications Bureau as follows:

(1) Each antenna structure owner that must notify the FAA of proposed construction using FAA Form 7460–1 shall, upon proposing new or modified construction, register that antenna structure with the Wireless Telecommunications Bureau using FCC Form 854.

(2) If an Environmental Assessment is required under § 1.1307, the Bureau will address the environmental concerns prior to processing the registration.

(3) If a final FAA determination of ''no hazard'' is not submitted along with FCC Form 854, processing of the registration may be delayed or disapproved.

(4) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of Federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first licensee authorized to locate on the structure must register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing a copy of FCC Form 854R to all tenant licensees on the structure and for posting the registration number as required by § 17.4(g) of this chapter.

(5) Upon receipt of FCC Form 854, and attached final FAA determination of ''no hazard,'' the Bureau prescribes antenna structure painting and/or lighting specifications or other conditions in accordance with the FAA airspace recommendation and returns a completed Antenna Structure Registration (FCC Form 854R) to the registrant. If the proposed structure is disapproved the registrant is so advised.

(b) Each operating Bureau or Office examines the applications for Commission authorization for which it is responsible to ensure compliance with FAA notification procedures as well as Commission Antenna Structure Registration as follows:

(1) If Antenna Structure Registration is required, the operating Bureau reviews the application for the Antenna Structure Registration Number and proceeds as follows:

(i) If the application contains the Antenna Structure Registration Number or if the applicant seeks a Cellular or PCS system authorization, the operating Bureau processes the application.

(ii) If the application does not contain the Antenna Structure Registration Number, but the structure owner has already filed FCC Form 854, the operating Bureau places the application on hold until Registration can be confirmed, so long as the owner exhibits due diligence in filing.

(iii) If the application does not contain the Antenna Structure Registration Number, and the structure owner has not filed FCC Form 854, the operating Bureau notifies the applicant that FCC Form 854 must be filed and places the application on hold until Registration can be confirmed, so long as the owner exhibits due diligence in filing.

(2) If Antenna Structure Registration is not required, the operating Bureau processes the application.

(c) Where one or more antenna farm areas have been designated for a community or communities (see §17.9 of this chapter), an application proposing the erection of an antenna structure over 1,000 feet in height above ground to serve such community or communities will not be accepted for filing unless:

(1) It is proposed to locate the antenna structure in a designated antenna farm area, or

(2) It is accompanied by a statement from the Federal Aviation Administration that the proposed structure will not constitute a menace to air navigation, or

(3) It is accompanied by a request for waiver setting forth reasons sufficient, if true, to justify such a waiver.

NOTE: By Commission Order (FCC 65–455), 30 FR 7419, June 5, 1965, the Commission issued the following policy statement concerning the height of radio and television antenna towers:

"We have concluded that this objective can best be achieved by adopting the following policy: Applications for antenna towers higher than 2,000 feet above ground will be presumed to be inconsistent with the public interest, and the applicant will have a burden of overcoming that strong presumption. The applicant must accompany its application with a detailed showing directed to meeting this burden. Only in the exceptional case, where the Commission concludes that a clear and compelling showing has been made that there are public interest reasons requiring a tower higher than 2,000 feet above ground, and after the parties have complied with applicable FAA procedures, and full Commission coordination with FAA on the question of menace to air navigation, will a grant be made. Applicants and parties in interest will, of course, be afforded their statutory hearing rights."

[28 FR 12415, Nov. 22, 1963, as amended at 32 FR 8813, June 21, 1967; 32 FR 20860, Dec. 28, 1967; 34 FR 6481, Apr. 15, 1969; 45 FR 55201, Aug. 19, 1980; 58 FR 13021, Mar. 9, 1993, 61 FR 4361, Feb. 6, 1996]

### § 1.62 Operation pending action on renewal application.

(a)(1) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal of license with respect to any activity of a continuing nature, in accordance with the provisions of section 9(b) of the Administrative Procedure Act, such license shall continue in effect without further action by the Commission until such time as the Commission shall make a final determination with respect to the renewal application. No operation by any licensee under this section shall be construed as a finding by the Commission that the operation will serve the public interest, convenience, or necessity, nor shall such operation in any way affect or limit the action of the Commission with respect to any pending application or proceeding.

(2) A licensee operating by virtue of this paragraph shall, after the date of expiration specified in the license, post, in addition to the original license, any acknowledgment received from the Commission that the renewal application has been accepted for filing

or a signed copy of the application for renewal of license which has been submitted by the licensee, or in services other than broadcast and common carrier, a statement certifying that the licensee has mailed or filed a renewal application, specifying the date of mailing or filing.

(b) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal or extension of the term of a license with respect to any activity not of a continuing nature, the Commission may in its discretion grant a temporary extension of such license pending determination of such application. No such temporary extension shall be construed as a finding by the Commission that the operation of any radio station thereunder will serve the public interest, convenience, or necessity beyond the express terms of such temporary extension of license, nor shall such temporary extension in any way affect or limit the action of the Commission with respect to any pending application or proceeding.

(c) Except where an instrument of authorization clearly states on its face that it relates to an activity not of a continuing nature, or where the noncontinuing nature is otherwise clearly apparent upon the face of the authorization, all licenses issued by the Commission shall be deemed to be related to an activity of a continuing nature.

(5 U.S.C. 558)

### § 1.65 Substantial and significant changes in information furnished by applicants to the Commission.

(a) Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application. Except as otherwise required by rules applicable to particular types of applications, whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of the application so as to furnish such additional or corrected information as may be appropriate. Except as otherwise required by rules applicable to particular types of applications, whenever there has been a substantial change as to any other matter which may be of decisional significance in a Commission proceeding involving the pending application, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, submit a statement furnishing such additional or corrected information as may be appropriate, which shall be served upon parties of record in accordance with § 1.47. Where the matter is before any court for review, statements and requests to amend shall in addition be served upon the Commission's General Counsel. For the purposes of this section, an application is ''pending'' before the Commission from the time it is accepted for filing by the Commission until a Commission grant or denial of the application is no longer subject to reconsideration by the Commission or to review by any court.

(b) Applications in broadcast services subject to competitive bidding will be subject to the provisions of §§ 1.2105(b), 73.5002 and 73.3522 of this chapter regarding the modification of their applications.

(c) All broadcast permittees and licensees must report annually to the Commission any adverse finding or adverse final action taken by any court or administrative body that involves conduct bearing on the permittee's or licensee's character qualifications and that would be reportable in connection with an application for renewal as reflected in the renewal form. If a report is required by this paragraph(s), it shall be filed on the anniversary of the date that the licensee's renewal application is required to be filed, except that licensees owning multiple stations with different anniversary dates need file only one report per year on the anniversary of their choice, provided that their reports are not more than one year apart. Permittees and licensees bear the obligation to make diligent, good faith efforts to become knowledgeable of any such reportable adjudicated misconduct.

NOTE: The terms *adverse finding* and *adverse final action* as used in paragraph (c) of this

section include adjudications made by an ultimate trier of fact, whether a government agency or court, but do not include factual determinations which are subject to review *de novo* unless the time for taking such review has expired under the relevant procedural rules. The pendency of an appeal of an adverse finding or adverse final action does not relieve a permittee or licensee from its obligation to report the finding or action.

[48 FR 27200, June 13, 1983, as amended at 55 FR 23084, June 6, 1990; 56 FR 25635, June 5, 1991; 56 FR 44009, Sept. 6, 1991; 57 FR 47412, Oct. 16, 1992; 63 FR 48622, Sept. 11, 1998; 69 FR 72026, Dec. 10, 2004; 75 FR 4702, Jan. 29, 2010]

### § 1.68 Action on application for license to cover construction permit.

(a) An application for license by the lawful holder of a construction permit will be granted without hearing where the Commission, upon examination of such application, finds that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest.

(b) In the event the Commission is unable to make the findings in paragraph (a) of this section, the Commission will designate the application for hearing upon specified issues.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

### § 1.77 Detailed application procedures; cross references.

The application procedures set forth in §§ 1.61 through 1.68 are general in nature. Applicants should also refer to the Commission rules regarding the payment of statutory charges (subpart G of this part) and the use of the FCC Registration Number (FRN) (see subpart W of this part). More detailed procedures are set forth in this chapter as follows:

(a) Rules governing applications for authorizations in the Broadcast Radio Services are set forth in subpart D of this part.

(b) Rules governing applications for authorizations in the Common Carrier Radio Services are set forth in subpart E of this part.

(c) Rules governing applications for authorizations in the Private Radio Services are set forth in subpart F of this part.

(d) Rules governing applications for authorizations in the Experimental Radio Services (other than broadcast) are set forth in part 5 of this chapter.

(e) Rules governing applications for authorizations in the Domestic Public Radio Services are set forth in part 21 of this chapter.

(f) Rules governing applications for authorizations in the Industrial, Scientific, and Medical Service are set forth in part 18 of this chapter.

(g) Rules governing applications for certification of equipment are set forth in part 2, subpart J, of this chapter.

(h) Rules governing applications for commercial radio operator licenses are set forth in part 13 of this chapter.

(i) Rules governing applications for authorizations in the Common Carrier and Private Radio terrestrial microwave services and Local Multipoint Distribution Services are set out in part 101 of this chapter.

[28 FR 12415, Nov. 22, 1963, as amended at 44 FR 39180, July 5, 1979; 47 FR 53378, Nov. 26, 1982; 61 FR 26670, May 28, 1996; 62 FR 23162, Apr. 29, 1997; 63 FR 36596, July 7, 1998; 66 FR 47895, Sept. 14, 2001]

## MISCELLANEOUS PROCEEDINGS

### § 1.80 Forfeiture proceedings.

(a) *Persons against whom and violations for which a forfeiture may be assessed.* A forfeiture penalty may be assessed against any person found to have:

(1) Willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument of authorization issued by the Commission;

(2) Willfully or repeatedly failed to comply with any of the provisions of the Communications Act of 1934, as amended; or of any rule, regulation or order issued by the Commission under that Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding on the United States;

(3) Violated any provision of section 317(c) or 508(a) of the Communications Act;

(4) Violated any provision of section 227(e) of the Communications Act or of the rules issued by the Commission under section 227(e) of that Act; or

(5) Violated any provision of section 1304, 1343, or 1464 of Title 18, United States Code.

NOTE TO PARAGRAPH (A): A forfeiture penalty assessed under this section is in addition to any other penalty provided for by the Communications Act, except that the penalties provided for in paragraphs (b)(1) through (4) of this section shall not apply to conduct which is subject to a forfeiture penalty or fine under sections 202(c), 203(e), 205(b), 214(d), 219(b), 220(d), 223(b), 364(a), 364(b), 386(a), 386(b), 506, and 634 of the Communications Act. The remaining provisions of this section are applicable to such conduct.

(b) *Limits on the amount of forfeiture assessed.* (1) If the violator is a broadcast station licensee or permittee, a cable television operator, or an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument of authorization issued by the Commission, except as otherwise noted in this paragraph, the forfeiture penalty under this section shall not exceed $37,500 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $375,000 for any single act or failure to act described in paragraph (a) of this section. There is no limit on forfeiture assessments for EEO violations by cable operators that occur after notification by the Commission of a potential violation. See section 634(f)(2) of the Communications Act. Notwithstanding the foregoing in this section, if the violator is a broadcast station licensee or permittee or an applicant for any broadcast license, permit, certificate, or other instrument of authorization issued by the Commission, and if the violator is determined by the Commission to have broadcast obscene, indecent, or profane material, the forfeiture penalty under this section shall not exceed $325,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $3,000,000 for any single act or failure to act described in paragraph (a) of this section.

(2) If the violator is a common carrier subject to the provisions of the Communications Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed $150,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,500,000 for any single act or failure to act described in paragraph (a) of this section.

(3) Any person determined to have violated section 227(e) of the Communications Act or the rules issued by the Commission under section 227(e) of the Communications Act shall be liable to the United States for a forfeiture penalty of not more than $10,000 for each violation or three times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,000,000 for any single act or failure to act. Such penalty shall be in addition to any other forfeiture penalty provided for by the Communications Act.

(4) In any case not covered by paragraphs (b)(1), (b)(2) or (b)(3) of this section, the amount of any forfeiture penalty determined under this section shall not exceed $16,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $112,500 for any single act or failure to act described in paragraph (a) of this section.

(5) *Factors considered in determining the amount of the forfeiture penalty.* In determining the amount of the forfeiture penalty, the Commission or its designee will take into account the nature, circumstances, extent and gravity of the violations and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

NOTE TO PARAGRAPH (B)(5): *Guidelines for Assessing Forfeitures.* The Commission and its staff may use these guidelines in particular cases. The Commission and its staff retain the discretion to issue a higher or lower forfeiture than provided in the guidelines, to

issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute. The forfeiture ceilings per violation or per day for a continuing violation stated in section 503 of the Communications Act and the Commission's rules are described in §1.80(b)(5)(iii). These statutory maxima became effective September 2, 2008. Forfeitures issued under other sections of the Act are dealt with separately in section III of this note.

SECTION I. BASE AMOUNTS FOR SECTION 503 FORFEITURES

| Forfeitures | Violation amount |
|---|---|
| Misrepresentation/lack of candor | ([1]) |
| Construction and/or operation without an instrument of authorization for the service | $10,000 |
| Failure to comply with prescribed lighting and/or marking | 10,000 |
| Violation of public file rules | 10,000 |
| Violation of political rules: reasonable access, lowest unit charge, equal opportunity, and discrimination | 9,000 |
| Unauthorized substantial transfer of control | 8,000 |
| Violation of children's television commercialization or programming requirements | 8,000 |
| Violations of rules relating to distress and safety frequencies | 8,000 |
| False distress communications | 8,000 |
| EAS equipment not installed or operational | 8,000 |
| Alien ownership violation | 8,000 |
| Failure to permit inspection | 7,000 |
| Transmission of indecent/obscene materials | 7,000 |
| Interference | 7,000 |
| Importation or marketing of unauthorized equipment | 7,000 |
| Exceeding of authorized antenna height | 5,000 |
| Fraud by wire, radio or television | 5,000 |
| Unauthorized discontinuance of service | 5,000 |
| Use of unauthorized equipment | 5,000 |
| Exceeding power limits | 4,000 |
| Failure to respond to Commission communications | 4,000 |
| Violation of sponsorship ID requirements | 4,000 |
| Unauthorized emissions | 4,000 |
| Using unauthorized frequency | 4,000 |
| Failure to engage in required frequency coordination | 4,000 |
| Construction or operation at unauthorized location | 4,000 |
| Violation of requirements pertaining to broadcasting of lotteries or contests | 4,000 |
| Violation of transmitter control and metering requirements | 3,000 |
| Failure to file required forms or information | 3,000 |
| Failure to make required measurements or conduct required monitoring | 2,000 |
| Failure to provide station ID | 1,000 |
| Unauthorized pro forma transfer of control | 1,000 |
| Failure to maintain required records | 1,000 |

[1]Statutory Maximum for each Service.

VIOLATIONS UNIQUE TO THE SERVICE

| Violation | Services affected | Amount |
|---|---|---|
| Unauthorized conversion of long distance telephone service | Common Carrier | $40,000 |
| Violation of operator services requirements | Common Carrier | 7,000 |
| Violation of pay-per-call requirements | Common Carrier | 7,000 |
| Failure to implement rate reduction or refund order | Cable | 7,500 |
| Violation of cable program access rules | Cable | 7,500 |
| Violation of cable leased access rules | Cable | 7,500 |
| Violation of cable cross-ownership rules | Cable | 7,500 |
| Violation of cable broadcast carriage rules | Cable | 7,500 |
| Violation of pole attachment rules | Cable | 7,500 |
| Failure to maintain directional pattern within prescribed parameters | Broadcast | 7,000 |
| Violation of main studio rule | Broadcast | 7,000 |
| Violation of broadcast hoax rule | Broadcast | 7,000 |
| AM tower fencing | Broadcast | 7,000 |
| Broadcasting telephone conversations without authorization | Broadcast | 4,000 |
| Violation of enhanced underwriting requirements | Broadcast | 2,000 |

SECTION II. ADJUSTMENT CRITERIA FOR SECTION 503 FORFEITURES

*Upward Adjustment Criteria*

(1) Egregious misconduct.
(2) Ability to pay/relative disincentive.
(3) Intentional violation.
(4) Substantial harm.
(5) Prior violations of any FCC requirements.
(6) Substantial economic gain.
(7) Repeated or continuous violation.

*Downward Adjustment Criteria*

(1) Minor violation.
(2) Good faith or voluntary disclosure.
(3) History of overall compliance.
(4) Inability to pay.

SECTION III. NON-SECTION 503 FORFEITURES THAT ARE AFFECTED BY THE DOWNWARD ADJUSTMENT FACTORS

Unlike section 503 of the Act, which establishes maximum forfeiture amounts, other sections of the Act, with two exceptions, state prescribed amounts of forfeitures for violations of the relevant section. These amounts are then subject to mitigation or remission under section 504 of the Act. One exception is section 223 of the Act, which provides a maximum forfeiture per day. For convenience, the Commission will treat this amount as if it were a prescribed base amount, subject to downward adjustments. The other exception is section 227(e) of the Act, which provides maximum forfeitures per violation, and for continuing violations. The Commission will apply the factors set forth in section 503(b)(2)(E) of the Act and section III of this note to determine the amount of the penalty to assess in any particular situation. The following amounts are adjusted for inflation pursuant to the Debt Collection Improvement Act of 1996 (DCIA), 28 U.S.C. 2461. These non-section 503 forfeitures may be adjusted downward using the ''Downward Adjustment Criteria'' shown for section 503 forfeitures in section II of this note.

| Violation | Statutory amount ($) |
|---|---|
| Sec. 202(c) Common Carrier Discrimination | 9,600, 530/day. |
| Sec. 203(e) Common Carrier Tariffs | 9,600, 530/day. |
| Sec. 205(b) Common Carrier Prescriptions | 18,200. |
| Sec. 214(d) Common Carrier Line Extensions | 1,320/day. |
| Sec. 219(b) Common Carrier Reports | 1,320. |
| Sec. 220(d) Common Carrier Records & Accounts | 9,600/day. |
| Sec. 223(b) Dial-a-Porn | 75,000/day. |
| Sec. 227(e) | 10,000/violation. |
| | 30,000/day for each day of continuing violation, up to 1 million for any single act or failure to act. |
| Sec. 364(a) Forfeitures (Ships) | 7,500 (owner). |
| Sec. 364(b) Forfeitures (Ships) | 1,100 (vessel master). |
| Sec. 386(a) Forfeitures (Ships) | 7,500/day (owner). |
| Sec. 386(b) Forfeitures (Ships) | 1,100 (vessel master). |
| Sec. 634 Cable EEO | 650/day. |

(6) *Inflation adjustments to the maximum forfeiture amount.* (i) Pursuant to the Debt Collection Improvement Act of 1996, Public Law 104–134 (110 Stat. 1321–358), which amends the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, Public Law 101–410 (104 Stat. 890; 28 U.S.C. 2461 note), the statutory maximum amount of a forfeiture penalty assessed under this section shall be adjusted for inflation at least once every four years using the method specified in the statute. This is to be done by determining the 'cost-of-living adjustment', which is the percentage (if any) by which the CPI for June of the preceding year exceeds the CPI for June of the year the forfeiture amount was last set or adjusted. The inflation adjustment is determined by multiplying the cost-of-living adjustment by the statutory maximum amount. Round off this result using the rules in paragraph (b)(5)(ii) of this section. Add the rounded result to the statutory maximum forfeiture penalty amount. The sum is the statutory maximum amount, adjusted for inflation.

(ii) The rounding rules are as follows:

(A) Round increase to the nearest multiple of $10 if the penalty is from $0 to $100;

(B) Round increase to the nearest multiple of $100 if the penalty is from $101 to $1,000;

(C) Round increase to the nearest multiple of $1,000 if the penalty is from $1,001 to $10,000;

(D) Round increase to the nearest multiple of $5,000 if the penalty is from $10,001 to $100,000;

(E) Round increase to the nearest multiple of $10,000 if the penalty is from $100,001 to $200,000; or

(F) Round increase to the nearest multiple of $25,000 if the penalty is over $200,001.

(iii) The application of the inflation adjustments required by the DCIA, 28 U.S.C. 2461, results in the following adjusted statutory maximum forfeitures authorized by the Communications Act:

| U.S. code citation | Maximum penalty after DCIA adjustment ($) |
|---|---|
| 47 U.S.C. 202(c) | 9,600 |
| | 530 |
| 47 U.S.C. 203(e) | 9,600 |
| | 530 |
| 47 U.S.C. 205(b) | 18,200 |
| 47 U.S.C. 214(d) | 1,320 |
| 47 U.S.C. 219(b) | 1,320 |
| 47 U.S.C. 220(d) | 9,600 |
| 47 U.S.C. 223(b) | 75,000 |
| 47 U.S.C. 362(a) | 7,500 |
| 47 U.S.C. 362(b) | 1,100 |
| 47 U.S.C. 386(a) | 7,500 |
| 47 U.S.C. 386(b) | 1,100 |
| 47 U.S.C. 503(b)(2)(A) | 37,500 |
| | 375,000 |
| 47 U.S.C. 503(b)(2)(B) | 150,000 |
| | 1,500,000 |
| 47 U.S.C. 503(b)(2)(C) | 325,000 |
| | 3,000,000 |
| 47 U.S.C. 503(b)(2)(D) | 16,000 |
| | 112,500 |
| 47 U.S.C. 507(a) | 750 |
| 47 U.S.C. 507(b) | 110 |
| 47 U.S.C. 554 | 650 |

(c) *Limits on the time when a proceeding may be initiated.* (1) In the case of a broadcast station, no forfeiture penalty shall be imposed if the violation occurred more than 1 year prior to the issuance of the appropriate notice or prior to the date of commencement of the current license term, whichever is earlier. For purposes of this paragraph, ''date of commencement of the current license term'' means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. A separate license term shall not be deemed to have commenced as a result of continuing a license in effect under section 307(c) pending decision on an application for renewal of the license.

(2) In the case of a forfeiture imposed against a carrier under sections 202(c), 203(e), and 220(d), no forfeiture will be imposed if the violation occurred more than 5 years prior to the issuance of a notice of apparent liability.

(3) In the case of a forfeiture imposed under section 227(e), no forfeiture will be imposed if the violation occurred more than 2 years prior to the date on which the appropriate notice is issued.

(4) In all other cases, no penalty shall be imposed if the violation occurred more than 1 year prior to the date on which the appropriate notice is issued.

(d) *Preliminary procedure in some cases; citations.* Except for a forfeiture imposed under subsection 227(e)(5) of the Act, no forfeiture penalty shall be imposed upon any person under this section of the Act if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, and if such person is not an applicant for a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the issuance of the appropriate notice, such person:

(1) Is sent a citation reciting the violation charged;

(2) Is given a reasonable opportunity (usually 30 days) to request a personal interview with a Commission official, at the field office which is nearest to such person's place of residence; and

(3) Subsequently engages in conduct of the type described in the citation. However, a forfeiture penalty may be imposed, if such person is engaged in (and the violation relates to) activities for which a license, permit, certificate, or other authorization is required or if such person is a cable television operator, or in the case of violations of section 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses that tower. Paragraph

(c) of this section does not limit the issuance of citations. When the requirements of this paragraph have been satisfied with respect to a particular violation by a particular person, a forfeiture penalty may be imposed upon such person for conduct of the type described in the citation without issuance of an additional citation.

(e) *Alternative procedures*. In the discretion of the Commission, a forfeiture proceeding may be initiated either: (1) By issuing a notice of apparent liability, in accordance with paragraph (f) of this section, or (2) a notice of opportunity for hearing, in accordance with paragraph (g).

(f) *Notice of apparent liability*. Before imposing a forfeiture penalty under the provisions of this paragraph, the Commission or its designee will issue a written notice of apparent liability.

(1) *Content of notice*. The notice of apparent liability will:

(i) Identify each specific provision, term, or condition of any act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, or instrument of authorization which the respondent has apparently violated or with which he has failed to comply,

(ii) Set forth the nature of the act or omission charged against the respondent and the facts upon which such charge is based,

(iii) State the date(s) on which such conduct occurred, and

(iv) Specify the amount of the apparent forfeiture penalty.

(2) *Delivery*. The notice of apparent liability will be sent to the respondent, by certified mail, at his last known address (see §1.5).

(3) *Response*. The respondent will be afforded a reasonable period of time (usually 30 days from the date of the notice) to show, in writing, why a forfeiture penalty should not be imposed or should be reduced, or to pay the forfeiture. Any showing as to why the forfeiture should not be imposed or should be reduced shall include a detailed factual statement and such documentation and affidavits as may be pertinent.

(4) *Forfeiture order*. If the proposed forfeiture penalty is not paid in full in response to the notice of apparent liability, the Commission, upon considering all relevant information available to it, will issue an order canceling or reducing the proposed forfeiture or requiring that it be paid in full and stating the date by which the forfeiture must be paid.

(5) *Judicial enforcement of forfeiture order*. If the forfeiture is not paid, the case will be referred to the Department of Justice for collection under section 504(a) of the Communications Act.

(g) *Notice of opportunity for hearing*. The procedures set out in this paragraph will ordinarily be followed only when a hearing is being held for some reason other than the assessment of a forfeiture (such as, to determine whether a renewal application should be granted) and a forfeiture is to be considered as an alternative or in addition to any other Commission action. However, these procedures may be followed whenever the Commission, in its discretion, determines that they will better serve the ends of justice.

(1) Before imposing a forfeiture penalty under the provisions of this paragraph, the Commission will issue a notice of opportunity for hearing. The hearing will be a full evidentiary hearing before an administrative law judge, conducted under procedures set out in subpart B of this part, including procedures for appeal and review of initial decisions. A final Commission order assessing a forfeiture under the provisions of this paragraph is subject to judicial review under section 402(a) of the Communications Act.

(2) If, after a forfeiture penalty is imposed and not appealed or after a court enters final judgment in favor of the Commission, the forfeiture is not paid, the Commission will refer the matter to the Department of Justice for collection. In an action to recover the forfeiture, the validity and appropriateness of the order imposing the forfeiture are not subject to review.

(3) Where the possible assessment of a forfeiture is an issue in a hearing case to determine which pending application should be granted, and the applicant facing a potential forfeiture is dismissed pursuant to a settlement agreement or otherwise, and the presiding judge has not made a determination on the forfeiture issue, the order of dismissal shall be forwarded to the

attention of the full Commission. Within the time provided by § 1.117, the Commission may, on its own motion, proceed with a determination of whether a forfeiture against the dismissing applicant is warranted. If the Commission so proceeds, it will provide the applicant with a reasonable opportunity to respond to the forfeiture issue (see paragraph (f)(3) of this section) and make a determination under the procedures outlined in paragraph (f) of this section.

(h) *Payment*. The forfeiture should be paid by check or money order drawn to the order of the Federal Communications Commission. The Commission does not accept responsibility for cash payments sent through the mails. The check or money order should be mailed to: Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197–9000.

(i) *Remission and mitigation*. In its discretion, the Commission, or its designee, may remit or reduce any forfeiture imposed under this section. After issuance of a forfeiture order, any request that it do so shall be submitted as a petition for reconsideration pursuant to § 1.106.

(j) *Effective date*. Amendments to paragraph (b) of this section implementing Pub. L. No. 101–239 are effective December 19, 1989.

[43 FR 49308, Oct. 23, 1978, as amended at 48 FR 15631, Apr. 12, 1983; 50 FR 40855, Oct. 7, 1985; 55 FR 25605, June 22, 1990; 56 FR 25638, June 5, 1991; 57 FR 23161, June 2, 1992; 57 FR 47006, Oct. 14, 1992; 57 FR 48333, Oct. 23, 1992; 58 FR 6896, Feb. 3, 1993; 58 FR 27473, May 10, 1993; 62 FR 4918, Feb. 3, 1997; 62 FR 43475, Aug. 14, 1997; 63 FR 26992, May 15, 1998; 65 FR 60868, Oct. 13, 2000; 69 FR 47789, Aug. 6, 2004; 72 FR 33914, June 20, 2007; 73 FR 9018, Feb. 19, 2008; 73 FR 44664, July 31, 2008; 76 FR 43203, July 20, 2011]

### § 1.83 Applications for radio operator licenses.

(a) Application filing procedures for amateur radio operator licenses are set forth in part 97 of this chapter.

(b) Application filing procedures for commercial radio operator licenses are set forth in part 13 of this chapter. Detailed information about application forms, filing procedures, and where to file applications for commercial radio operator licenses is contained in the bulletin ''Commercial Radio Operator Licenses and Permits.'' This bulletin is available from the Commission's Forms Distribution Center by calling 1–800–418-FORM (3676).

[47 FR 53378, Nov. 26, 1982, as amended at 58 FR 13021, Mar. 9, 1993; 63 FR 68920, Dec. 14, 1998]

### § 1.85 Suspension of operator licenses.

Whenever grounds exist for suspension of an operator license, as provided in § 303(m) of the Communications Act, the Chief of the Wireless Telecommunications Bureau, with respect to amateur and commercial radio operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within the said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Wireless Telecommunications Bureau and said suspension shall be held in abeyance until the conclusion of the hearing. Upon the conclusion of said hearing, the Commission may affirm, modify, or revoke said order of suspension. If the license is ordered suspended, the operator shall send his operator license to the Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, in Washington, DC, on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

[63 FR 68920, Dec. 14, 1998]

### § 1.87 Modification of license or construction permit on motion of the Commission.

(a) Whenever it appears that a station license or construction permit should be modified, the Commission shall notify the licensee or permittee in writing of the proposed action and reasons therefor, and afford the licensee or permittee at least thirty days to protest such proposed order of modification, except that, where safety of life or property is involved, the Commission may by order provide a shorter period of time.

(b) The notification required in paragraph (a) of this section may be effectuated by a notice of proposed rule making in regard to a modification or addition of an FM or television channel to the Table of Allotments (§§ 73.202 and 73.504) or Table of Assignments (§ 73.606). The Commission shall send a copy of any such notice of proposed rule making to the affected licensee or permittee by certified mail, return receipt requested.

(c) Any other licensee or permittee who believes that its license or permit would be modified by the proposed action may also protest the proposed action before its effective date.

(d) Any protest filed pursuant to this section shall be subject to the requirements of section 309 of the Communications Act of 1934, as amended, for petitions to deny.

(e) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission except that, with respect to any issue that pertains to the question of whether the proposed action would modify the license or permit of a person filing a protest pursuant to paragraph (c) of this section, such burdens shall be as described by the Commission.

(f) In order to utilize the right to a hearing and the opportunity to appear and give evidence upon the issues specified in any hearing order, the licensee or permittee, in person or by attorney, shall, within the period of time as may be specified in the hearing order, file with the Commission a written statement stating that he or she will appear at the hearing and present evidence on the matters specified in the hearing order.

(g) The right to file a protest or have a hearing shall, unless good cause is shown in a petition to be filed not later than 5 days before the lapse of time specified in paragraph (a) or (f) of this section, be deemed waived:

(1) In case of failure to timely file the protest as required by paragraph (a) of this section or a written statement as required by paragraph (f) of this section.

(2) In case of filing a written statement provided for in paragraph (f) of this section but failing to appear at the hearing, either in person or by counsel.

(h) Where the right to file a protest or have a hearing is waived, the licensee or permittee will be deemed to have consented to the modification as proposed and a final decision may be issued by the Commission accordingly. Irrespective of any waiver as provided for in paragraph (g) of this section or failure by the licensee or permittee to raise a substantial and material question of fact concerning the proposed modification in his protest, the Commission may, on its own motion, designate the proposed modification for hearing in accordance with this section.

(i) Any order of modification issued pursuant to this section shall include a statement of the findings and the grounds and reasons therefor, shall specify the effective date of the modification, and shall be served on the licensee or permittee.

[52 FR 22654, June 15, 1987]

### § 1.88 Predesignation pleading procedure.

In cases where an investigation is being conducted by the Commission in connection with the operation of a broadcast station or a pending application for renewal of a broadcast license, the licensee may file a written statement to the Commission setting forth its views regarding the matters under investigation; the staff, in its discretion, may in writing, advise such licensee of the general nature of the investigation, and advise the licensee of

its opportunity to submit such a statement to the staff. Any filing by the licensee will be forwarded to the Commission in conjunction with any staff memorandum recommending that the Commission take action as a result of the invesigation. Nothing in this rule shall supersede the application of our *ex parte* rules to situations described in § 1.1203 of these rules.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

[45 FR 65597, Oct. 3, 1980]

### § 1.89 Notice of violations.

(a) Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, any person who holds a license, permit or other authorization appearing to have violated any provision of the Communications Act or any provision of this chapter will, before revocation, suspension, or cease and desist proceedings are instituted, be served with a written notice calling these facts to his or her attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose. The Notice of Violation may be combined with a Notice of Apparent Liability to Monetary Forfeiture. In such event, notwithstanding the Notice of Violation, the provisions of § 1.80 apply and not those of § 1.89.

(b) Within 10 days from receipt of notice or such other period as may be specified, the recipient shall send a written answer, in duplicate, directly to the Commission office originating the official notice. If an answer cannot be sent or an acknowledgment cannot be made within such 10-day period by reason of illness or other unavoidable circumstance, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of action taken to correct the condition or omission complained of and to preclude its recurrence. In addition:

(1) If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus and any new apparatus is to be installed, the answer shall state the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application.

(2) If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge (where applicable) shall be given.

[48 FR 24890, June 3, 1983]

### § 1.91 Revocation and/or cease and desist proceedings; hearings.

(a) If it appears that a station license or construction permit should be revoked and/or that a cease and desist order should be issued, the Commission will issue an order directing the person to show cause why an order of revocation and/or a cease and desist order, as the facts may warrant, should not be issued.

(b) An order to show cause why an order of revocation and/or a cease and desist order should not be issued will contain a statement of the matters with respect to which the Commission is inquiring and will call upon the person to whom it is directed (the respondent) to appear before the Commission at a hearing, at a time and place stated in the order, but not less than thirty days after the receipt of such order, and given evidence upon the matters specified in the order to show cause. However, if safety of life or property is involved, the order to show cause may specify a hearing date less than thirty days from the receipt of such order.

(c) To avail himself of such opportunity for hearing, the respondent, personally or by his attorney, shall file with the Commission, within thirty days of the service of the order or such shorter period as may be specified therein, a written appearance stating

that he will appear at the hearing and present evidence on the matters specified in the order. The Commission in its discretion may accept a late appearance. However, an appearance tendered after the specified time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petition for acceptance of late appearance will be granted only if the Commission determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(d) Hearings on the matters specified in such orders to show cause shall accord with the practice and procedure prescribed in this subpart and subpart B of this part, with the following exceptions: (1) In all such revocation and/or cease and desist hearings, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; and (2) the Commission may specify in a show cause order, when the circumstances of the proceeding require expedition, a time less than that prescribed in §§1.276 and 1.277 within which the initial decision in the proceeding shall become effective, exceptions to such initial decision must be filed, parties must file requests for oral argument, and parties must file notice of intention to participate in oral argument.

(e) Correction of or promise to correct the conditions or matters complained of in a show cause order shall not preclude the issuance of a cease and desist order. Corrections or promises to correct the conditions or matters complained of, and the past record of the licensee, may, however, be considered in determining whether a revocation and/or a cease and desist order should be issued.

(f) Any order of revocation and/or cease and desist order issued after hearing pursuant to this section shall include a statement of findings and the grounds therefor, shall specify the effective date of the order, and shall be served on the person to whom such order is directed.

(Sec. 312, 48 Stat. 1086, as amended; 47 U.S.C. 312)

**§ 1.92 Revocation and/or cease and desist proceedings; after waiver of hearing.**

(a) After the issuance of an order to show cause, pursuant to §1.91, calling upon a person to appear at a hearing before the Commission, the occurrence of any one of the following events or circumstances will constitute a waiver of such hearing and the proceeding thereafter will be conducted in accordance with the provisions of this section.

(1) The respondent fails to file a timely written appearance as prescribed in §1.91(c) indicating that he will appear at a hearing and present evidence on the matters specified in the order.

(2) The respondent, having filed a timely written appearance as prescribed in §1.91(c), fails in fact to appear in person or by his attorney at the time and place of the duly scheduled hearing.

(3) The respondent files with the Commission, within the time specified for a written appearance in §1.91(c), a written statement expressly waiving his rights to a hearing.

(b) When a hearing is waived under the provisions of paragraph (a) (1) or (3) of this section, a written statement signed by the respondent denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause may be submitted within the time specified in §1.91(c). The Commission in its discretion may accept a late statement. However, a statement tendered after the specified time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petitions for acceptance of a late statement will be granted only if the Commission determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(c) Whenever a hearing is waived by the occurrence of any of the events or circumstances listed in paragraph (a) of this section, the Chief Administrative Law Judge (or the presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting the events or circumstances

constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. Such order shall be served upon the respondent.

(d) After a hearing proceeding has been terminated pursuant to paragraph (c) of this section, the Commission will act upon the matters specified in the order to show cause in the regular course of business. The Commission will determine on the basis of all the information available to it from any source, including such further proceedings as may be warranted, if a revocation order and/or a cease and desist order should issue, and if so, will issue such order. Otherwise, the Commission will issue an order dismissing the proceeding. All orders specified in this paragraph will include a statement of the findings of the Commission and the grounds and reasons therefor, will specify the effective date thereof, and will be served upon the respondent.

(e) Corrections or promise to correct the conditions or matters complained of in a show cause order shall not preclude the issuance of a cease and desist order. Corrections or promises to correct the conditions or matters complained of, and the past record of the licensee, may, however, be considered in determining whether a revocation and/or a cease and desist order should be issued.

(Sec. 312, 48 Stat. 1086, as amended; 47 U.S.C. 312)

[28 FR 12415, Nov. 22, 1963, as amended at 29 FR 6443, May 16, 1964; 37 FR 19372, Sept. 20, 1972]

### § 1.93 Consent orders.

(a) As used in this subpart, a ''consent order'' is a formal decree accepting an agreement between a party to an adjudicatory hearing proceeding held to determine whether that party has violated statutes or Commission rules or policies and the appropriate operating Bureau, with regard to such party's future compliance with such statutes, rules or policies, and disposing of all issues on which the proceeding was designated for hearing. The order is issued by the officer designated to preside at the hearing or (if no officer has been designated) by the Chief Administrative Law Judge.

(b) Where the interests of timely enforcement or compliance, the nature of the proceeding, and the public interest permit, the Commission, by its operating Bureaus, may negotiate a consent order with a party to secure future compliance with the law in exchange for prompt disposition of a matter subject to administrative adjudicative proceedings. Consent orders may not be negotiated with respect to matters which involve a party's basic statutory qualifications to hold a license (see 47 U.S.C. 308 and 309).

[41 FR 14871, Apr. 8, 1976]

### § 1.94 Consent order procedures.

(a) Negotiations leading to a consent order may be initiated by the operating Bureau or by a party whose possible violations are issues in the proceeding. Negotiations may be initiated at any time after designation of a proceeding for hearing. If negotiations are initiated the presiding officer shall be notified. Parties shall be prepared at the initial prehearing conference to state whether they are at that time willing to enter negotiations. See § 1.248(c)(7). If either party is unwilling to enter negotiations, the hearing proceeding shall proceed. If the parties agree to enter negotiations, they will be afforded an appropriate opportunity to negotiate before the hearing is commenced.

(b) Other parties to the proceeding are entitled, but are not required, to participate in the negotiations, and may join in any agreement which is reached.

(c) Every agreement shall contain the following:

(1) An admission of all jurisdictional facts;

(2) A waiver of the usual procedures for preparation and review of an initial decision;

(3) A waiver of the right of judicial review or otherwise to challenge or contest the validity of the consent order;

(4) A statement that the designation order may be used in construing the consent order;

(5) A statement that the agreement shall become a part of the record of the proceeding only if the consent order is signed by the presiding officer and the

time for review has passed without rejection of the order by the Commission;

(6) A statement that the agreement is for purposes of settlement only and that its signing does not constitute an admission by any party of any violation of law, rules or policy (see 18 U.S.C. 6002); and

(7) A draft order for signature of the presiding officer resolving by consent, and for the future, all issues specified in the designation order.

(d) If agreement is reached, it shall be submitted to the presiding officer or Chief Administrative Law Judge, as the case may be, who shall either sign the order, reject the agreement, or suggest to the parties that negotiations continue on such portion of the agreement as he considers unsatisfactory or on matters not reached in the agreement. If he rejects the agreement, the hearing shall proceed. If he suggests further negotiations, the hearing will proceed or negotiations will continue, depending on the wishes of parties to the agreement. If he signs the consent order, he shall close the record.

(e) Any party to the proceeding who has not joined in any agreement which is reached may appeal the consent order under § 1.302, and the Commission may review the agreement on its own motion under the provisions of that section. If the Commission rejects the consent order, the proceeding will be remanded for further proceedings. If the Commission does not reject the consent order, it shall be entered in the record as a final order and is subject to judicial review on the initiative only of parties to the proceeding who did not join in the agreement. The Commission may revise the agreement and consent order. In that event, private parties to the agreement may either accept the revision or withdraw from the agreement. If the party whose possible violations are issues in the proceeding withdraws from the agreement, the consent order will not be issued or made a part of the record, and the proceeding will be remanded for further proceedings.

(f) The provisions of this section shall not alter any existing procedure for informal settlement of any matter prior to designation for hearing (see, e.g., 47 U.S.C. 208) or for summary decision after designation for hearing.

(g) Consent orders, pleadings relating thereto, and Commission orders with respect thereto shall be served on parties to the proceeding. Public notice will be given of orders issued by an administrative law judge, the Chief Administrative Law Judge, or the Commission. Negotiating papers constitute work product, are available to parties participating in negotiations, but are not routinely available for public inspection.

[41 FR 14871, Apr. 8, 1976]

### § 1.95 Violation of consent orders.

Violation of a consent order shall subject the consenting party to any and all sanctions which could have been imposed in the proceeding resulting in the consent order if all of the issues in that proceeding had been decided against the consenting party and to any further sanctions for violation noted as agreed upon in the consent order. The Commission shall have the burden of showing that the consent order has been violated in some (but not in every) respect. Violation of the consent order and the sanctions to be imposed shall be the only issues considered in a proceeding concerning such an alleged violation.

[41 FR 14871, Apr. 8, 1976]

## Reconsideration and Review of Actions Taken by the Commission and Pursuant to Delegated Authority; Effective Dates and Finality Dates of Actions

### § 1.101 General provisions.

Under section 5(c) of the Communications Act of 1934, as amended, the Commission is authorized, by rule or order, to delegate certain of its functions to a panel of commissioners, an individual commissioner, an employee board, or an individual employee. Section 0.201(a) of this chapter describes in general terms the basic categories of delegations which are made by the Commission. Subpart B of part 0 of this chapter sets forth all delegations which have been made by rule. Sections 1.102 through 1.120 set forth procedural rules governing reconsideration and review of actions taken pursuant to authority delegated under section 5(c) of the

Communications Act, and reconsideration of actions taken by the Commission. As used in §§1.102 through 1.117, the term *designated authority* means any person, panel, or board which has been authorized by rule or order to exercise authority under section 5(c) of the Communications Act.

[28 FR 12415, Nov. 22, 1963, as amended at 62 FR 4170, Jan. 29, 1997]

### § 1.102 Effective dates of actions taken pursuant to delegated authority.

(a) *Final actions following review of an initial decision.* (1) Final decisions of a commissioner, or panel of commissioners following review of an initial decision shall be effective 40 days after public release of the full text of such final decision.

(2) If a petition for reconsideration of such final decision is filed, the effect of the decision is stayed until 40 days after release of the final order disposing of the petition.

(3) If an application for review of such final decision is filed, or if the Commission on its own motion orders the record of the proceeding before it for review, the effect of the decision is stayed until the Commission's review of the proceeding has been completed.

(b) *Non-hearing and interlocutory actions.* (1) Non-hearing or interlocutory actions taken pursuant to delegated authority shall, unless otherwise ordered by the designated authority, be effective upon release of the document containing the full text of such action, or in the event such a document is not released, upon release of a public notice announcing the action in question.

(2) If a petition for reconsideration of a non-hearing action is filed, the designated authority may in its discretion stay the effect of its action pending disposition of the petition for reconsideration. Petitions for reconsideration of interlocutory actions will not be entertained.

(3) If an application for review of a non-hearing or interlocutory action is filed, or if the Commission reviews the action on its own motion, the Commission may in its discretion stay the effect of any such action until its review of the matters at issue has been completed.

[28 FR 12415, Nov. 22, 1963, as amended at 62 FR 4170, Jan. 29, 1997]

### § 1.103 Effective dates of Commission actions; finality of Commission actions.

(a) Unless otherwise specified by law or Commission rule (e.g. §§1.102 and 1.427), the effective date of any Commission action shall be the date of public notice of such action as that latter date is defined in §1.4(b) of these rules: *Provided*, That the Commission may, on its own motion or on motion by any party, designate an effective date that is either earlier or later in time than the date of public notice of such action. The designation of an earlier or later effective date shall have no effect on any pleading periods.

(b) Notwithstanding any determinations made under paragraph (a) of this section, Commission action shall be deemed final, for purposes of seeking reconsideration at the Commission or judicial review, on the date of public notice as defined in §1.4(b) of these rules.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[46 FR 18556, Mar. 25, 1981]

### § 1.104 Preserving the right of review; deferred consideration of application for review.

(a) The provisions of this section apply to all final actions taken pursuant to delegated authority, including final actions taken by members of the Commission's staff on nonhearing matters. They do not apply to interlocutory actions of the Chief Administrative Law Judge in hearing proceedings, or to hearing designation orders issued under delegated authority. See §§0.351, 1.106(a) and 1.115(e).

(b) Any person desiring Commission consideration of a final action taken pursuant to delegated authority shall file either a petition for reconsideration or an application for review (but not both) within 30 days from the date of public notice of such action, as that date is defined in §1.4(b) of these rules. The petition for reconsideration will be acted on by the designated authority

or referred by such authority to the Commission: *Provided*, That a petition for reconsideration of an order designating a matter for hearing will in all cases be referred to the Commission. The application for review will in all cases be acted upon by the Commission.

NOTE: In those cases where the Commission does not intend to release a document containing the full text of its action, it will state that fact in the public notice announcing its action.

(c) If in any matter one party files a petition for reconsideration and a second party files an application for review, the Commission will withhold action on the application for review until final action has been taken on the petition for reconsideration.

(d) Any person who has filed a petition for reconsideration may file an application for review within 30 days from the date of public notice of such action, as that date is defined in § 1.4(b) of these rules. If a petition for reconsideration has been filed, any person who has filed an application for review may: (1) Withdraw his application for review, or (2) substitute an amended application therefor.

NOTE: In those cases where the Commission does not intend to release a document containing the full text of its action, it will state that fact in the public notice announcing its action.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[28 FR 12415, Nov. 22, 1963, as amended at 41 FR 14871, Apr. 8, 1976; 44 FR 60294, Oct. 19, 1979; 46 FR 18556, Mar. 25, 1981; 62 FR 4170, Jan. 29, 1997]

### § 1.106 Petitions for reconsideration in non-rulemaking proceedings.

(a)(1) Except as provided in paragraphs (b)(3) and (p) of this section, petitions requesting reconsideration of a final Commission action in non-rulemaking proceedings will be acted on by the Commission. Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission. A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding. Petitions for reconsideration of other interlocutory actions will not be entertained. (For provisions governing reconsideration of Commission action in notice and comment rulemaking proceedings, *see* § 1.429. This § 1.106 does not govern reconsideration of such actions.)

(2) Within the period allowed for filing a petition for reconsideration, any party to the proceeding may request the presiding officer to certify to the Commission the question as to whether, on policy in effect at the time of designation or adopted since designation, and undisputed facts, a hearing should be held. If the presiding officer finds that there is substantial doubt, on established policy and undisputed facts, that a hearing should be held, he will certify the policy question to the Commission with a statement to that effect. No appeal may be filed from an order denying such a request. See also, §§ 1.229 and 1.251.

(b)(1) Subject to the limitations set forth in paragraph (b)(2) of this section, any party to the proceeding, or any other person whose interests are adversely affected by any action taken by the Commission or by the designated authority, may file a petition requesting reconsideration of the action taken. If the petition is filed by a person who is not a party to the proceeding, it shall state with particularity the manner in which the person's interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding.

(2) Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances are present:

(i) The petition relies on facts or arguments which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; or

(ii) The petition relies on facts or arguments unknown to petitioner until after his last opportunity to present them to the Commission, and he could

not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity.

(3) A petition for reconsideration of an order denying an application for review which fails to rely on new facts or changed circumstances may be dismissed by the staff as repetitious.

(c) In the case of any order other than an order denying an application for review, a petition for reconsideration which relies on facts or arguments not previously presented to the Commission or to the designated authority may be granted only under the following circumstances:

(1) The facts or arguments fall within one or more of the categories set forth in §1.106(b)(2); or

(2) The Commission or the designated authority determines that consideration of the facts or arguments relied on is required in the public interest.

(d)(1) A petition for reconsideration shall state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed. The petition shall state specifically the form of relief sought and, subject to this requirement, may contain alternative requests.

(2) A petition for reconsideration of a decision that sets forth formal findings of fact and conclusions of law shall also cite the findings and/or conclusions which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and/or conclusions should be changed. The petition may request that additional findings of fact and/or conclusions of law be made.

(e) Where a petition for reconsideration is based upon a claim of electrical interference, under appropriate rules in this chapter, to an existing station or a station for which a construction permit is outstanding, such petition, in addition to meeting the other requirements of this section, must be accompanied by an affidavit of a qualified radio engineer. Such affidavit shall show, either by following the procedures set forth in this chapter for determining interference in the absence of measurements, or by actual measurements made in accordance with the methods prescribed in this chapter, that electrical interference will be caused to the station within its normally protected contour.

(f) The petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of public notice of the final Commission action, as that date is defined in §1.4(b) of these rules, and shall be served upon parties to the proceeding. The petition for reconsideration shall not exceed 25 double spaced typewritten pages. No supplement or addition to a petition for reconsideration which has not been acted upon by the Commission or by the designated authority, filed after expiration of the 30 day period, will be considered except upon leave granted upon a separate pleading for leave to file, which shall state the grounds therefor.

(g) Oppositions to a petition for reconsideration shall be filed within 10 days after the petition is filed, and shall be served upon petitioner and parties to the proceeding. Oppositions shall not exceed 25 double spaced typewritten pages.

(h) Petitioner may reply to oppositions within seven days after the last day for filing oppositions, and any such reply shall be served upon parties to the proceeding. Replies shall not exceed 10 double spaced typewritten pages, and shall be limited to matters raised in the opposition.

(i) Petitions for reconsideration, oppositions, and replies shall conform to the requirements of §§1.49, 1.51, and 1.52 and shall be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554, by mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System or other electronic filing system (such as ULS). Petitions submitted only by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

(j) The Commission or designated authority may grant the petition for reconsideration in whole or in part or may deny or dismiss the petition. Its order will contain a concise statement

of the reasons for the action taken. Where the petition for reconsideration relates to an instrument of authorization granted without hearing, the Commission or designated authority will take such action within 90 days after the petition is filed.

(k)(1) If the Commission or the designated authority grants the petition for reconsideration in whole or in part, it may, in its decision:

(i) Simultaneously reverse or modify the order from which reconsideration is sought;

(ii) Remand the matter to a bureau or other Commission personnel for such further proceedings, including rehearing, as may be appropriate; or

(iii) Order such other proceedings as may be necessary or appropriate.

(2) If the Commission or designated authority initiates further proceedings, a ruling on the merits of the matter will be deferred pending completion of such proceedings. Following completion of such further proceedings, the Commission or designated authority may affirm, reverse, or modify its original order, or it may set aside the order and remand the matter for such further proceedings, including rehearing, as may be appropriate.

(3) Any order disposing of a petition for reconsideration which reverses or modifies the original order is subject to the same provisions with respect to reconsideration as the original order. In no event, however, shall a ruling which denies a petition for reconsideration be considered a modification of the original order. A petition for reconsideration of an order which has been previously denied on reconsideration may be dismissed by the staff as repetitious.

NOTE: For purposes of this section, the word ''order'' refers to that portion of its action wherein the Commission announces its judgment. This should be distinguished from the ''memorandum opinion'' or other material which often accompany and explain the order.

(l) No evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission or the designated authority believes should have been taken in the original proceeding shall be taken on any rehearing ordered pursuant to the provisions of this section.

(m) The filing of a petition for reconsideration is not a condition precedent to judicial review of any action taken by the Commission or by the designated authority, except where the person seeking such review was not a party to the proceeding resulting in the action, or relies on questions of fact or law upon which the Commission or designated authority has been afforded no opportunity to pass. (See §1.115(c).) Persons in those categories who meet the requirements of this section may qualify to seek judicial review by filing a petition for reconsideration.

(n) Without special order of the Commission, the filing of a petition for reconsideration shall not excuse any person from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof. However, upon good cause shown, the Commission will stay the effectiveness of its order or requirement pending a decision on the petition for reconsideration. (This paragraph applies only to actions of the Commission en banc. For provisions applicable to actions under delegated authority, see §1.102.)

(o) Petitions for reconsideration of licensing actions, as well as oppositions and replies thereto, that are filed with respect to the Wireless Radio Services, may be filed electronically via ULS.

(p) Petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the relevant bureau(s) or office(s). Examples include, but are not limited to, petitions that:

(1) Fail to identify any material error, omission, or reason warranting reconsideration;

(2) Rely on facts or arguments which have not previously been presented to the Commission and which do not meet the requirements of paragraphs (b)(2), (b)(3), or (c) of this section;

(3) Rely on arguments that have been fully considered and rejected by the Commission within the same proceeding;

(4) Fail to state with particularity the respects in which petitioner believes the action taken should be changed as required by paragraph (d) of this section;

(5) Relate to matters outside the scope of the order for which reconsideration is sought;

(6) Omit information required by these rules to be included with a petition for reconsideration, such as the affidavit required by paragraph (e) of this section (relating to electrical interference);

(7) Fail to comply with the procedural requirements set forth in paragraphs (f) and (i) of this section;

(8) relate to an order for which reconsideration has been previously denied on similar grounds, except for petitions which could be granted under paragraph (c) of this section; or

(9) Are untimely.

(Secs. 4, 303, 307, 405, 48 Stat., as amended, 1066, 1082, 1083, 1095; 47 U.S.C. 154, 303, 307, 405)

[28 FR 12415, Nov. 22, 1963, as amended at 37 FR 7507, Apr. 15, 1972; 41 FR 1287, Jan. 7, 1976; 44 FR 60294, Oct. 19, 1979; 46 FR 18556, Mar. 25, 1981; 62 FR 4170, Jan. 29, 1997; 63 FR 68920, Dec. 14, 1998; 76 FR 24391, May 2, 2011]

### § 1.108 Reconsideration on Commission's own motion.

The Commission may, on its own motion, reconsider any action made or taken by it within 30 days from the date of public notice of such action, as that date is defined in §1.4(b). When acting on its own motion under this section, the Commission may take any action it could take in acting on a petition for reconsideration, as set forth in §1.106(k).

[76 FR 24392, May 2, 2011]

### § 1.110 Partial grants; rejection and designation for hearing.

Where the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to a station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing.

### § 1.113 Action modified or set aside by person, panel, or board.

(a) Within 30 days after public notice has been given of any action taken pursuant to delegated authority, the person, panel, or board taking the action may modify or set it aside on its own motion.

(b) Within 60 days after notice of any sanction imposed under delegated authority has been served on the person affected, the person, panel, or board which imposed the sanction may modify or set it aside on its own motion.

(c) Petitions for reconsideration and applications for review shall be directed to the actions as thus modified, and the time for filing such pleadings shall be computed from the date upon which public notice of the modified action is given or notice of the modified sanction is served on the person affected.

### § 1.115 Application for review of action taken pursuant to delegated authority.

(a) Any person aggrieved by any action taken pursuant to delegated authority may file an application requesting review of that action by the Commission. Any person filing an application for review who has not previously participated in the proceeding shall include with his application a statement describing with particularity the manner in which he is aggrieved by the action taken and showing good reason why it was not possible for him to participate in the earlier stages of the proceeding. Any application for review which fails to make an adequate showing in this respect will be dismissed.

(b)(1) The application for review shall concisely and plainly state the questions presented for review with reference, where appropriate, to the findings of fact or conclusions of law.

(2) Except as provided in paragraph (b)(5) of this section, the application for review shall specify with particularity, from among the following, the factor(s) which warrant Commission consideration of the questions presented:

(i) The action taken pursuant to delegated authority is in conflict with statute, regulation, case precedent, or established Commission policy.

(ii) The action involves a question of law or policy which has not previously been resolved by the Commission.

(iii) The action involves application of a precedent or policy which should be overturned or revised.

(iv) An erroneous finding as to an important or material question of fact.

(v) Prejudicial procedural error.

(3) The application for review shall state with particularity the respects in which the action taken by the designated authority should be changed.

(4) The application for review shall state the form of relief sought and, subject to this requirement, may contain alternative requests.

(c) No application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass.

NOTE: Subject to the requirements of § 1.106, new questions of fact or law may be presented to the designated authority in a petition for reconsideration.

(d) Except as provided in paragraph (e) of this section, the application for review and any supplemental thereto shall be filed within 30 days of public notice of such action, as that date is defined in section 1.4(b). Opposition to the application shall be filed within 15 days after the application for review is filed. Except as provided in paragraph (e)(3) of this section, replies to oppositions shall be filed within 10 days after the opposition is filed and shall be limited to matters raised in the opposition.

(e)(1) Applications for review of interlocutory rulings made by the Chief Administrative Law Judge (see § 0.351) shall be deferred until the time when exceptions are filed unless the Chief Judge certifies the matter to the Commission for review. A matter shall be certified to the Commission only if the Chief Judge determines that it presents a new or novel question of law or policy and that the ruling is such that error would be likely to require remand should the appeal be deferred and raised as an exception. The request to certify the matter to the Commission shall be filed within 5 days after the ruling is made. The application for review shall be filed within 5 days after the order certifying the matter to the Commission is released or such ruling is made. Oppositions shall be filed within 5 days after the application is filed. Replies to oppositions shall be filed only if they are requested by the Commission. Replies (if allowed) shall be filed within 5 days after they are requested. A ruling certifying or not certifying a matter to the Commission is final: *Provided, however,* That the Commission may, on its own motion, dismiss the application for review on the ground that objections to the ruling should be deferred and raised as an exception.

(2) The failure to file an application for review of an interlocutory ruling made by the Chief Administrative Law Judge or the denial of such application by the Commission, shall not preclude any party entitled to file exceptions to the initial decision from requesting review of the ruling at the time when exceptions are filed. Such requests will be considered in the same manner as exceptions are considered.

(3) Applications for review of a hearing designation order issued under delegated authority shall be deferred until exceptions to the initial decision in the case are filed, unless the presiding Administrative Law Judge certifies such an application for review to the Commission. A matter shall be certified to the Commission only if the presiding Administrative Law Judge determines that the matter involves a controlling question of law as to which there is substantial ground for difference of opinion and that immediate consideration of the question would materially expedite the ultimate resolution of the litigation. A ruling refusing to certify a matter to the Commission is not appealable. In addition, the Commission may dismiss, without stating reasons, an application for review that has been certified, and direct that the objections

to the hearing designation order be deferred and raised when exceptions in the initial decision in the case are filed. A request to certify a matter to the Commission shall be filed with the presiding Administrative Law Judge within 5 days after the designation order is released. Any application for review authorized by the Administrative Law Judge shall be filed within 5 days after the order certifying the matter to the Commission is released or such a ruling is made. Oppositions shall be filed within 5 days after the application for review is filed. Replies to oppositions shall be filed only if they are requested by the Commission. Replies (if allowed) shall be filed within 5 days after they are requested.

(4) Applications for review of final staff decisions issued on delegated authority in formal complaint proceedings on the Enforcement Bureau's Accelerated Docket (see, e.g., §1.730) shall be filed within 15 days of public notice of the decision, as that date is defined in §1.4(b). These applications for review oppositions and replies in Accelerated Docket proceedings shall be served on parties to the proceeding by hand or facsimile transmission.

(f) Applications for review, oppositions, and replies shall conform to the requirements of §§1.49, 1.51, and 1.52, and shall be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554. Except as provided below, applications for review and oppositions thereto shall not exceed 25 double-space typewritten pages. Applications for review of interlocutory actions in hearing proceedings (including designation orders) and oppositions thereto shall not exceed 5 double-spaced typewritten pages. When permitted (see paragraph (e)(3) of this section), reply pleadings shall not exceed 5 double-spaced typewritten pages. The application for review shall be served upon the parties to the proceeding. Oppositions to the application for review shall be served on the person seeking review and on parties to the proceeding. When permitted (see paragraph (e)(3) of this section), replies to the opposition(s) to the application for review shall be served on the person(s) opposing the application for review and on parties to the proceeding.

(g) The Commission may grant the application for review in whole or in part, or it may deny the application with or without specifying reasons therefor. A petition requesting reconsideration of a ruling which denies an application for review will be entertained only if one or more of the following circumstances is present:

(1) The petition relies on facts which related to events which have occurred or circumstances which have changed since the last opportunity to present such matters; or

(2) The petition relies on facts unknown to petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned prior to such opportunity.

(h)(1) If the Commission grants the application for review in whole or in part, it may, in its decision:

(i) Simultaneously reverse or modify the order from which review is sought;

(ii) Remand the matter to the designated authority for reconsideration in accordance with its instructions, and, if an evidentiary hearing has been held, the remand may be to the person(s) who conducted the hearing; or

(iii) Order such other proceedings, including briefs and oral argument, as may be necessary or appropriate.

(2) In the event the Commission orders further proceedings, it may stay the effect of the order from which review is sought. (See §1.102.) Following the completion of such further proceedings the Commission may affirm, reverse or modify the order from which review is sought, or it may set aside the order and remand the matter to the designated authority for reconsideration in accordance with its instructions. If an evidentiary hearing has been held, the Commission may remand the matter to the person(s) who conducted the hearing for rehearing on such issues and in accordance with such instructions as may be appropriate.

NOTE: For purposes of this section, the word ''order'' refers to that portion of its action wherein the Commission announces its judgment. This should be distinguished from the ''memorandum opinion'' or other material which often accompany and explain the order.

(i) An order of the Commission which reverses or modifies the action taken pursuant to delegated authority is subject to the same provisions with respect to reconsideration as an original order of the Commission. In no event, however, shall a ruling which denies an application for review be considered a modification of the action taken pursuant to delegated authority.

(j) No evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission believes should have been taken in the original proceeding shall be taken on any rehearing ordered pursuant to the provisions of this section.

(k) The filing of an application for review shall be a condition precedent to judicial review of any action taken pursuant to delegated authority.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[28 FR 12415, Nov. 22, 1963, as amended at 41 FR 14871, Apr. 8, 1976; 44 FR 60295, Oct. 19, 1979; 46 FR 18556, Mar. 25, 1981; 48 FR 12719, Mar. 28, 1983; 50 FR 39000, Sept. 26, 1985; 54 FR 40392, Oct. 2, 1989; 55 FR 36641, Sept. 6, 1990; 57 FR 19387, May 6, 1992; 62 FR 4170, Jan. 29, 1997; 63 FR 41446, Aug. 4, 1998; 67 FR 13223, Mar. 21, 2002]

### § 1.117 Review on motion of the Commission.

(a) Within 40 days after public notice is given of any action taken pursuant to delegated authority, the Commission may on its own motion order the record of the proceeding before it for review.

(b) If the Commission reviews the proceeding on its own motion, it may order such further procedure as may be useful to it in its review of the action taken pursuant to delegated authority.

(c) With or without such further procedure, the Commission may either affirm, reverse, modify, or set aside the action taken, or remand the proceeding to the designated authority for reconsideration in accordance with its instructions. If an evidentiary hearing has been held, the Commission may remand the proceeding to the person(s) who conducted the hearing for rehearing on such issues and in accordance with such instructions as may be appropriate. An order of the Commission which reverses or modifies the action taken pursuant to delegated authority, or remands the matter for further proceedings, is subject to the same provisions with respect to reconsideration as an original action of the Commission.

### § 1.120 Protests of grants without hearing.

(a) The provisions of this section shall not be applicable to any application: (1) Filed on or after December 12, 1960; (2) filed before December 12, 1960, but substantially amended (as defined in the applicable provisions of this chapter) on or after that date; or (3) filed before December 12, 1960, and not thereafter substantially amended, but with respect to which the rules in this chapter provide an opportunity for petitions to deny to be filed under section 309 of the Communications Act, as amended. See §§ 1.580 and 1.962.

(b) Where any instrument of authorization for a radio station, other than a license pursuant to a construction permit, has been granted without a hearing, any party in interest may file a protest directed to such grant and request a hearing on the application granted. Such protest shall be signed by the protestant and subscribed to under oath. Such protest must be filed with the Commission within 30 days after release of the document containing the full text of such action, or in case such a document is not released, after release of a ''Public Notice'' announcing the action in question and must separately set forth:

(1) Such allegations of fact as will show the protestant to be a party in interest, i.e., a person aggrieved or whose interests are adversely affected by the Commission's authorization, protest of which is sought. Each such allegation of fact shall be separately stated.

(2) Facts indicating the reasons why the grant was improperly made or would otherwise not be in the public interest. Each such reason shall be separately stated, and facts in support thereof shall be specified in detail and shall not include general non-specific conclusory arguments and allegations.

(3) The specific issues upon which protestant wishes a hearing to be held,

which issues must relate directly to a matter specified with particularity as part of paragraph (b)(2) of this section.

(c) Arguments and citations of authority may be set forth in a brief accompanying the protest but must be excluded from the protest itself.

(d) Oppositions to protests and briefs in support thereof shall contain all material, including that pertinent to the determination referred to in paragraph (i) of this section, deemed appropriate to the Commission's resolution of the protest. Such oppositions and supporting briefs must be filed within 10 days after the filing of such protest, and any replies to such oppositions must be filed within 5 days after the filing of the oppositions.

(e) Protests, oppositions, and replies shall be filed with the Commission in original and 14 copies and shall be accompanied by proof of service upon the grantee or the protestant, as the case may be, and/or their respective attorneys.

(f) The Commission may upon consideration of a protest direct either the protestant or grantee or both to submit further statements of fact under oath relating to the matters raised in the protest.

(g) Within 30 days from the date of the filing of the protest, the Commission will enter findings as to whether such protest meets the requirements set forth in paragraphs (b) (1) and (2) of this section. If the Commission finds that one of these requirements is not met, it will dismiss the protest. If the Commission finds that these requirements are met, it will designate the application in question for hearing. As to issues which the Commission believes present no grounds for setting aside the grant, even if the facts alleged were to be proven, the Commission may designate such issues for oral argument only. The other issues will be designated for evidentiary hearing except that the Commission may redraft the issues in accordance with the facts or substantive matters alleged in the protest and may also specify such additional issues as it deems desirable. In any evidentiary hearing subsequently held upon issues specified by the Commission, upon its own initiative or adopted by it, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the grantee. With respect to issues resulting from facts set forth in the protest and not adopted or specified by the Commission on its own motion, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the protestant.

(h) The procedure in such protest hearing shall be governed by the provisions of subpart B of this part, except as otherwise provided in this section.

(i) Pending hearing and decision, the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service or unless the Commission affirmatively finds that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

(Sec. 7, 66 Stat. 715, as amended. See, in particular, sec. 4 (a) and (d), 74 Stat. 889, 892; 47 U.S.C. 309)

[28 FR 12415, Nov. 22, 1963, as amended at 28 FR 14503, Dec. 31, 1963]

## Subpart B—Hearing Proceedings

SOURCE: 28 FR 12425, Nov. 22, 1963, unless otherwise noted.

GENERAL

### § 1.201 Scope.

This subpart shall be applicable to the following cases which have been designated for hearing:

(a) Adjudication (as defined by the Administrative Procedure Act); and

(b) Rule making proceedings which are required by law to be made on the record after opportunity for a Commission hearing.

NOTE: For special provisions relating to AM broadcast station applications involving other North American countries see § 73.3570.

[28 FR 12425, Nov. 22, 1963, as amended at 51 FR 32088, Sept. 9, 1986]

### § 1.202 Official reporter; transcript.

The Commission will designate from time to time an official reporter for the recording and transcribing of hearing proceedings. The transcript of the testimony taken, or argument had, at any hearing will not be furnished by the Commission, but will be open to inspection under § 0.453(a)(1) of this chapter. Copies of such transcript, if desired, may be obtained from the official reporter upon payment of the charges therefor.

(5 U.S.C. 556)

[32 FR 20861, Dec. 28, 1967]

### § 1.203 The record.

The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Where any decision rests on official notice of a material fact not appearing in the record, any party shall on timely request be afforded an opportunity to show the contrary.

(5 U.S.C. 556)

### § 1.204 Pleadings; definition.

As used in this subpart, the term *pleading* means any written notice, motion, petition, request, opposition, reply, brief, proposed findings, exceptions, memorandum of law, or other paper filed with the Commission in a hearing proceeding. It does not include exhibits or documents offered in evidence. See § 1.356.

[29 FR 8219, June 30, 1964]

### § 1.205 Continuances and extensions.

Continuances of any proceeding or hearing and extensions of time for making any filing or performing any act required or allowed to be done within a specified time may be granted by the Commission or the presiding officer upon motion for good cause shown, unless the time for performance or filing is limited by statute.

### § 1.207 Interlocutory matters, reconsideration and review; cross references.

(a) Rules governing interlocutory pleadings in hearing proceedings are set forth in §§ 1.291 through 1.298.

(b) Rules governing appeal from rulings made by the presiding officer are set forth as §§ 1.301 and 1.302.

(c) Rules governing the reconsideration and review of actions taken pursuant to delegated authority, and the reconsideration of actions taken by the Commission, are set forth in §§ 1.101 through 1.120.

[28 FR 12425, Nov. 22, 1963, as amended at 29 FR 6443, May 16, 1964; 36 FR 19439, Oct. 6, 1971]

### § 1.209 Identification of responsible officer in caption to pleading.

Each pleading filed in a hearing proceeding shall indicate in its caption whether it is to be acted upon by the Commission, the Chief Administrative Law Judge, or the presiding officer. If it is to be acted upon by the presiding officer, he shall be identified by name.

[29 FR 8219, June 30, 1964, as amended at 37 FR 19372, Sept. 20, 1972; 62 FR 4171, Jan. 29, 1997]

### § 1.211 Service.

Except as otherwise expressly provided in this chapter, all pleadings filed in a hearing proceeding shall be served upon all other counsel in the proceeding or, if a party is not represented by counsel, then upon such party. All such papers shall be accompanied by proof of service. For provisions governing the manner of service, see § 1.47.

[29 FR 8219, June 30, 1964]

## PARTICIPANTS AND ISSUES

### § 1.221 Notice of hearing; appearances.

(a) Upon designation of an application for hearing, the Commission issues an order containing the following:

(1) A statement as to the reasons for the Commission's action.

(2) A statement as to the matters of fact and law involved, and the issues upon which the application will be heard.

(3) A statement as to the time, place, and nature of the hearing. (If the time and place are not specified, the order will indicate that the time and place will be specified at a later date.)

(4) A statement as to the legal authority and jurisdiction under which the hearing is to be held.

(b) The order designating an application for hearing is mailed to the applicant by the Reference Information Center of the Consumer and Governmental Affairs Bureau and this order or a summary thereof is published in the FEDERAL REGISTER. Reasonable notice of hearing will be given to the parties in all proceedings; and, whenever possible, the Commission will give at least 60 days notice of comparative hearings.

(c) In order to avail himself of the opportunity to be heard, the applicant, in person or by his attorney, shall, within 20 days of the mailing of the notice of designation for hearing by the Reference Information Center of the Consumer and Governmental Affairs Bureau, file with the Commission, in triplicate, a written appearance stating that he will appear of the date fixed for hearing and present evidence on the issues specified in the order. Where an applicant fails to file such a written appearance within the time specified, or has not filed prior to the expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the application will be dismissed with prejudice for failure to prosecute.

(d) The Commission will on its own motion name as parties to the hearing any person found to be a party in interest.

(e) In order to avail himself of the opportunity to be heard, any person named as a party pursuant to paragraph (d) of this section shall, within 20 days of the mailing of the notice of his designation as a party, file with the Commission, in person or by attorney, a written appearance in triplicate, stating that he will appear at the hearing. Any person so named who fails to file this written statement within the time specified, shall, unless good cause for such failure is shown, forfeit his hearing rights.

(f)(1) A fee must accompany each written appearance filed with the Commission in certain cases designated for hearing. See subpart G, part 1 for the amount due. Except as provided in paragraph (g) of this section, the fee must accompany each written appearance at the time of its filing and must be in conformance with the requirements of subpart G of the rules. A written appearance that does not contain the proper fee, or is not accompanied by a deferral request as per §1.1115 of the rules, shall be dismissed and returned to the applicant by the fee processing staff. The presiding judge will be notified of this action and may dismiss the applicant with prejudice for failure to prosecute if the written appearance is not resubmitted with the correct fee within the original 20 day filing period.

NOTE: If the parties file a settlement agreement prior to filing the Notice of Appearance or simultaneously with it, the hearing fee need not accompany the Notice of Appearance. In filing the Notice of Appearance, the applicant should clearly indicate that a settlement agreement has been filed. (The fact that there are ongoing negotiations that may lead to a settlement does not affect the requirement to pay the fee.) If a settlement agreement is not effectuated, the Presiding Judge will require immediate payment of the fee.

(2) When a fee is required to accompany a written appearance as described in paragraph (f)(1) of this section, the written appearance must also contain FCC Registration Number (FRN) in conformance with subpart W of this part. The presiding judge will notify the party filing the appearance of the omitted FRN and dismiss the applicant with prejudice for failure to prosecute if the written appearance is not resubmitted with the FRN within ten (10) business days of the date of notification.

(g) In comparative broadcast proceedings involving applicants for new facilities, where the hearing fee was paid before designation of the applications for hearing as required by the Public Notice described at §73.3571(c), §73.3572(d), or §73.3573(g) of this chapter, a hearing fee payment should not be made with the filing of the Notice of Appearance.

(5 U.S.C. 554. Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

[28 12424, Nov. 22, 1963, as amended at 51 FR 19347, May 29, 1986; 52 FR 5288, Feb. 20, 1987; 55 FR 19154, May 8, 1990; 56 FR 25638, June 5, 1991; 64 FR 60725, Nov. 8, 1999; 66 FR 47895, Sept. 14, 2001; 67 FR 13223, Mar. 21, 2002]

EFFECTIVE DATE NOTE: At 76 FR 60672, Sept. 29, 2011, §1.221 was amended by adding paragraph (h), effective Oct. 31, 2011. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. For the convenience of the user, the added text is set forth as follows:

**§ 1.221 Notice of hearing; appearances.**

* * * * *

(h)(1) For program carriage complaints filed pursuant to §76.1302 of this chapter that the Chief, Media Bureau refers to an administrative law judge for an initial decision, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the Chief Administrative Law Judge that it elects not to pursue alternative dispute resolution pursuant to §76.7(g)(2) of this chapter or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to §76.7(g)(2) of this chapter, within five calendar days after the parties inform the Chief Administrative Law Judge that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear on the date fixed for hearing and present evidence on the issues specified in the hearing designation order.

(2) If the complainant fails to file a written appearance by this deadline, or fails to file prior to the deadline either a petition to dismiss the proceeding without prejudice or a petition to accept, for good cause shown, a written appearance beyond such deadline, the Chief Administrative Law Judge shall dismiss the complaint with prejudice for failure to prosecute.

(3) If the defendant fails to file a written appearance by this deadline, or fails to file prior to this deadline a petition to accept, for good cause shown, a written appearance beyond such deadline, its opportunity to present evidence at hearing will be deemed to have been waived. If the hearing is so waived, the Chief Administrative Law Judge shall expeditiously terminate the proceeding and certify to the Commission the complaint for resolution based on the existing record.

**§ 1.223 Petitions to intervene.**

(a) Where, in cases involving applications for construction permits and station licenses, or modifications or renewals thereof, the Commission has failed to notify and name as a party to the hearing any person who qualifies as a party in interest, such person may acquire the status of a party by filing, under oath and not more than 30 days after the publication in the FEDERAL REGISTER of the hearing issues or any substantial amendment thereto, a petition for intervention showing the basis of its interest. Where such person's interest is based upon a claim that a grant of the application would cause objectionable interference under applicable provisions of this chapter to such person as a licensee or permittee of an existing or authorized station, the petition to intervene must be accompanied by an affidavit of a qualified radio engineer which shall show, either by following the procedures prescribed in this chapter for determining interference in the absence of measurements or by actual measurements made in accordance with the methods prescribed in this chapter, the extent of such interference. Where the person's status as a party in interest is established, the petition to intervene will be granted.

(b) Any other person desiring to participate as a party in any hearing may file a petition for leave to intervene not later than 30 days after the publication in the FEDERAL REGISTER of the full text or a summary of the order designating an application for hearing or any substantial amendment thereto. The petition must set forth the interest of petitioner in the proceedings, must show how such petitioner's participation will assist the Commission in the determination of the issues in question, must set forth any proposed issues in addition to those already designated for hearing, and must be accompanied by the affidavit of a person with knowledge as to the facts set forth in the petition. The presiding officer, in his discretion, may grant or deny such petition or may permit intervention by such persons limited to a particular stage of the proceeding.

(c) Any person desiring to file a petition for leave to intervene later than 30 days after the publication in the FEDERAL REGISTER of the full text or a summary of the order designating an application for hearing or any substantial amendment thereto shall set forth the interest of petitioner in the proceeding, show how such petitioner's participation will assist the Commission in the determination of the issues

in question, must set forth any proposed issues in addition to those already designated for hearing, and must set forth reasons why it was not possible to file a petition within the time prescribed by paragraphs (a) and (b) of this section. Such petition shall be accompanied by the affidavit of a person with knowledge of the facts set forth in the petition, and where petitioner claims that a grant of the application would cause objectionable interference under applicable provisions of this chapter, the petition to intervene must be accompanied by the affidavit of a qualified radio engineer showing the extent of such alleged interference according to the methods prescribed in paragraph (a) of this section. If, in the opinion of the presiding officer, good cause is shown for the delay in filing, he may in his discretion grant such petition or may permit intervention limited to particular issues or to a particular stage of the proceeding.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

[28 FR 12425, Nov. 22, 1963, as amended at 29 FR 7821, June 19, 1964; 41 FR 14872, Apr. 8, 1976; 51 FR 19347, May 29, 1986]

### § 1.224 Motion to proceed in forma pauperis.

(a) A motion to proceed in forma pauperis may be filed by an individual, a corporation, and unincorporated entity, an association or other similar group, if the moving party is either of the following:

(1) A respondent in a revocation proceeding, or a renewal applicant, who cannot carry on his livelihood without the radio license at stake in the proceeding; or

(2) An intervenor in a hearing proceeding who is in a position to introduce testimony which is of probable decisional significance, on a matter of substantial public interest importance, which cannot, or apparently will not, be introduced by other parties to the proceeding, and who is not seeking personal financial gain.

(b) In the case of a licensee, the motion to proceed in forma pauperis shall contain specific allegations of fact sufficient to show that the moving party is eligible under paragraph (a) of this section and that he cannot, because of his poverty, pay the expenses of litigation and still be able to provide himself and his dependents with the necessities of life. Such allegations of fact shall be supported by affidavit of a person or persons with personal knowledge thereof. The information submitted shall detail the income and assets of the individual and his financial obligations and responsibilities, and shall contain an estimate of the cost of participation in the proceeding. Personal financial information may be submitted to the presiding officer in confidence.

(c)(1) In the case of an individual intervenor, the motion to proceed in forma pauperis shall contain specific allegations of fact sufficient to show that he is eligible under paragraph (a) of this section and that he has dedicated financial resources to sustain his participation which are reasonable in light of his personal resources and other demands upon them but are inadequate for effective participation in the proceeding. Such allegations of fact shall be supported by affidavit of a person or persons with personal knowledge thereof. The information submitted shall detail the income and assets of the individual and his immediate family and his financial obligations and responsibilities, and shall contain an estimate of the cost of participation. Personal financial information may be submitted to the presiding officer in confidence.

(2) In the case of an intervening group, the motion to proceed in forma pauperis shall contain specific allegations of fact sufficient to show that the moving party is eligible under paragraph (a) of this section and that it cannot pay the expenses of litigation and still be able to carry out the activities and purposes for which it was organized. Such allegations of fact shall be supported by affidavit of the President and Treasurer of the group, and/or by other persons having personal knowledge thereof. The information submitted shall include a copy of the corporate charter or other documents that describe the activities and purposes of the organization; a current

balance sheet and profit and loss statement; facts showing, under all the circumstances, that it would not be reasonable to expect added resources of individuals composing the group to be pooled to meet the expenses of participating in the proceeding; and an estimate of the cost of participation. Personal financial information pertaining to members of the group may be submitted to the presiding officer in confidence.

(d) If the motion is granted, the presiding officer may direct that a free copy of the transcript of testimony be made available to the moving party and may relax the rules of procedure in any manner which will ease his financial burden, is fair to other parties to the proceeding, and does not involve the payment of appropriated funds to a party.

[41 FR 53021, Dec. 3, 1976]

### § 1.225 Participation by non-parties; consideration of communications.

(a) Any person who wishes to appear and give evidence on any matter and who so advises the Secretary, will be notified by the Secretary if that matter is designated for hearing. In the case of requests bearing more than one signature, notice of hearing will be given to the person first signing unless the request indicates that such notice should be sent to someone other than such person.

(b) No person shall be precluded from giving any relevant, material, and competent testimony at a hearing because he lacks a sufficient interest to justify his intervention as a party in the matter.

(c) When a hearing is held, no communication will be considered in determining the merits of any matter unless it has been received into evidence. The admissibility of any communication shall be governed by the applicable rules of evidence, and no communication shall be admissible on the basis of a stipulation unless Commission counsel as well as counsel for all of the parties shall join in such stipulation.

### § 1.227 Consolidations.

(a) The Commission, upon motion or upon its own motion, will, where such action will best conduce to the proper dispatch of business and to the ends of justice, consolidate for hearing:

(1) Any cases which involve the same applicant or involve substantially the same issues, or

(2) Any applications which present conflicting claims, except where a random selection process is used.

(b)(1) In broadcast cases, except as provided in paragraph (b)(5) of this section, and except as otherwise provided in § 1.1601, *et seq.*, no application will be consolidated for hearing with a previously filed application or applications unless such application, or such application as amended, if amended so as to require a new file number, is substantially complete and tendered for filing by the close of business on the day preceding the day designated by Public Notice as the day any one of the previously filed applications is available and ready for processing.

(2) In other than broadcast, common carrier, and safety and special radio services cases, any application that is mutually exclusive with another application or applications already designated for hearing will be consolidated for hearing with such other application or applications only if the later application in question has been filed within 5 days after public notice has been given in the FEDERAL REGISTER of the Commission's order which first designated for hearing the prior application or applications with which such application is in conflict.

(3) Common carrier cases: (i) *General rule.* Where an application is mutually exclusive with a previously filed application, the second application will be entitled to comparative consideration with the first or entitled to be included in a random selection process, only if the second has been properly filed at least one day before the Commission takes action on the first application. Specifically, the later filed application must have been received by the Commission, in a condition acceptable for filing, before the close of business on the day prior to the grant date or designation date of the earlier filed application.

(ii) *Domestic public fixed and public mobile.* See Rule § 21.31 of this chapter for the requirements as to mutually exclusive applications. See also Rule

§ 21.23 of this chapter for the requirements as to amendments of applications.

(iii) *Public coast stations (Maritime mobile service).* See paragraph (b)(4) of this section.

(4) This paragraph applies when mutually exclusive applications subject to section 309(b) of the Communications Act and not subject to competitive bidding procedures pursuant to § 1.2102 of this chapter are filed in the Private Radio Services, or when there are more such applications for initial licenses than can be accommodated on available frequencies. Except for applications filed under part 101, subparts H and O, Private Operational Fixed Microwave Service, and applications for high seas public coast stations (see §.§ 80.122(b)(1) (first sentence), 80.357, 80.361, 80.363(a)(2), 80.371(a), (b), and (d), and § 80.374 of this chapter) mutual exclusivity will occur if the later application or applications are received by the Commission's offices in Gettysburg, PA (or St. Louis, Missouri for applications requiring the fees set forth at part 1, subpart G of the rules) in a condition acceptable for filing within 30 days after the release date of public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing or within such other period as specified by the Commission. For applications in the Private Operational Fixed Microwave Service, mutual exclusivity will occur if two or more acceptable applications that are in conflict are filed on the same day. Applications for high seas public coast stations will be processed on a first come, first served basis, with the first acceptable application cutting off the filing rights of subsequent, conflicting applications. Applications for high seas public coast stations received on the same day will be treated as simultaneously filed and, if granting more than one would result in harmful interference, must be resolved through settlement or technical amendment.

(5) Any mutually exclusive application filed after the date prescribed in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this section will be dismissed without prejudice and will be eligible for refiling only after a final decision is rendered by the Commission with respect to the prior application or applications or after such application or applications are dismissed or removed from the hearing docket.

(6) An application which is mutually exclusive with an application for renewal of license of a broadcast station filed on or before May 1, 1995 will be designated for comparative hearing with such license renewal application if it is substantially complete and tendered for filing no later than the date prescribed in § 73.3516(e).

[28 FR 12425, Nov. 22, 1963, as amended at 34 FR 7966, May 21, 1969; 37 FR 13983, July 15, 1972; 38 FR 26202, Sept. 19, 1973; 48 FR 27200, June 13, 1983; 48 FR 34039, July 27, 1983; 52 FR 10229, Mar. 31, 1987; 55 FR 46008, Oct. 31, 1990; 55 FR 46513, Nov. 5, 1990; 61 FR 18291, Apr. 25, 1996; 67 FR 34851, May 16, 2002; 67 FR 48563, July 25, 2002; 73 FR 9018, Feb. 19, 2008]

### § 1.229 Motions to enlarge, change, or delete issues.

(a) A motion to enlarge, change or delete the issues may be filed by any party to a hearing. Except as provided for in paragraph (b) of this section, such motions must be filed within 15 days after the full text or a summary of the order designating the case for hearing has been published in the FEDERAL REGISTER.

(b)(1) In comparative broadcast proceedings involving applicants for only new facilities, such motions shall be filed within 30 days of the release of the designation order, except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the FEDERAL REGISTER. (*See* § 1.223 of this part).

(2) In comparative broadcast proceedings involving renewal applicants, such motions shall be filed within 30 days after publication of the full text or a summary of the designation order in the FEDERAL REGISTER.

(3) Any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a), (b)(1), and (b)(2), of this section, shall set forth the reason why it was not possible to file the motion within the prescribed period. Except as

provided in paragraph (c) of this section, the motion will be granted only if good cause is shown for the delay in filing. Motions for modifications of issues which are based on new facts or newly discovered facts shall be filed within 15 days after such facts are discovered by the moving party.

(c) In the absence of good cause for late filing of a motion to modify the issues, the motion to enlarge will be considered fully on its merits if (and only if) initial examination of the motion demonstrates that it raises a question of probable decisional significance and such substantial public interest importance as to warrant consideration in spite of its untimely filing.

(d) Such motions, opposition thereto, and replies to oppositions shall contain specific allegations of fact sufficient to support the action requested. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavits of a person or persons having personal knowledge thereof. The failure to file an opposition or a reply will not necessarily be construed as an admission of any fact or argument contained in a pleading.

(e) In comparative broadcast proceedings involving applicants for only new facilities, in addition to the showing with respect to the requested issue modification described in paragraph (d) of this section, the party requesting the enlargement of issues against an applicant in the proceeding shall identify those documents the moving party wishes to have produced and any other discovery procedures the moving party wishes to employ in the event the requested issue is added to the proceeding.

(1) In the event the motion to enlarge issues is granted, the Commission or delegated authority acting on the motion will also rule on the additional discovery requests, and, if granted, such additional discovery will be scheduled to be completed within 30 days of the action on the motion.

(2) The moving party may file supplemental discovery requests on the basis of information provided in responsive pleadings or discovered as a result of initial discovery on the enlarged issue. The grant or denial of any such supplemental requests and the timing of the completion of such supplemental discovery are subject to the discretion of the presiding judge.

(3) The 30-day time limit for completion of discovery on enlarged issues shall not apply where the persons subject to such additional discovery are not parties to the proceeding. In such case, additional time will be required to afford such persons adequate notice of the discovery procedures being employed.

(f) In any case in which the presiding judge or the Commission grants a motion to enlarge the issues to inquire into allegations that an applicant made misrepresentations to the Commission or engaged in other misconduct during the application process, the enlarged issues include notice that, after hearings on the enlarged issue and upon a finding that the alleged misconduct occurred and warrants such penalty, in addition to or in lieu of denying the application, the applicant may be liable for a forfeiture of up to the maximum statutory amount. See 47 U.S.C. 503(b)(2)(A).

[41 FR 14872, Apr. 8, 1976, as amended at 44 FR 34947, June 18, 1979; 51 FR 19347, May 29, 1986; 56 FR 792, Jan. 9, 1991; 56 FR 25639, June 5, 1991; 62 FR 4171, Jan. 29, 1997]

EFFECTIVE DATE NOTE: At 76 FR 60672, Sept. 29, 2011, § 1.229 was amended by redesignating paragraph (b)(3) as (b)(4), revising newly redesignated paragraph (b)(4), and adding new paragraph (b)(3), effective Oct. 31, 2011. These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. For the convenience of the user, the added and revised text is set forth as follows:

**§ 1.229 Motions to enlarge, change, or delete issues.**

* * * * *

(b) * * *

(3) For program carriage complaints filed pursuant to § 76.1302 of this chapter that the Chief, Media Bureau refers to an administrative law judge for an initial decision, such motions shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to § 1.221(h), except that persons not named as parties to the proceeding in the designation order may file

such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the FEDERAL REGISTER. (See § 1.223).

(4) Any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a), (b)(1), (b)(2), and (b)(3) of this section, shall set forth the reason why it was not possible to file the motion within the prescribed period. Except as provided in paragraph (c) of this section, the motion will be granted only if good cause is shown for the delay in filing. Motions for modifications of issues which are based on new facts or newly discovered facts shall be filed within 15 days after such facts are discovered by the moving party.

* * * * *

PRESIDING OFFICER

### § 1.241 Designation of presiding officer.

(a) Hearings will be conducted by the Commission, by one or more commissioners, or by a law judge designated pursuant to section 11 of the Administrative Procedure Act. If a presiding officer becomes unavailable to the Commission prior to the taking of testimony another presiding officer will be designated.

(b) Unless the Commission determines that due and timely execution of its functions requires otherwise, presiding officers shall be designated, and notice thereof released to the public, at least 10 days prior to the date set for hearing.

(5 U.S.C. 556)

### § 1.243 Authority of presiding officer.

From the time he is designated to preside until issuance of his decision or the transfer of the proceeding to the Commission or to another presiding officer the presiding officer shall have such authority as is vested in him by law and by the provisions of this chapter, including authority to:

(a) Administer oaths and affirmations;

(b) Issue subpenas;

(c) Examine witnesses;

(d) Rule upon questions of evidence;

(e) Take or cause depositions to be taken;

(f) Regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

(g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law upon which he is required to rule during the course of the hearing;

(h) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(i) Dispose of procedural requests or similar matters, as provided for in § 0.341 of this chapter;

(j) Take actions and make decisions in conformity with the Administrative Procedure Act;

(k) Act on motions to enlarge, modify or delete the hearing issues; and

(l) Act on motions to proceed in forma pauperis pursuant to § 1.224.

(5 U.S.C. 556)

[28 FR 12425, Nov. 22, 1963, as amended at 41 FR 53022, Dec. 3, 1976]

### § 1.244 Designation of a settlement judge.

(a) In broadcast comparative cases involving applicants for only new facilities, the applicants may request the appointment of a settlement judge to facilitate the resolution of the case by settlement.

(b) Where all applicants in the case agree that such procedures may be beneficial, such requests may be filed with the presiding judge no later than 15 days prior to the date scheduled by the presiding judge for the commencement of hearings. The presiding judge shall suspend the procedural dates in the case and forward the request to the Chief Administrative Law Judge for action.

(c) If, in the discretion of the Chief Administrative Law Judge, it appears that the appointment of a settlement judge will facilitate the settlement of the case, the Chief Judge will appoint a ''neutral'' as defined in 5 U.S.C. 581 and 583(a) to act as the settlement judge.

(1) The parties may request the appointment of a settlement judge of their own choosing so long as that person is a ''neutral'' as defined in 5 U.S.C. 581.

(2) The appointment of a settlement judge in a particular case is subject to the approval of all the applicants in the proceeding. See 5 U.S.C. 583(b).

(3) The Commission's Administrative Law Judges are eligible to act as settlement judges, except that an Administrative Law Judge will not be appointed as a settlement judge in any case in which the Administrative Law Judge also acts as the presiding officer.

(4) Other members of the Commission's staff who qualify as neutrals may be appointed as settlement judges, except that staff members whose duties include drafting, review, and/or recommendations in adjudicatory matters pending before the Commission shall not be appointed as settlement judges.

(d) The settlement judge shall have the authority to require applicants to submit their Standardized Integration Statements and/or their written direct cases for review. The settlement judge may also meet with the applicants and/or their counsel, individually and/or at joint conferences, to discuss their cases and the cases of their competitors. All such meetings will be off-the-record, and the settlement judge may express an opinion as to the relative comparative standing of the applicants and recommend possible means to resolve the proceeding by settlement. The proceedings before the settlement judge shall be subject to the confidentiality provisions of 5 U.S.C. 574. Moreover, no statements, offers of settlement, representations or concessions of the parties or opinions expressed by the settlement judge will be admissible as evidence in any Commission licensing proceeding.

[56 FR 793, Jan. 9, 1991, as amended at 62 FR 4171, Jan. 29, 1997]

### § 1.245 Disqualification of presiding officer.

(a) In the event that a presiding officer deems himself disqualified and desires to withdraw from the case, he shall notify the Commission of his withdrawal at least 7 days prior to the date set for hearing.

(b) Any party may request the presiding officer to withdraw on the grounds of personal bias or other disqualification.

(1) The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. Such affidavit shall be filed not later than 5 days before the commencement of the hearing unless, for good cause shown, additional time is necessary.

(2) The presiding officer may file a response to the affidavit; and if he believes himself not disqualified, shall so rule and proceed with the hearing.

(3) The person seeking disqualification may appeal a ruling of disqualification, and, in that event, shall do so at the time the ruling is made. Unless an appeal of the ruling is filed at this time, the right to request withdrawal of the presiding officer shall be deemed waived.

(4) If an appeal of the ruling is filed, the presiding officer shall certify the question, together with the affidavit and any response filed in connection therewith, to the Commission. The hearing shall be suspended pending a ruling on the question by the Commission.

(5) The Commission may rule on the question without hearing, or it may require testimony or argument on the issues raised.

(6) The affidavit, response, testimony or argument thereon, and the Commission's decision shall be part of the record in the case.

(5 U.S.C. 556)

[28 FR 12425, Nov. 22, 1963, as amended at 55 FR 36641, Sept. 6, 1990; 62 FR 4171, Jan. 29, 1997]

## PREHEARING PROCEDURES

### § 1.246 Admission of facts and genuineness of documents.

(a) Within 20 days after the time for filing a notice of appearance has expired; or within 20 days after the release of an order adding parties to the proceeding (see §§1.223 and 1.227) or changing the issues (see §1.229); or within such shorter or longer time as the presiding officer may allow on motion or notice, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents identified in and exhibited by a clear copy with the request or of the truth of any relevant matters of fact set forth in the request.

(b) Each of the matters of which an admission is requested shall be deemed

admitted unless, within a period designated in the request, not less than 10 days after service thereof, or within such shorter or longer time as the presiding officer may allow on motion or notice, the party to whom the request is directed serves upon the party requesting the admission either: (1) A sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters, or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or a qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder.

(c) A copy of the request and of any answer shall be served by the party filing on all other parties to the proceeding and upon the presiding officer.

(d) Written objections to the requested admissions may be ruled upon by the presiding officer without additional pleadings.

[33 FR 463, Jan. 12, 1968, as amended at 35 FR 17333, Nov. 11, 1970]

### § 1.248 Prehearing conferences; hearing conferences.

(a) The Commission, on its own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to a hearing, or to submit suggestions in writing, for the purpose of considering, among other things, the matters set forth in paragraph (c) of this section. The initial prehearing conference shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date.

(b)(1) The presiding officer (or the Commission or a panel of commissioners in a case over which it presides), on his own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to or during the course of a hearing, or to submit suggestions in writing, for the purpose of considering any of the matters set forth in paragraph (c) of this section. The initial prehearing conference shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date.

(2) Except as circumstances otherwise require, the presiding officer shall allow a reasonable period prior to commencement of the hearing for the orderly completion of all prehearing procedures, including discovery, and for the submission and disposition of all prehearing motions. Where the circumstances so warrant, the presiding officer shall, promptly after the hearing is ordered, call a preliminary prehearing conference, to inquire into the use of available procedures contemplated by the parties and the time required for their completion, to formulate a schedule for their completion, and to set a date for commencement of the hearing.

(c) In conferences held, or in suggestions submitted, pursuant to paragraphs (a) and (b) of this section, the following matters, among others, may be considered:

(1) The necessity or desirability of simplification, clarification, amplification, or limitation of the issues;

(2) The admission of facts and of the genuineness of documents (see § 1.246), and the possibility of stipulating with respect to facts;

(3) The procedure at the hearing;

(4) The limitation of the number of witnesses;

(5) In cases arising under Title II of the Communications Act, the necessity or desirability of amending the pleadings and offers of settlement or proposals of adjustment; and

(6) In cases involving comparative broadcast applications:

(i) Narrowing the issues or the areas of inquiry and proof at the hearing;

(ii) [Reserved]

(iii) Reports and letters relating to surveys or contacts;

(iv) Assumptions regarding the availability of equipment;

(v) Network programming;

(vi) Assumptions regarding the availability of networks proposed;

(vii) Offers of letters in general;

(viii) The method of handling evidence relating to the past cooperation of existing stations owned and/or operated by the applicants with organizations in the area;

(ix) Proof of contracts, agreements, or understandings reduced to writing;

(x) Stipulations;

(xi) Need for depositions;

(xii) The numbering of exhibits;

(xiii) The order or offer of proof with relationship to docket number;

(xiv) The date for the formal hearing; and

(xv) Such other matters as may expedite the conduct of the hearing.

(7) In proceedings in which consent agreements may be negotiated (see §1.93), the parties shall be prepared to state at the initial prehearing conference whether they are at that time willing to enter negotiations leading to a consent agreement.

(d) This paragraph applies to broadcast proceedings only.

(1) At the prehearing conference prescribed by this section, the parties to the proceeding shall be prepared to discuss the advisability of reducing any or all phases of their affirmative direct cases to written form.

(2) In hearings involving applications for new, improved and changed facilities and in comparative hearings involving only applications for new facilities, where it appears that it will contribute significantly to the disposition of the proceeding for the parties to submit all or any portion of their affirmative direct cases in writing, the presiding officer may, in his discretion, require them to do so.

(3) In other broadcast proceedings, where it appears that it will contribute significantly to the disposition of the proceeding for the parties to submit all or any portion of their affirmative direct cases in writing, it is the policy of the Commission to encourage them to do so. However, the phase or phases of the proceeding to be submitted in writing, the dates for the exchange of the written material, and other limitations upon the effect of adopting the written case procedure (such as whether material ruled out as incompetent may be restored by other competent testimony) is to be left to agreement of the parties as approved by the presiding officer.

(4) In broadcast comparative cases involving applicants for only new facilities, oral testimony and cross examination will be permitted only where, in the discretion of the presiding judge, material issues of decisional fact cannot be resolved without oral evidentiary hearing procedures or the public interest otherwise requires oral evidentiary proceedings.

(e) An official transcript of all conferences shall be made.

(f) The presiding officer may, upon the written request of a party or parties, approve the use of a speakerphone as a means of attendance at a prehearing conference if such use is found to conduce to the proper dispatch of business and the ends of justice.

[28 FR 12425, Nov. 22, 1963, as amended at 33 FR 463, Jan. 12, 1968; 36 FR 14133, July 30, 1971; 37 FR 7507, Apr. 15, 1972; 41 FR 14873, Apr. 8, 1976; 43 FR 33251, July 31, 1978; 56 FR 793, Jan. 9, 1991]

EFFECTIVE DATE NOTE: At 76 FR 60672, Sept. 29, 2011, §1.248 was amended by revising paragraphs (a) and (b)(1), effective Oct. 31, 2011. These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. For the convenience of the user, the revised text is set forth as follows:

**§1.248 Prehearing conferences; hearing conferences.**

(a) The Commission, on its own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to a hearing, or to submit suggestions in writing, for the purpose of considering, among other things, the matters set forth in paragraph (c) of this section. The initial prehearing conference shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to §76.1302 of this chapter that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference

shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to §1.221(h) or within such shorter or longer period as the Commission may allow on motion or notice consistent with the public interest.

(b)(1) The presiding officer (or the Commission or a panel of commissioners in a case over which it presides), on his own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to or during the course of a hearing, or to submit suggestions in writing, for the purpose of considering any of the matters set forth in paragraph (c) of this section. The initial prehearing conference shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to §76.1302 of this chapter that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to §1.221(h) or within such shorter or longer period as the presiding officer may allow on motion or notice consistent with the public interest.

* * * * *

### § 1.249 Prehearing statement.

Immediately upon convening the formal hearing in any proceeding, the presiding officer shall enter upon the record a statement reciting all actions taken at the prehearing conferences, and incorporating into the record all of the stipulations and agreements of the parties which are approved by him, and any special rules which he may deem necessary to govern the course of the proceeding.

[28 FR 12425, Nov. 22, 1963. Redesignated at 33 FR 463, Jan. 12, 1968]

HEARING AND INTERMEDIATE DECISION

### § 1.250 Discovery and preservation of evidence; cross-reference.

For provisions relating to prehearing discovery and preservation of admissible evidence, see §§1.311 through 1.325.

[33 FR 463, Jan. 12, 1968]

### § 1.251 Summary decision.

(a)(1) Any party to an adjudicatory proceeding may move for summary decision of all or any of the issues set for hearing. The motion shall be filed at least 20 days prior to the date set for commencement of the hearing. The party filing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other materials subject to consideration by the presiding officer, that there is no genuine issue of material fact for determination at the hearing.

(2) With the permission of the presiding officer, or upon his invitation, a motion for summary decision may be filed at any time before or after the commencement of the hearing. No appeal from an order granting or denying a request for permission to file a motion for summary decision shall be allowed. If the presiding officer authorizes a motion for summary decision after the commencement of the hearing, proposed findings of fact and conclusions of law on those issues which the moving party believes can be resolved shall be attached to the motion, and any other party may file findings of fact and conclusions of law as an attachment to pleadings filed by him pursuant to paragraph (b) of this section.

(b) Within 14 days after a motion for summary decision is filed, any other party to the proceeding may file an opposition or a countermotion for summary decision. A party opposing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other materials subject to consideration by the presiding officer, that there is a genuine issue of material fact for determination at the hearing, that he cannot, for good cause, present by affidavit or otherwise facts essential to justify his opposition, or that summary decision is otherwise inappropriate.

(c) Affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

(d) The presiding officer may, in his discretion, set the matter for argument and call for the submission of proposed findings, conclusions, briefs or memoranda of law. The presiding officer, giving appropriate weight to the nature of the proceeding, the issue or issues, the

proof, and to the need for cross-examination, may grant a motion for summary decision to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is otherwise entitled to summary decision. If it appears from the affidavits of a party opposing the motion that he cannot, for good cause shown, present by affidavit or otherwise facts essential to justify his opposition, the presiding officer may deny the motion, may order a continuance to permit affidavits to be obtained or discovery to be had, or make such other order as is just.

(e) If all of the issues (or a dispositive issue) are determined on a motion for summary decision no hearing (or further hearing) will be held. The presiding officer will issue a Summary Decision, which is subject to appeal or review in the same manner as an Initial Decision. See §§1.271 through 1.282. If some of the issues only (including no dispositive issue) are decided on a motion for summary decision, or if the motion is denied, the presiding officer will issue a memorandum opinion and order, interlocutory in character, and the hearing will proceed on the remaining issues. Appeal from interlocutory rulings is governed by §1.301.

(f) The presiding officer may take any action deemed necessary to assure that summary decision procedures are not abused. He may rule in advance of a motion that the proceeding is not appropriate for summary decision, and may take such other measures as are necessary to prevent any unwarranted delay.

(1) Should it appear to the satisfaction of the presiding officer that a motion for summary decision has been presented in bad faith or solely for the purpose of delay, or that such a motion is patently frivolous, he will enter a determination to that effect upon the record.

(2) If, on making such determination, the presiding officer concludes that the facts warrant disciplinary action against an attorney, he will certify the matter to the Commission with his findings and recommendations, for consideration under §1.24.

(3) If, on making such determination, the presiding officer concludes that the facts warrant a finding of bad faith on the part of a party to the proceeding, he will certify the matter to the Commission, with his findings and recommendations, for a determination as to whether the facts warrant addition of an issue as to the character qualifications of that party.

[37 FR 7507, Apr. 15, 1972, as amended at 42 FR 56508, Oct. 26, 1977]

### § 1.253 Time and place of hearing.

(a) The Commission will specify the day on which and the place at which any hearing is to commence.

(b) The presiding officer will specify the days on which subsequent hearing sessions are to be held.

(c) If the Commission specifies that a hearing is to commence in the District of Columbia, it shall be moved therefrom only by order of the Commission.

(d) If the Commission specifies that a hearing is to commence at a field location, all appropriate proceedings will be completed at such location before the hearing is moved therefrom. When such proceedings are completed, the presiding officer may move the hearing from the field location specified to another appropriate field location or to the District of Columbia.

### § 1.254 Nature of the hearing; burden of proof.

Any hearing upon an application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues, shall be upon the applicant except as otherwise provided in the order of designation.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

### § 1.255 Order of procedure.

(a) At hearings on a formal complaint or petition or in a proceeding for any instrument of authorization which the Commission is empowered to issue,

the complainant, petitioner, or applicant, as the case may be, shall, unless the Commission otherwise orders, open and close. At hearings on protests, the protestant opens and closes the proceedings in case the issues are not specifically adopted by the Commission; otherwise the grantee does so. At hearings on orders to show cause, to cease and desist, to revoke or modify a station license under sections 312 and 316 of the Communications Act, or other like proceedings instituted by the Commission, the Commission shall open and close.

(b) At all hearings under Title II of the Communications Act, other than hearings on formal complaints, petitions, or applications, the respondent shall open and close unless otherwise specified by the Commission.

(c) In all other cases, the Commission or presiding officer shall designate the order of presentation. Intervenors shall follow the party in whose behalf intervention is made, and in all cases where the intervention is not in support of an original party, the Commission or presiding officer shall designate at what stage such intervenors shall be heard.

[28 FR 12425, Nov. 22, 1963, as amended at 33 FR 463, Jan. 12, 1968]

### § 1.258 Closing of the hearing.

The record of hearing shall be closed by an announcement to that effect at the hearing by the presiding officer when the taking of testimony has been concluded. In the discretion of the presiding officer, the record may be closed as of a future specified date in order to permit the admission into the record of exhibits to be prepared: *Provided,* The parties to the proceeding stipulate on the record that they waive the opportunity to cross-examine or present evidence with respect to such exhibits. The record in any hearing which has been adjourned may not be closed by such officer prior to the day on which the hearing is to resume, except upon 10 days' notice to all parties to the proceeding.

### § 1.260 Certification of transcript.

After the close of the hearing, the complete transcript of testimony, together with all exhibits, shall be certified as to identity by the presiding officer and filed in the Office of the Secretary. Notice of such certification shall be served on all parties to the proceedings.

[71 FR 15618, Mar. 29, 2006]

### § 1.261 Corrections to transcript.

At any time during the course of the proceeding, or as directed by the presiding officer, but not later than 10 days after the date of notice of certification of the transcript, any party to the proceeding may file with the presiding officer a motion requesting the correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties to the proceeding. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion. Thereafter, the presiding officer shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties and made a part of the record. The presiding officer, on his own initiative, may specify corrections to be made in the transcript on 5 days' notice.

[40 FR 51441, Nov. 5, 1975]

### § 1.263 Proposed findings and conclusions.

(a) Each party to the proceeding may file proposed findings of fact and conclusions, briefs, or memoranda of law: *Provided, however,* That the presiding officer may direct any party other than Commission counsel to file proposed findings of fact and conclusions, briefs, or memoranda of law. Such proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within 20 days after the record is closed, unless additional time is allowed.

(b) All pleadings and other papers filed pursuant to this section shall be accompanied by proof of service thereof upon all other counsel in the proceeding; if a party is not represented by counsel, proof of service upon such party shall be made.

(c) In the absence of a showing of good cause therefor, the failure to file proposed findings of fact, conclusions,

briefs, or memoranda of law, when directed to do so, may be deemed a waiver of the right to participate further in the proceeding.

(5 U.S.C. 557)

### § 1.264 Contents of findings of fact and conclusions.

Proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out in detail and with particularity all basic evidentiary facts developed on the record (with appropriate citations to the transcript of record or exhibit relied on for each evidentiary fact) supporting the conclusions proposed by the party filing same. Proposed conclusions shall be separately stated. Proposed findings of fact and conclusions submitted by a person other than an applicant may be limited to those issues in connection with the hearing which affect the interests of such person.

(5 U.S.C. 557)

### § 1.267 Initial and recommended decisions.

(a) Except as provided in this paragraph, in §§ 1.94, 1.251 and 1.274, or where the proceeding is terminated on motion (see § 1.302), the presiding officer shall prepare an initial (or recommended) decision, which shall be transmitted to the Secretary of the Commission. In the case of rate making proceedings conducted under sections 201–205 of the Communications Act, the presumption shall be that the presiding officer shall prepare an initial or recommended decision. The Secretary will make the decision public immediately and file it in the docket of the case.

(b) Each initial and recommended decision shall contain findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; each initial decision shall also contain the appropriate rule or order, and the sanction, relief or denial thereof; and each recommended decision shall contain recommendations as to what disposition of the case should be made by the Commission. Each initial decision will show the date upon which it will become effective in accordance with the rules in this part in the absence of exceptions, appeal, or review.

(c) The authority of the Presiding Officer over the proceedings shall cease when he has filed his Initial or Recommended Decision, or if it is a case in which he is to file no decision, when he has certified the case for decision: *Provided*, however, That he shall retain limited jurisdiction over the proceeding for the purpose of effecting certification of the transcript and corrections to the transcript, as provided in §§ 1.260 and 1.261, respectively, and for the purpose of ruling initially on applications for awards of fees and expenses under the Equal Access to Justice Act.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409, 5 U.S.C. 557; secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083: 47 U.S.C. 154, 303, 307)

[28 FR 12425, Nov. 22, 1963, as amended at 41 FR 14873, Apr. 8, 1976; 47 FR 3786, Jan. 27, 1982]

## REVIEW PROCEEDINGS

### § 1.271 Delegation of review function.

The Commission may direct, by order or rule, that its review function in a case or category of cases be performed by a commissioner, or a panel of commissioners, in which event the commissioner or panel shall exercise the authority and perform the functions which would otherwise have been performed by the Commission under §§ 1.273 through 1.282.

NOTE: To provide for an orderly completion of cases, exceptions and related pleadings filed after March 1, 1996, shall be directed to the Commission and will not be acted upon by the Review Board.

[62 FR 4171, Jan. 29, 1997]

### § 1.273 Waiver of initial or recommended decision.

At the conclusion of the hearing or within 20 days thereafter, all parties to the proceeding may agree to waive an initial or recommended decision, and may request that the Commission issue a final decision or order in the case. If the Commission has directed that its review function in the case be performed by a commissioner, a panel of

commissioners, the request shall be directed to the appropriate review authority. The Commission or such review authority may in its discretion grant the request, in whole or in part, if such action will best conduce to the proper dispatch of business and to the ends of justice.

[28 FR 12425, Nov. 22, 1963, as amended at 62 FR 4171, Jan. 29, 1997]

### § 1.274 Certification of the record to the Commission for initial or final decision.

(a) Where the presiding officer is available to the Commission, and where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision. Unless the Commission finds that due and timely execution of its functions imperatively and unavoidably requires that no recommended decision be issued, the presiding officer will prepare and file a recommended decision, which will be released with the Commission's initial or final decision.

(b) Where the presiding officer becomes unavailable to the Commission after the taking of testimony has been concluded, the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision. In that event, the record shall be certified to the Commission by the Chief Administrative Law Judge.

(c)(1) Where the presiding officer becomes unavailable to the Commission after the taking of evidence has commenced but before it has been concluded, the Commission may order a rehearing before another presiding officer designated in accordance with § 1.241.

(2) Upon a finding that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may (as an alternative) order that the hearing be continued by another presiding officer designated in accordance with § 1.241 or by the Commission itself. In that event, the officer continuing the hearing shall, upon completion of the hearing, certify the proceeding to the Commission for an initial or final decision. Unless the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably requires that no recommended decision be issued, the officer continuing the hearing shall prepare and file a recommended decision to be released with the Commission's initial or final decision. If all the parties expressly consent, and if the Commission does not order otherwise, the officer continuing the hearing may prepare an initial decision.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409)

### § 1.276 Appeal and review of initial decision.

(a)(1) Within 30 days after the date on which public release of the full text of an initial decision is made, or such other time as the Commission may specify, any of the parties may appeal to the Commission by filing exceptions to the initial decision, and such decision shall not become effective and shall then be reviewed by the Commission, whether or not such exceptions may thereafter be withdrawn. It is the Commission's policy that extensions of time for filing exceptions shall not be routinely granted.

(2) Exceptions shall be consolidated with the argument in a supporting brief and shall not be submitted separately. As used in this subpart, the term *exceptions* means the document consolidating the exceptions and supporting brief. The brief shall contain (i) a table of contents, (ii) a table of citations, (iii) a concise statement of the case, (iv) a statement of the questions of law presented, and (v) the argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question, with specific reference to the record and all legal or other materials relied on.

(b) The Commission may on its own initiative provide, by order adopted not later than 20 days after the time for filing exceptions expires, that an initial decision shall not become final, and that it shall be further reviewed or considered by the Commission.

(c) In any case in which an initial decision is subject to review in accordance with paragraph (a) or (b) of this

section, the Commission may, on its own initiative or upon appropriate requests by a party, take any one or more of the following actions:

(1) Hear oral argument on the exceptions;

(2) Require the filing of briefs;

(3) Prior to or after oral argument or the filing of exceptions or briefs, reopen the record and/or remand the proceedings to the presiding officer to take further testimony or evidence;

(4) Prior to or after oral argument or the filing of exceptions or briefs, remand the proceedings to the presiding officer to make further findings or conclusions; and

(5) Prior to or after oral argument or the filing of exceptions or briefs, issue, or cause to be issued by the presiding officer, a supplemental initial decision.

(d) No initial decision shall become effective before 50 days after public release of the full text thereof is made unless otherwise ordered by the Commission. The timely filing of exceptions, the further review or consideration of an initial decision on the Commission's initiative, or the taking of action by the Commission under paragraph (c) of this section shall stay the effectiveness of the initial decision until the Commission's review thereof has been completed. If the effective date of an initial decision falls within any further time allowed for the filing of exceptions, it shall be postponed automatically until 30 days after time for filing exceptions has expired.

(e) If no exceptions are filed, and the Commission has not ordered the review of an initial decision on its initiative, or has not taken action under paragraph (c) of this section, the initial decision shall become effective, an appropriate notation to that effect shall be entered in the docket of the case, and a ''Public Notice'' thereof shall be given by the Commission. The provisions of § 1.108 shall not apply to such public notices.

(f) When any party fails to file exceptions within the specified time to an initial decision which proposes to deny its application, such party shall be deemed to have no interest in further prosecution of its application, and its application may be dismissed with prejudice for failure to prosecute.

(Sec. 40, 48 Stat. 1096, as amended; 47 U.S.C. 409)

[28 FR 12425, Nov. 22, 1963, as amended at 41 FR 14873, Apr. 8, 1976]

### § 1.277 Exceptions; oral arguments.

(a) The consolidated supporting brief and exceptions to the initial decision (see § 1.276(a)(2)), including rulings upon motions or objections, shall point out with particularity alleged material errors in the decision or ruling and shall contain specific references to the page or pages of the transcript of hearing, exhibit or order if any on which the exception is based. Any objection not saved by exception filed pursuant to this section is waived.

(b) Within the period of time allowed in § 1.276(a) for the filing of exceptions, any party may file a brief in support of an initial decision, in whole or in part, which may contain exceptions and which shall be similar in form to the brief in support of exceptions (see § 1.276(a)(2)).

(c) Except by special permission, the consolidated brief and exceptions will not be accepted if the exceptions and argument exceed 25 double-spaced typewritten pages in length. (The table of contents and table of citations are not counted in the 25 page limit; however, all other contents of and attachments to the brief are counted.) Within 10 days, or such other time as the Commission or delegated authority may specify, after the time for filing exceptions has expired, any other party may file a reply brief, which shall not exceed 25 double spaced typewritten pages and shall contain a table of contents and a table of citations. If exceptions have been filed, any party may request oral argument not later than five days after the time for filing replies to the exceptions has expired. The Commission or delegated authority, in its discretion, will grant oral argument by order only in cases where such oral presentations will assist in the resolution of the issues presented. Within five days after release of an order designating an initial decision for oral argument, as provided in paragraph (d) of this section, any party who wishes to participate in oral argument shall file

a written notice of intention to appear and participate in oral argument. Failure to file a written notice shall constitute a waiver of the opportunity to participate.

(d) Each order scheduling a case for oral argument will contain the allotment of time for each party for oral argument before the Commission. The Commission will grant, in its discretion, upon good cause shown, an extension of such time upon petition by a party, which petition must be filed within 5 days after issuance of said order for oral argument.

(e) Within 10 days after a transcript of oral argument has been filed in the Office of the Secretary, any party who participated in the oral argument may file with the Commission a motion requesting correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties who participated in the oral argument. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion. Thereafter, the officer who presided at the oral argument shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties to the proceeding. The officer who presided at the oral argument may, on his own initiative, by order, specify corrections to be made in the transcript on 5 days notice of the proposed corrections to all parties who participated in the oral argument.

(f) Any commissioner who is not present at oral argument and who is otherwise authorized to participate in a final decision may participate in making that decision after reading the transcript of oral argument.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409)

[28 FR 12425, Nov. 22, 1963, as amended at 41 FR 14873, Apr. 8, 1976; 41 FR 34259, Aug. 13, 1976; 44 FR 12426, Mar. 7, 1979; 56 FR 793, Jan. 9, 1991; 62 FR 4171, Jan. 29, 1997; 71 FR 15618, Mar. 29, 2006]

### § 1.279 Limitation of matters to be reviewed.

Upon review of any initial decision, the Commission may, in its discretion, limit the issues to be reviewed to those findings and conclusions to which exceptions have been filed, or to those findings and conclusions specified in the Commission's order of review issued pursuant to § 1.276(b).

### § 1.282 Final decision of the Commission.

(a) After opportunity has been afforded for the filing of proposed findings of fact and conclusions, exceptions, supporting statements, briefs, and for the holding of oral argument as provided in this subpart, the Commission will issue a final decision in each case in which an initial decision has not become final.

(b) The final decision shall contain:

(1) Findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record;

(2) Rulings on each relevant and material exception filed; the Commission will deny irrelevant exceptions, or those which are not of decisional significance, without a specific statement of reasons prescribed by paragraph (b)(1) of this section; and

(3) The appropriate rule or oder and the sanction, relief or denial thereof.

(Sec. 8(b), 60 Stat. 2422; 5 U.S.C. 1007(b))

[28 FR 12425, Nov. 22, 1963, as amended at 41 FR 14873, Apr. 8, 1976]

## INTERLOCUTORY ACTIONS IN HEARING PROCEEDINGS

### § 1.291 General provisions.

(a)(1) The Commission acts on petitions to amend, modify, enlarge or delete the issues in hearing proceedings which involve rule making matters exclusively. It also acts on interlocutory pleadings filed in matters or proceedings which are before the Commission.

(2) The Chief Administrative Law Judge acts on those interlocutory matters listed in § 0.351 of this chapter.

(3) All other interlocutory matters in hearing proceedings are acted on by the presiding officer. See §§ 0.218 and 0.341 of this chapter.

(4) Each interlocutory pleading shall indicate in its caption whether the pleading is to be acted upon by the Commission, the Chief Administrative Law Judge, or the presiding officer. If the pleading is to be acted upon by the

presiding officer, he shall be identified by name.

(b) All interlocutory pleadings shall be submitted in accordance with the provisions of §§1.4, 1.44, 1.47, 1.48, 1.49, and 1.52.

(c)(1) Procedural rules governing interlocutory pleadings are set forth in §§1.294–1.298.

(2) Rules governing appeal from, and reconsideration of, interlocutory rulings made by the presiding officer are set forth in §§1.301 and 1.303.

(3) Rules governing the review of interlocutory rulings made by the Chief Administrative Law Judge are set forth in §§1.101, 1.102(b), 1.115, and 1.117. Petitions requesting reconsideration of an interlocutory ruling made by the Commission, or the Chief Administrative Law Judge will not be entertained. See, however, §1.113.

(d) No initial decision shall become effective under §1.276(e) until all interlocutory matters pending before the Commission in the proceeding at the time the initial decision is issued have been disposed of and the time allowed for appeal from interlocutory rulings of the presiding officer has expired.

(Secs. 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended; 47 CFR 0.61 and 0.283)

[29 FR 6443, May 16, 1964, as amended at 29 FR 12773, Sept. 10, 1964; 37 FR 19372, Sept. 20, 1972; 41 FR 14873, Apr. 8, 1976; 49 FR 4381, Feb. 6, 1984; 62 FR 4171, Jan. 29, 1997]

### § 1.294 Oppositions and replies.

(a) Any party to a hearing may file an opposition to an interlocutory request filed in that proceeding.

(b) Except as provided in paragraph (c) of this section, oppositions shall be filed within 4 days after the original pleading is filed, and replies to oppositions will not be entertained. See, however, §1.732.

(c) Oppositions to pleadings in the following categories shall be filed within 10 days after the pleading is filed. Replies to such oppositions shall be filed within 5 days after the opposition is filed, and shall be limited to matters raised in the opposition.

(1) Petitions to amend, modify, enlarge, or delete the issues upon which the hearing was ordered.

(2) [Reserved]

(3) Petitions by adverse parties requesting dismissal of an application.

(4) Joint requests for approval of agreements filed pursuant to §1.525.

(d) Additional pleadings may be filed only if specifically requested or authorized by the person(s) who is to make the ruling.

[29 FR 6444, May 16, 1964, as amended at 39 FR 10909, Mar. 22, 1974]

### § 1.296 Service.

No pleading filed pursuant to §1.51 or §1.294 will be considered unless it is accompanied by proof of service upon the parties to the proceeding.

(Secs. 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended; 47 CFR 0.61 and 0.283)

[49 FR 4381, Feb. 6, 1984, as amended at 62 FR 4171, Jan. 29, 1997]

### § 1.297 Oral argument.

Oral argument with respect to any contested interlocutory matter will be held when, in the opinion of the person(s) who is to make the ruling, the ends of justice will be best served thereby. Timely notice will be given of the date, time, and place of any such oral argument.

[29 FR 6444, May 16, 1964]

### § 1.298 Rulings; time for action.

(a) Unless it is found that irreparable injury would thereby be caused one of the parties, or that the public interest requires otherwise, or unless all parties have consented to the contrary, consideration of interlocutory requests will be withheld until the time for filing oppositions (and replies, if replies are allowed) has expired. As a matter of discretion, however, requests for continuances and extensions of time, requests for permission to file pleadings in excess of the length prescribed in this chapter, and requests for temporary relief may be ruled upon *ex parte* without waiting for the filing of responsive pleadings.

(b) In the discretion of the presiding officer, rulings on interlocutory matters may be made orally at the hearing. The presiding officer may, in his discretion, state his reasons on the record or subsequently issue a written statement of the reasons for his ruling,

either separately or as part of the initial decision.

[28 FR 12425, Nov. 22, 1963, as amended at 29 FR 6444, May 16, 1964; 41 FR 14874, Apr. 8, 1976]

APPEAL AND RECONSIDERATION OF PRESIDING OFFICER'S RULING

### § 1.301 Appeal from presiding officer's interlocutory ruling; effective date of ruling.

(a) *Interlocutory rulings which are appealable as a matter of right.* Rulings listed in this paragraph are appealable as a matter of right. An appeal from such a ruling may not be deferred and raised as an exception to the initial decision.

(1) If the presiding officer's ruling denies or terminates the right of any person to participate as a party to a hearing proceeding, such person, as a matter of right, may file an appeal from that ruling.

(2) If the presiding officer's ruling requires testimony or the production of documents, over objection based on a claim of privilege, the ruling on the claim of privilege is appealable as a matter of right.

(3) If the presiding officer's ruling denies a motion to disqualify the presiding judge, the ruling is appealable as a matter of right.

(4) Rulings granting a joint request filed under § 1.525 without terminating the proceeding are appealable by any party as a matter of right.

(5) A ruling removing counsel from the hearing is appealable as a matter of right, by counsel on his own behalf or by his client. (In the event of such ruling, the presiding officer will adjourn the hearing for such period as is reasonably necessary for the client to secure new counsel and for counsel to familiarize himself with the case).

(b) *Other interlocutory rulings.* Except as provided in paragraph (a) of this section, appeals from interlocutory rulings of the presiding officer shall be filed only if allowed by the presiding officer. Any party desiring to file an appeal shall first file a request for permission to file appeal. The request shall be filed within 5 days after the order is released or (if no written order) after the ruling is made. Pleadings responsive to the request shall be filed only if they are requested by the presiding officer. The request shall contain a showing that the appeal presents a new or novel question of law or policy and that the ruling is such that error would be likely to require remand should the appeal be deferred and raised as an exception. The presiding officer shall determine whether the showing is such as to justify an interlocutory appeal and, in accordance with his determination, will either allow or disallow the appeal or modify the ruling. If the presiding officer allows or disallows the appeal, his ruling is final: *Provided, however,* That the Commission may, on its own motion, dismiss an appeal allowed by the presiding officer on the ground that objection to the ruling should be deferred and raised as an exception. In the discretion of the presiding officer, the request for permission to file appeal may be made orally, on the record of the proceeding. The request may be disposed of orally.

(1) If an appeal is not allowed, or is dismissed by the Commission, or if permission to file an appeal is not requested, objection to the ruling may be raised on review of the initial decision.

(2) If an appeal is allowed and is considered on its merits, the disposition on appeal is final. Objection to the ruling or to the action on appeal may not be raised on review of the initial decision.

(3) If the presiding officer modifies the ruling, any party adversely affected by the modified ruling may file a request for permission to file appeal, pursuant to the provisions of this paragraph.

(c) *Procedures, effective date.* (1) Unless the presiding officer orders otherwise, rulings made by him shall be effective when the order is released or (if no written order) when the ruling is made. The Commission may stay the effect of any ruling which comes before it for consideration on appeal.

(2) Appeals filed under paragraph (a) of this section shall be filed within 5 days after the order is released or (if no written order) after the ruling is made. Appeals filed under paragraph (b) of this section shall be filed within 5 days after the appeal is allowed.

(3) The appeal shall conform with the specifications set out in § 1.49 and shall be subscribed and verified as provided in § 1.52.

(4) The appeal shall be served on parties to the proceeding (see §§ 1.47 and 1.211), and shall be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

(5) The appeal shall not exceed 5 double-spaced typewritten pages.

(6) Appeals are acted on by the Commission.

(7) Oppositions and replies shall be served and filed in the same manner as appeals and shall be served on appellant if he is not a party to the proceeding. Oppositions shall be filed within 5 days after the appeal is filed. Replies shall not be permitted, unless the Commission specifically requests them. Oppositions shall not exceed 5 double-spaced typewritten pages. Replies shall not exceed 5 double-spaced typewritten pages.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[35 FR 17333, Nov. 11, 1970, as amended at 40 FR 39509, Aug. 28, 1975; 41 FR 14874, Apr. 8, 1976; 41 FR 28789, July 13, 1976; 46 FR 58682, Dec. 3, 1981; 55 FR 36641, Sept. 6, 1990; 62 FR 4171, Jan. 29, 1997]

### § 1.302 Appeal from presiding officer's final ruling; effective date of ruling.

(a) If the presiding officer's ruling terminates a hearing proceeding, any party to the proceeding, as a matter of right, may file an appeal from that ruling within 30 days after the ruling is released.

(b) Any party who desires to preserve the right to appeal shall file a notice of appeal within 10 days after the ruling is released. If a notice of appeal is not filed within 10 days, the ruling shall be effective 30 days after the ruling is released and within this period, may be reviewed by the Commission on its own motion. If an appeal is not filed following notice of appeal, the ruling shall be effective 50 days after the day of its release and, within this period, may be reviewed by the Commission on its own motion. If an appeal is filed, or if the Commission reviews the ruling on its own motion, the effect of the ruling is further stayed pending the completion of proceedings on appeal or review.

(c) The appeal shall conform with the specifications set out in § 1.49 and shall be subscribed and verified as provided in § 1.52.

(d) The appeal shall be served on parties to the proceeding (see §§ 1.47 and 1.211), and shall be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

(e) The appeal shall not exceed 25 double-spaced typewritten pages.

(f) The Commission will act on the appeal.

(g) Oppositions and replies shall be filed and served in the same manner as the appeal. Oppositions to an appeal shall be filed within 15 days after the appeal is filed. Replies to oppositions shall be filed within 10 days after the opposition is filed and shall be limited to matters raised in the oppositions. Oppositions shall not exceed 25 double-spaced typewritten pages. Replies shall not exceed 10 double-spaced typewritten pages.

[35 FR 17333, Nov. 11, 1970, as amended at 36 FR 7423, Apr. 20, 1971; 62 FR 4171, Jan. 29, 1997]

## THE DISCOVERY AND PRESERVATION OF EVIDENCE

AUTHORITY: Sections 1.311 through 1.325 are issued under secs. 4, 303, 409, 48 Stat., as amended, 1066, 1082, 1096; 47 U.S.C. 154, 303, 409, 5 U.S.C. 552.

### § 1.311 General.

Sections 1.311 through 1.325 provide for taking the deposition of any person (including a party), for interrogatories to parties, and for orders to parties relating to the production of documents and things and for entry upon real property. These procedures may be used for the discovery of relevant facts, for the production and preservation of evidence for use at the hearing, or for both purposes.

(a) *Applicability*. For purposes of discovery, these proecdures may be used in any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for hearing. For the preservation of evidence, they may be used in any case which has

been designated for hearing and is conducted under the provisions of this subpart (see § 1.201).

(b) *Scope of examination.* Persons and parties may be examined regarding any matter, not privileged, which is relevant to the hearing issues, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection to use of these procedures that the testimony will be inadmissible at the hearing if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence. The use of these procedures against the Commission is subject to the following additional limitations:

(1) The informer's privilege shall encompass information which may lead to the disclosure of an informer's identity.

(2) Commission personnel may not be questioned by deposition for the purposes of discovery except on special order of the Commission, but may be questioned by written interrogatories under § 1.323. Interrogatories shall be served on the appropriate Bureau Chief (see § 1.21(b)). They will be answered and signed by those personnel with knowledge of the facts. The answers will be served by the Secretary of the Commission upon parties to the proceeding.

(3) Commission records are not subject to discovery under § 1.325. The inspection of Commission records is governed by the Freedom of Information Act, as amended, and by §§ 0.451 through 0.467 of this chapter. Commission employees may be questioned by written interrogatories regarding the existence, nature, description, custody, condition and location of Commission records, but may not be questioned concerning their contents unless the records are available (or are made available) for inspection under §§ 0.451 through 0.467. See § 0.451(b)(5) of this chapter.

(4) Subject to paragraphs (b) (1) through (3) of this section, Commission personnel may be questioned generally by written interrogatories regarding the existence, description, nature, custody, condition and location of relevant documents and things and regarding the identity and location of persons having knowledge of relevant facts, and may otherwise only be examined regarding facts of the case as to which they have direct personal knowledge.

(c) *Schedule for use of the procedures.* (1) In comparative broadcast proceedings involving applicants for only new facilities, discovery commences with the release of the hearing designation order, and, in routine cases, the discovery phase of the proceeding will be conducted in a manner intended to conclude that portion of the case within 90 days of the release of the designation order.

(2) In all other proceedings, except as provided by special order of the presiding officer, discovery may be initiated before or after the prehearing conference provided for in § 1.248 of this part.

(3) In all proceedings, the presiding officer may at any time order the parties or their attorneys to appear at a conference to consider the proper use of these procedures, the time to be allowed for such use, and/or to hear agrument and render a ruling on disputes that arise under these rules.

(d) *Who shall act.* Actions provided for in §§ 1.311 through 1.325 will, in most cases, be taken by the officer designated to preside at the hearing (see § 1.241). If the proceeding, or a particular matter to which the action relates, is before the Commission, a commissioner or panel of commissioners, or the Chief Administrative Law Judge, the action will be taken by such officer or body. The term *presiding officer,* as used in §§ 1.311 through 1.325 shall be understood to refer to the appropriate officer or body. See §§ 0.341, 0.351, 0.365, and 1.271 of this chapter.

(e) *Stipulations regarding the taking of depositions.* If all of the parties so stipulate in writing and if there is no interference to the conduct of the proceeding, depositions may be taken before any person, at any time (subject to the limitation below) or place, upon any notice and in any manner, and when so taken may be used like other depositions. An original and one copy of the stipulation shall be filed with

the Secretary of the Commission, and a copy of the stipulation shall be served on the presiding officer, at least 3 days before the scheduled taking of the deposition.

[33 FR 463, Jan. 12, 1968, as amended at 40 FR 39509, Aug. 28, 1975; 47 FR 51873, Nov. 18, 1982; 56 FR 794, Jan. 9, 1991; 62 FR 4171, Jan. 29, 1997]

### § 1.313 Protective orders.

The use of the procedures set forth in §§ 1.311 through 1.325 of this part is subject to control by the presiding officer, who may issue any order consistent with the provisions of those sections which is appropriate and just for the purpose of protecting parties and deponents or of providing for the proper conduct of the proceeding. Whenever doing so would be conducive to the efficient and expeditious conduct of the proceeding, the presiding officer may convene a conference to hear argument and issue a ruling on any disputes that may arise under these rules. The ruling, whether written or delivered on the record at a conference, may specify any measures, including the following to assure proper conduct of the proceeding or to protect any party or deponent from annoyance, expense, embarassment or oppression:

(a) That depositions shall not be taken or that interrogatories shall not be answered.

(b) That certain matters shall not be inquired into.

(c) That the scope of the examination or interrogatories shall be limited to certain matters.

(d) That depositions may be taken only at some designated time or place, or before an officer, other than that stated in the notice.

(e) That depositions may be taken only by written interrogatories or only upon oral examination.

(f) That, after being sealed, the deposition shall be opened only by order of the presiding officer.

[33 FR 463, Jan. 12, 1968, as amended at 56 FR 794, Jan. 9, 1991]

### § 1.315 Depositions upon oral examination—notice and preliminary procedure.

(a) *Notice*. A party to a hearing proceeding desiring to take the deposition of any person upon oral examination shall give a minimum of 21 days notice in writing to every other party, to the person to be examined, and to the presiding officer. An original and three copies of the notice shall be filed with the Secretary of the Commission. Related pleadings shall be served and filed in the same manner. The notice shall contain the following information:

(1) The name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The time and place for taking the deposition of each person to be examined, and the name or descriptive title and address of the officer before whom the deposition is to be taken.

(3) The matters upon which each person will be examined. See § 1.319.

(b) *Responsive pleadings*. (1) Within 7 days after service of the notice to take depositions, a motion opposing the taking of depositions may be filed by any party to the proceeding or by the person to be examined. See § 1.319(a).

(2) Within 14 days after service of the notice to take depositions, a response to the opposition motion may be filed by any party to the proceeding.

(3) Additional pleadings should not be filed and will not be considered.

(4) The computation of time provisions set forth in § 1.4(g) shall not apply to pleadings filed under the provisions of this paragraph.

(c) *Protective order*. On an opposition motion filed under paragraph (b) of this section, or on his own motion, the presiding officer may issue a protective order. See § 1.313. A protective order issued by the presiding officer on his own motion may be issued at any time prior to the date specified in the notice for the taking of depositions.

(d) *Authority to take depositions*. (1) If an opposition motion is not filed within 7 days after service of the notice to take depositions, and if the presiding officer does not on his own motion issue a protective order prior to the time specified in the notice for the taking of depositions, the depositions described in the notice may be taken. An

order for the taking of depositions is not required.

(2) If an opposition motion is filed, the depositions described in the notice shall not be taken until the presiding officer has acted on that motion. If the presiding officer authorizes the taking of depositions, he may specify a time, place or officer for taking them different from that specified in the notice to take depositions.

(3) If the presiding officer issues a protective order, the depositions described in the notice may be taken (if at all) only in accordance with the provisions of that order.

(e) *Broadcast comparative proceedings involving applicants for only new facilities.* In these cases, the 21-day advance notice provision of paragraph (a) of this section shall be inapplicable to depositions of active and passive owners of applicants in the proceeding. All applicants in such proceedings should be prepared to make their active and passive owners available for depositions during the period commencing with the deadline for filing notices of appearance and ending 90 days after the release of the designation order, if such depositions are requested by a party to the proceeding. All such depositions will be conducted in Washington, DC or in the community of license of the proposed station, at the deponent's option, unless all parties agree to some other location.

[33 FR 10571, July 25, 1968, as amended at 56 FR 794, Jan. 9, 1991]

### § 1.316 Depositions upon written interrogatories—notice and preliminary procedure.

(a) *Service of interrogatories; notice.* A party to the hearing proceeding desiring to take the deposition of any person upon written interrogatories shall serve the interrogatories upon every other party and shall give a minimum of 35 days notice in writing to every other party and to the person to be examined. An original and three copies of the interrogatories and the notice (and of all related pleadings) shall be filed with the Secretary of the Commission. A copy of the interrogatories and the notice (and of all related pleadings) shall be served on the presiding officer. The notice shall contain the following information:

(1) The name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The time and place for taking the deposition of each person to be examined, and the name or descriptive title and address of the officer before whom the deposition is to be taken.

(3) The matters upon which each person will be examined. See § 1.319.

(b) *Additional interrogatories.* Within 7 days after the filing and service of the original interrogatories, any other party to the proceeding may, in the same manner, file and serve additional interrogatories to be asked of the same witness at the same time and place, with notice to the witness of any additional matters upon which he will be examined.

(c) *Cross interrogatories.* Within 14 days after the filing and service of the original interrogatories, any party to the proceeding may, in the same manner, file and serve cross interrogatories, which shall be limited to matters raised in the original or in the additional interrogatories.

(d) *Responsive pleadings.* (1) Within 21 days after service of the original interrogatories, any party to the proceeding may move to limit or suppress any original, additional or cross interrogatory, and the person to be examined may file a motion opposing the taking of depositions. See § 1.319(a).

(2) Within 28 days after service of the original interrogatories, a response to a motion to limit or suppress any interrogatory or to a motion opposing the taking of depositions may be filed by any party to the proceeding.

(3) Additional pleadings should not be filed and will not be considered.

(e) *Protective order.* On a motion to limit or suppress or an opposition motion filed under paragraph (d) of this section, or on his own motion, the presiding officer may issue a protective order. See § 1.313. A protective order issued by the presiding officer on his own motion may be issued at any time prior to the date specified in the notice for the taking of depositions.

(f) *Authority to take depositions.* (1) If an opposition motion is not filed within 21 days after service of the notice to take depositions, and if the presiding officer does not on his own motion issue a protective order prior to the time specified in the notice for the taking of depositions, the depositions described in the notice may be taken. An order for the taking of depositions is not required.

(2) If an opposition motion is filed, the depositions described in the notice shall not be taken until the presiding officer has acted on that motion. If the presiding officer authorizes the taking of depositions, he may specify a time, place or officer for taking them different from that specified in the notice to take depositions.

(3) If the presiding officer issues a protective order, the depositions described in the notice may be taken (if at all) only in accordance with the provisions of that order.

NOTE: The computation of time provisions of §1.4(g) shall not apply to interrogatories and pleadings filed under the provisions of this section.

[33 FR 10571, July 25, 1968]

### § 1.318 The taking of depositions.

(a) *Persons before whom depositions may be taken.* Depositions shall be taken before any judge of any court of the United States; any U.S. Commissioner; any clerk of a district court; any chancellor, justice or judge of a supreme or superior court; the mayor or chief magistrate of a city; any judge of a county court, or court of common pleas of any of the United States; any notary public, not being of counsel or attorney to any party, nor interested in the event of the proceeding; or presiding officers, as provided in §1.243.

(b) *Attendance of witnesses.* The attendance of witnesses at the taking of depositions may be compelled by the use of subpena as provided in §§1.331 through 1.340.

(c) *Oath; transcript.* The officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by someone acting under his direction and in his presence record the testimony of the witness. The testimony may be taken stenographically or, upon approval by the presiding officer, testimony may be taken through the use of telephonically or electronically recorded methods, including videotape. In the event these latter methods are used for the deposition, the parties may agree to the waiver of the provisions of paragraphs (e) and (f) as appropriate and as approved by the presiding officer.

(d) *Examination.* (1) In the taking of depositions upon oral examination, the parties may proceed with examination and cross-examination of deponents as permitted at the hearing. In lieu of participating in the oral examination, parties served with the notice to take depositions may transmit written interrogatories to the officer designated in the notice, who shall propound them to the witness and record the answers verbatim.

(2) In the taking of depositions upon written interrogatories, the party who served the original interrogatories shall transmit copies of all interrogatories to the officer designated in the notice, who shall propound them to the witness and record the answers verbatim.

(e) *Submission of deposition to witness; changes; signing.* When the testimony is fully transcribed, the deposition of each witness shall be submitted to him for examination and shall be read to or by him, unless such examination and reading are waiver by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing, or the witness is ill, cannot be found, or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver, the illness or absence of the witness, or of his refusal to sign, together with the reason (if any) given therefor; and the deposition may then be used as fully as though signed, unless upon a motion to suppress, the presiding officer holds that the reason given for the refusal to sign requires rejection of the deposition in whole or in part.

(f) *Certification of deposition and filing by officer; copies.* The officer shall certify on the deposition that the witness was duly sworn by him, that the deposition is a true record of the testimony given by the witness, and that said officer is not of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked ''Deposition of (here insert name of witness)'' and shall promptly send the original and two copies of the deposition and of all exhibits, together with the notice and any interrogatories received by him, by certified mail to the Secretary of the Commission.

[33 FR 463, Jan. 12, 1968, as amended at 47 FR 51873, Nov. 18, 1982]

### § 1.319 Objections to the taking of depositions.

(a) *Objections to be made by motion prior to the taking of depositions.* If there is objection to the substance of any interrogatory or to examination on any matter clearly covered by the notice to take depositions, the objection shall be made in a motion opposing the taking of depositions or in a motion to limit or suppress the interrogatory as provided in §§ 1.315(b) and 1.316(d) and shall not be made at the taking of the deposition.

(b) *Objections to be made at the taking of depositions.* Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition. If such objection is made, counsel shall, if possible, agree upon the measures required to obviate, remove, or cure such errors. The measures agreed upon shall be taken. If agreement cannot be reached, the objection shall be noted on the deposition by the officer taking it, and the testimony objected to shall be taken subject to the objection.

(c) *Additional objections which may be made at the taking of depositions.* Objection may be made at the taking of depositions on the ground of relevancy or privilege, if the notice to take depositions does not clearly indicate that the witness is to be examined on the matters to which the objection relates. See paragraph (a) of this section. Objection may also be made on the ground that the examination is being conducted in such manner as to unreasonably annoy, embarrass, or oppress a deponent or party.

(1) When there is objection to a line of questioning, as permitted by this paragraph, counsel shall, if possible, reach agreement among themselves regarding the proper limits of the examination.

(2) If counsel cannot agree on the proper limits of the examination the taking of depositions shall continue on matters not objected to and counsel shall, within 24 hours, either jointly or individually, telegraph statements of their positions to the presiding officer, together with the telephone numbers at which they and the officer taking the depositions can be reached, or shall otherwise jointly confer with the presiding officer. If individual statements are submitted, copies shall be provided to all counsel participating in the taking of depositions.

(3) The presiding officer shall promptly rule upon the question presented or take such other action as may be appropriate under § 1.313, and shall give notice of his ruling, by telephone, to counsel who submitted statements and to the officer taking the depositions. The presiding officer shall thereafter reduce his ruling to writing.

(4) The taking of depositions shall continue in accordance with the presiding officer's ruling. Such rulings are not subject to appeal.

[33 FR 463, Jan. 12, 1968]

### § 1.321 Use of depositions at the hearing.

(a) No inference concerning the admissibility of a deposition in evidence shall be drawn because of favorable action on the notice to take depositions.

(b) Except as provided in this paragraph and in § 1.319, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the

exclusion of the evidence if the witness were then present and testifying.

(1) Objections to the competency of a witness, or the competency, relevancy or materiality of testimony are waived by failure to make them before or during the taking of depositions if (and only if) the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Objection on the ground of privilege is waived by failure to make it before or during the taking of depositions.

(c) A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in paragraph (d)(2) of this section. At the hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

(d) At the hearing (or in a pleading), any part or all of a deposition, so far as admissible, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership or association which is a party may be used by an adverse party for any purpose.

(3) To the extent that the affirmative direct case of a party is made in writing pursuant to §1.248(d), the deposition of any witness, whether or not a party, may be used by any party for any purpose, provided the witness is made available for cross-examination. In all cases, the deposition of a witness, whether or not a party, may be used by any party for any purpose if the presiding officer finds: (i) That the witness is dead; or (ii) that the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (iv) upon application and notice, that such exceptional circumstances exist as to make it desirable in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

(5) Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any hearing has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

[33 FR 463, Jan. 12, 1968, as amended at 41 FR 14874, Apr. 8, 1976]

### §1.323 Interrogatories to parties.

(a) *Interrogatories.* Any party may serve upon any other party written interrogatories to be answered in writing by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. A copy of the interrogatories shall be served upon all parties to the proceeding. An original and three copies of the interrogatories, answers, and all related pleadings shall be filed with the Secretary of the Commission. A copy of the interrogatories, answers and all related pleadings shall be served on the presiding officer.

(1) Except as otherwise provided in a protective order, the number of interrogatories or sets of interrogatories is not limited.

(2) Except as provided in such an order, interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered.

(b) *Answers and objections.* Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the person making them, and the objections by the attorney making them. The party upon whom the interrogatories were served shall serve a copy of the answers and objections upon all parties to the proceeding within 14 days after service of the interrogatories, or within such shorter or longer period as the presiding officer may allow. Answers may be used in the same manner as depositions of a party (see §1.321(d)).

(c) *Motion to compel an answer.* Any party to the proceeding may, within 7 days, move for an order with respect to any objection or other failure to answer an interrogatory. For purposes of this paragraph, an evasive or incomplete answer is a failure to answer; and if the motion is based on the assertion that the answer is evasive or incomplete, it shall contain a statement as to the scope and detail of an answer which would be considered responsive and complete. The party upon whom the interrogatories were served may file a response within 7 days after the motion is filed, to which he may append an answer or an amended answer. Additional pleadings should not be submitted and will not be considered.

(d) *Action by the presiding officer.* If the presiding officer determines that an objection is not justified, he shall order that the answer be served. If an interrogatory has not been answered, the presiding officer may rule that the right to object has been waived and may order that an answer be served. If an answer does not comply fully with the requirements of this section, the presiding officer may order that an amended answer be served, may specify the scope and detail of the matters to be covered by the amended answer, and may specify any appropriate procedural consequences (including adverse findings of fact and dismissal with prejudice) which will follow from the failure to make a full and responsive answer. If a full and responsive answer is not made, the presiding officer may issue an order invoking any of the procedural consequences specified in the order to compel an answer.

(e) *Appeal.* As order to compel an answer is not subject to appeal.

[33 FR 10572, July 25, 1968, as amended at 35 FR 17334, Nov. 11, 1970]

### §1.325 Discovery and production of documents and things for inspection, copying, or photographing.

(a) A party to a Commission proceeding may request any other party except the Commission to produce and permit inspection and copying or photographing, by or on behalf of the requesting party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things which constitute or contain evidence within the scope of the examination permitted by §1.311(b) of this part and which are in his possession, custody, or control or to permit entry upon designated land or other property in his possession or control for purposes of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon within the scope of the examination permitted by §1.311(b) of this part.

(1) Such requests need not be filed with the presiding officer, but copies of the request shall be served on all other parties to the proceeding.

(2) The party against whom the request was made must, within 10 days, comply with the request or object to the request, claiming a privilege or raising other proper objections. If the request is not complied with in whole or in part, the requesting party may file a motion to compel production of documents or access to property with the presiding officer. A motion to compel must be accompanied by a copy of the original request and the responding party's objection or claim of privilege. Motions to compel must be filed within five business days of the objection or claim of privilege.

(3) In resolving any disputes involving the production of documents or access to property, the presiding officer

may direct that the materials objected to be presented to him for *in camera* inspection.

(b) Any party seeking the production of Commission records should proceed under § 0.460 or § 0.461 of this chapter. See §§ 0.451 through 0.467.

(c) In comparative broadcast proceedings involving applicants for only new facilities, all applicants will serve the materials listed in the Standard Document Production Order and the Standardized Integration Statement on all other parties in the case that have filed Notices of Appearance. The exchange of these materials must be accomplished within five days after the date established for filing notices of appearance (see § 1.221).

(1) *Standard Document Production Order*. The following documents must be produced or objected to on grounds of privilege (Unless otherwise directed by the presiding officer, copies of these documents should not be filed with the presiding officer):

(i) All formation and organizational documents, including articles of incorporation, by laws, partnership agreements, voting rights, proxies, and any amendments to the foregoing documents;

(ii) All minutes of meetings relating to the application;

(iii) All documents relating to the rights or plans of persons or entities to purchase an interest in the applicant or of current owners to alineate their interests;

(iv) All documents relating to pledges, mortgages, security interests, or other encumbrances of any kind with respect to the applicant;

(v) All bank letters and other financing documents with the dollar amounts unexpurgated;

(vi) All documents relating to the applicant's proposed transmitter site;

(vii) All documents relating to communications by proposed integrated principals with respect to their proposed participation in the management of the station and the disposition of their current employment;

(viii) All documents relating to prior integration pledges made by principals who propose to be integrated into the management of the station at issue;

(ix) All documents relating to communications by and between principals of the applicant concerning the application, including communications between active and passive principals;

(x) Representative documents relating to enhancement credits and preferences sought by the applicant's principals for local residence, civic participation, past broadcast experience, minority/female status, and the like;

(xi) All documents relating to commitments to divest other media interests; and

(xii) All documents that identify or describe the principals who are responsible for completing the application, arranging financing, obtaining the applicant's transmitter site, publishing the required notices, establishing the local public inspection file, and retaining lawyers, engineers, and other professionals.

(2) *Standardized Integration Statement*. On the same day that documents are exchanged pursuant to the Standardized Document Production Order, the following information must also be provided by all applicants (Copies of this statement should be filed with the presiding officer and served on all parties to the proceeding that have filed Notices of Appearance):

(i) The ownership structure of the applicant, i.e., whether it is a partnership, limited partnership, or a corporation (if a corporation, indicate whether it has voting and non-voting stock);

(ii) The ownership percentage of each owner;

(iii) The identity of the owners who will work at the proposed station, what titles and duties they will have, how many hours they will work per week, and how they will reconcile any current business interests or employment with that commitment to the station;

(iv) All other media interests held by the persons identified under paragraph (c)(2)(ii), of this section;

(v) Whether the integrated owners will claim credit for minority or female ownership and if so, specifically on what basis;

(vi) Whether the integrated owners will claim credit for local residence

and civic involvement in the city of license or service area and if so, specifically on what basis (including a detailed chronology of past residence and a description of civic activities and their duration);

(vii) Whether the integrated owners will claim credit for previous broadcast experience and if so, provide a detailed list of the stations they worked at, the titles and duties they had, and the years in which they were so employed; and

(viii) Whether the applicant will claim a daytimer preference and if so, specifically on what basis.

(3) *Supplemental document production.* Parties may request additional relevant documents, not called for in the Standard Document Production Order, at any time after the release of the designation order. Supplemental requests for documents based on materials exchanged pursuant to the Standardized Document Production Order and Standardized Integration Statement must be filed no later than ten days after those standardized exchanges. Other supplemental document requests must be filed no later than ten days after receipt of the information on which those requests are based. Supplemental document requests will be handled under the procedures established in paragraph (a) of this section. To facilitate the resolution of disputes concerning the production of documents, the presiding officer may convene a pre-hearing conference to hear argument on and dispose of any such disputes.

[33 FR 463, Jan. 12, 1968, as amended at 40 FR 39509, Aug. 28, 1975; 56 FR 794, Jan. 9, 1991; 56 FR 25639, June 5, 1991]

SUBPENAS

AUTHORITY: Sections 1.331 and 1.333 through 1.340 are issued under sec. 409, 48 Stat. 1096; 47 U.S.C. 409.

### § 1.331 Who may sign and issue.

Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing, may be signed and issued as follows:

(a) Hearings before the Commission en banc, an individual commissioner, or a panel of commissioners: By any commissioner participating in the conduct of the hearing.

(b) Hearings before an administrative law judge: By the administrative law judge or, in his absence, by the Chief Administrative Law Judge.

### § 1.333 Requests for issuance of subpena.

(a) Unless submitted on the record while a hearing is in progress, requests for a subpena ad testificandum shall be submitted in writing.

(b) Requests for a subpena *duces tecum* shall be submitted in writing, duly subscribed and verified, and shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby. Where the subpena *duces tecum* request is directed to a nonparty to the proceeding, the presiding officer may issue the same, upon request, without an accompanying subpena to enforce a notice to take depositions, provided for in paragraph (e) of this section, where it appears that the testimony of said person is not required in connection with the subpena *duces tecum.*

(c) All requests for subpenas shall be supported by a showing of the general relevance and materiality of the evidence sought.

(d) Requests for subpenas shall be submitted in triplicate, but need not be served on the parties to the proceeding.

(e) Requests for issuance of a subpena ad testificandum to enforce a notice to take depositions shall be submitted in writing. Such requests may be submitted with the notice or at a later date. The request shall not be granted until the period for the filing of motions opposing the taking of depositions has expired or, if a motion has been filed, until that motion has been acted on. Regardless of the time when the subpena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the person will be examined regarding a nonprivileged matter which is relevant

to the hearing issues. The subpena request may ask that a subpena duces tecum be contemporaneously issued commanding the person to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by §1.311(b) but in that event the subpena request will be subject to the provisions of §1.313 and paragraph (b) of this section.

(f) Requests for issuance of a subpena duces tecum to enforce an order for the production of documents and things for inspection and copying under §1.325 may be submitted with the motion requesting the issuance of such an order. Regardless of the time when the subpena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the documents and things to be examined contain nonprivileged matter which is relevant to the subject matter of the proceeding.

[28 FR 12425, Nov. 22, 1963, as amended at 33 FR 466, Jan. 12, 1968; 47 FR 51873, Nov. 18, 1982]

### §1.334 Motions to quash.

Any person against whom a subpena is directed may file a motion to quash or limit the subpena, setting forth the reasons why the subpena should not be complied with or why it should be limited in scope.

### §1.335 Rulings.

Prompt notice, including a brief statement of the reasons therefor, will be given of the denial, in whole or in part, of a request for subpena or of a motion to quash.

### §1.336 Service of subpenas.

(a) A subpena may be served by a United States marshal or his deputy, by Commission personnel, or by any person who is not a party to the proceeding and is not less than 18 years of age.

(b) Service of a subpena upon the person named therein shall be made by exhibiting the original subpena to him, by reading the original subpena to him if he is unable to read, by delivering the duplicate subpena to him, and by tendering to him the fees for one day's attendance at the proceeding to which he is summoned and the mileage allowed by law. If the subpena is issued on behalf of the United States or an officer or agency thereof, attendance fees and mileage need not be tendered.

### §1.337 Return of service.

(a) If service of the subpena is made by a person other than a United States marshal or his deputy such person shall make affidavit thereof, stating the date, time, and manner of service.

(b) In case of failure to make service, the reasons for the failure shall be stated on the original subpena by the person who attempted to make service.

(c) The original subpena, bearing or accompanied by the required return affidavit or statement, shall be returned forthwith to the Secretary of the Commission or, if so directed on the subpena, to the official before whom the person named in the subpena is required to appear.

### §1.338 Subpena forms.

(a) Subpena forms, marked ''Original'', ''Duplicate'', and ''Triplicate'', and bearing the Commission's seal, may be obtained from the Commission's Dockets Division. These forms are to be completed and submitted with any request for issuance of a subpena.

(b) If the request for issuance of a subpena is granted, the ''Original'' and ''Duplicate'' copies of the subpena are returned to the person who submitted the request. The ''Triplicate'' copy is retained for the Commission's files.

(c) The ''Original'' copy of the subpena includes a form for proof of service. This form is to be executed by the person who effects service and returned by him to the Secretary of the Commission or, if so directed on the subpena, to the official before whom the person named in the subpena is required to appear.

(d) The ''Duplicate'' copy of the subpena shall be served upon the person named therein and retained by him. This copy should be presented in support of any claim for witness fees or mileage allowances for testimony on behalf of the Commission.

### § 1.339 Witness fees.

Witnesses who are subpenaed and respond thereto are entitled to the same fees, including mileage, as are paid for like service in the courts of the United States. Fees shall be paid by the party at whose instance the testimony is taken.

### § 1.340 Attendance of witness; disobedience.

The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpena, the Commission or any party to a proceeding before the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

EVIDENCE

### § 1.351 Rules of evidence.

Except as otherwise provided in this subpart, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern formal hearings. Such rules may be relaxed if the ends of justice will be better served by so doing.

### § 1.352 Cumulative evidence.

The introduction of cumulative evidence shall be avoided, and the number of witnesses that may be heard in behalf of a party on any issue may be limited.

### § 1.353 Further evidence during hearing.

At any stage of a hearing, the presiding officer may call for further evidence upon any issue and may require such evidence to be submitted by any party to the proceeding.

### § 1.354 Documents containing matter not material.

If material and relevant matter offered in evidence is embraced in a document containing other matter not material or relevant, and not intended to be put in evidence, such document will not be received, but the party offering the same shall present to other counsel, and to the presiding officer, the original document, together with true copies of such material and relevant matter taken therefrom, as it is desired to introduce. Upon presentation of such matter, material and relevant, in proper form, it may be received in evidence, and become a part of the record. Other counsel will be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant.

### § 1.355 Documents in foreign language.

Every document, exhibit, or other paper written in a language other than English, which shall be filed in any proceeding, or in response to any order, shall be filed in the language in which it is written together with an English translation thereof duly verified under oath to be a true translation. Each copy of every such document, exhibit, or other paper filed shall be accompanied by a separate copy of the translation.

### § 1.356 Copies of exhibits.

No document or exhibit, or part thereof, shall be received as, or admitted in, evidence unless offered in duplicate. In addition, when exhibits of a documentary character are to be offered in evidence, copies shall be furnished to other counsel unless the presiding officer otherwise directs.

### § 1.357 Mechanical reproductions as evidence.

Unless offered for the sole purpose of attempting to prove or demonstrate sound effect, mechanical or physical reproductions of sound waves shall not be admitted in evidence. Any party desiring to offer any matter alleged to be contained therein or thereupon shall have such matter typewritten on paper of the size prescribed by § 1.49, and the same shall be identified and offered in duplicate in the same manner as other exhibits.

### § 1.358 Tariffs as evidence.

In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or

marked for identification, but the matter so offered shall be specified with particularity (tariff and page number) in such manner as to be readily identified, and may be received in evidence by reference subject to check with the original tariff schedules on file.

### § 1.359 Proof of official record; authentication of copy.

An official record or entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by the judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent, or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

### § 1.360 Proof of lack of record.

The absence of an official record or entry of a specified tenor in an official record may be evidenced by a written statement signed by an officer, or by his deputy, who would have custody of the official record, if it existed, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as provided in § 1.359. Such statement and certificate are admissible as evidence that the records of his office contain no such record or entry.

### § 1.361 Other proof of official record.

Sections 1.359 and 1.360 do not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

### § 1.362 Production of statements.

After a witness is called and has given direct testimony in a hearing, and before he is excused, any party may move for the production of any statement of such witness, or part thereof, pertaining to his direct testimony, in possession of the party calling the witness, if such statement has been reduced to writing and signed or otherwise approved or adopted by the witness. Such motion shall be directed to the presiding officer. If the party declines to furnish the statement, the testimony of the witness pertaining to the requested statement shall be stricken.

[33 FR 466, Jan. 12, 1968]

### § 1.363 Introduction of statistical data.

(a) All statistical studies, offered in evidence in common carrier hearing proceedings, including but not limited to sample surveys, econometric analyses, and experiments, and those parts of other studies involving statistical methodology shall be described in a summary statement, with supplementary details added in appendices so as to give a comprehensive delineation of the assumptions made, the study plan utilized and the procedures undertaken. In the case of sample surveys, there shall be a clear description of the survey design, including the definition of the universe under study, the sampling frame, and the sampling units; an explanation of the method of selecting the sample and the characteristics measured or counted. In the case of econometric investigations, the econometric model shall be completely described and the reasons given for each assumption and statistical specification. The effects on the final results of changes in the assumptions should be made clear. When alternative models and variables have been employed, a record shall be kept of these alternative studies, so as to be available

upon request. In the case of experimental analyses, a clear and complete description of the experimental design shall be set forth, including a specification of the controlled conditions and how the controls were realized. In addition, the methods of making observations and the adjustments, if any, to observed data shall be described. In the case of every kind of statistical study, the following items shall be set forth clearly: The formulas used for statistical estimates, standard errors and test statistics, the description of statistical tests, plus all related computations, computer programs and final results. Summary descriptions of input data shall be submitted. Upon request, the actual input data shall be made available.

(b) In the case of all studies and analyses offered in evidence in common carrier hearing proceedings, other than the kinds described in paragraph (a) of this section, there shall be a clear statement of the study plan, all relevant assumptions and a description of the techniques of data collection, estimation and/or testing. In addition, there shall be a clear statement of the facts and judgments upon which conclusions are based and a statement of the relative weights given to the various factors in arriving at each conclusion, together with an indication of the alternative courses of action considered. Lists of input data shall be made available upon request.

[35 FR 16254, Oct. 16, 1970]

### § 1.364 Testimony by speakerphone.

(a) If all parties to the proceeding consent and the presiding officer approves, the testimony of a witness may be taken by speakerphone.

(b) Documents used by the witness shall be made available to counsel by the party calling the witness in advance of the speakerphone testimony. The taking of testimony by speakerphone shall be subject to such other ground rules as the parties may agree upon.

[43 FR 33251, July 31, 1978]

## Subpart C—Rulemaking Proceedings

AUTHORITY: 5 U.S.C. 553.

SOURCE: 28 FR 12432, Nov. 22, 1963, unless otherwise noted.

GENERAL

### § 1.399 Scope.

This subpart shall be applicable to notice and comment rulemakings proceedings conducted under 5 U.S.C. 553, and shall have no application to formal rulemaking (or rate making) proceedings unless the Commission directs that it shall govern the conduct of a particular proceeding.

[42 FR 25735, May 19, 1977]

### § 1.400 Definitions.

As used in this subpart, the term *party* refers to any person who participates in a proceeding by the timely filing of a petition for rule making, comments on a notice of proposed rule making, a petition for reconsideration, or responsive pleadings in the manner prescribed by this subpart. The term does not include those who submit letters, telegrams or other informal materials.

[41 FR 1287, Jan. 7, 1976]

PETITIONS AND RELATED PLEADINGS

### § 1.401 Petitions for rulemaking.

(a) Any interested person may petition for the issuance, amendment or repeal of a rule or regulation.

(b) The petition for rule making shall conform to the requirements of §§ 1.49, 1.52, and 1.419(b) (or § 1.420(e), if applicable), and shall be submitted or addressed to the Secretary, Federal Communications Commission, Washington, DC 20554, or may be submitted electronically.

(c) The petition shall set forth the text or substance of the proposed rule, amendment, or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested, and shall indicate how the interests of petitioner will be affected.

(d) Petitions for amendment of the FM Table of Assignments (§ 73.202 of this chapter) or the Television Table of

Assignments (§ 73.606) shall be served by petitioner on any Commission licensee or permittee whose channel assignment would be changed by grant of the petition. The petition shall be accompanied by a certificate of service on such licensees or permittees. Petitions to amend the FM Table of Allotments must be accompanied by the appropriate construction permit application and payment of the appropriate application filing fee.

(e) Petitions which are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner.

[28 FR 12432, Nov. 22, 1963, as amended at 28 FR 14503, Dec. 31, 1963; 40 FR 53391, Nov. 18, 1975; 45 FR 42621, June 25, 1980; 63 FR 24125, May 1, 1998; 71 FR 76215, Dec. 20, 2006]

### § 1.403 Notice and availability.

All petitions for rule making (other than petitions to amend the FM, Television, and Air-Ground Tables of Assignments) meeting the requirements of § 1.401 will be given a file number and, promptly thereafter, a ''Public Notice'' will be issued (by means of a Commission release entitled ''Petitions for Rule Making Filed'') as to the petition, file number, nature of the proposal, and date of filing, Petitions for rule making are available at the Commission's Reference Information Center, 445 12th Street, SW, Washington, DC and may also be available electronically over the Internet at *http://www.fcc.gov/*.

[67 FR 13223, Mar. 21, 2002]

### § 1.405 Responses to petitions; replies.

Except for petitions to amend the FM Television or Air-Ground Tables of Assignments:

(a) Any interested person may file a statement in support of or in opposition to a petition for rule making prior to Commission action on the petition but not later than 30 days after ''Public Notice'', as provided for in § 1.403, is given of the filing of such a petition. Such a statement shall be accompanied by proof of service upon the petitioner on or prior to the date of filing in conformity with § 1.47 and shall conform in other aspects with the requirements of §§ 1.49, 1.52, and 1.419(b).

(b) Any interested person may file a reply to statements in support of or in opposition to a petition for rule making prior to Commission action on the petition but not later than 15 days after the filing of such a statement. Such a reply shall be accompanied by proof of service upon the party or parties filing the statement or statements to which the reply is directed on or prior to the date of filing in conformity with § 1.47 and shall conform in other aspects with the requirements of §§ 1.49, 1.52, and 1.419(b).

(c) No additional pleadings may be filed unless specifically requested by the Commission or authorized by it.

(d) The Commission may act on a petition for rule making at any time after the deadline for the filing of replies to statements in support of or in opposition to the petition. Statements in support of or in opposition to a petition for rule making, and replies thereto, shall not be filed after Commission action.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[28 FR 12413, Nov. 22, 1963, as amended at 28 FR 14503, Dec. 31, 1963; 45 FR 42621, June 25, 1980; 46 FR 60404, Dec. 9, 1981]

### § 1.407 Action on petitions.

If the Commission determines that the petition discloses sufficient reasons in support of the action requested to justify the institution of a rulemaking proceeding, and notice and public procedure thereon are required or deemed desirable by the Commission, an appropriate notice of proposed rule making will be issued. In those cases where notice and public procedure thereon are not required, the Commission may issue a final order amending the rules. In all other cases the petition for rule making will be denied and the petitioner will be notified of the Commission's action with the grounds therefor.

## RULEMAKING PROCEEDINGS

### § 1.411 Commencement of rulemaking proceedings.

Rulemaking proceedings are commenced by the Commission, either on

it own motion or on the basis of a petition for rulemaking. See §§ 1.401–1.407.

### § 1.412 Notice of proposed rulemaking.

(a) Except as provided in paragraphs (b) and (c) of this section, prior notice of proposed rulemaking will be given.

(1) Notice is ordinarily given by publication of a ''Notice of Proposed Rule Making'' in the FEDERAL REGISTER. A summary of the full decision adopted by the Commission constitutes a ''Notice of Proposed Rulemaking'' for purposes of FEDERAL REGISTER publication.

(2) If all persons subject to the proposed rules are named, the proposal may (in lieu of publication) be personally served upon those persons.

(3) If all persons subject to the proposed rules are named and have actual notice of the proposal as a matter of law, further prior notice of proposed rulemaking is not required.

(b) Rule changes (including adoption, amendment, or repeal of a rule or rules) relating to the following matters will ordinarily be adopted without prior notice:

(1) Any military, naval, or foreign affairs function of the United States.

(2) Any matter relating to Commission management or personnel or to public property, loans, grants, benefits, or contracts.

(3) Interpretative rules.

(4) General statements of policy.

(5) Rules of Commission organization, procedure, or practice.

(c) Rule changes may in addition be adopted without prior notice in any situation in which the Commission for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. The finding of good cause and a statement of the basis for that finding are in such situations published with the rule changes.

(d) In addition to the notice provisions of paragraph (a) of this section, the Commission, before prescribing any requirements as to accounts, records, or memoranda to be kept by carriers, will notify the appropriate State agencies having jurisdiction over any carrier involved of the proposed requirements.

[28 FR 12432, Nov. 22, 1963, as amended at 51 FR 7445, Mar. 4, 1986]

### § 1.413 Content of notice.

A notice of the proposed issuance, amendment, or repeal of a rule will include the following:

(a) A statement of the time, nature and place of any public rulemaking proceeding to be held.

(b) Reference to the authority under which the issuance, amendment or repeal of a rule is proposed.

(c) Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(d) The docket number assigned to the proceeding.

(e) A statement of the time for filing comments and replies thereto.

### § 1.415 Comments and replies.

(a) After notice of proposed rulemaking is issued, the Commission will afford interested persons an opportunity to participate in the rulemaking proceeding through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner.

(b) A reasonable time will be provided for submission of comments in support of or in opposition to proposed rules, and the time provided will be specified in the notice of proposed rulemaking.

(c) A reasonable time will be provided for filing comments in reply to the original comments, and the time provided will be specified in the notice of proposed rulemaking.

(d) No additional comments may be filed unless specifically requested or authorized by the Commission.

NOTE: In some (but not all) rulemaking proceedings, interested persons may also communicate with the Commission and its staff on an *ex parte* basis, provided certain procedures are followed. See §§ 1.420 and 1.1200 *et seq*. See also ____ FCC 2d ____ (1980) (*i.e.*, this order).

(e) For time limits for filing motions for extension of time for filing responses to petitions for rulemaking, replies to such responses, comments filed

in response to notices of proposed rulemaking, replies to such comments, see § 1.46(b).

[28 FR 12432, Nov. 22, 1963, as amended at 42 FR 28888, June 6, 1977; 45 FR 45591, July 7, 1980; 52 FR 37460, Oct. 7, 1987]

### § 1.419 Form of comments and replies; number of copies.

(a) Comments, replies, and other documents filed in a rulemaking proceeding shall conform to the requirements of § 1.49.

(b) Unless otherwise specified by Commission rules, an original and one copy of all comments, briefs and other documents filed in a rulemaking proceeding shall be furnished to the Commission. The distribution of such copies shall be as follows:

| | |
|---|---|
| Secretary (original) | 1 |
| Reference Information Center | 1 |
| Total | 2 |

Participants filing the required 2 copies who also wish each Commissioner to have a personal copy of the comments may file an additional 5 copies. The distribution of such copies shall be as follows:

| | |
|---|---|
| Commissioners | 5 |
| Secretary (original) | 1 |
| Reference Information Center | 1 |
| Total | 7 |

Similarly, members of the general public who wish to express their interest by participating informally in a rulemaking proceeding may do so by submitting an original and one copy of their comments, without regard to form, provided only that the Docket Number is specified in the heading. Informal comments filed after close of the reply comment period, or, if on reconsideration, the reconsideration reply comment period, should be labeled ''ex parte'' pursuant to § 1.1206(a). Letters submitted to Commissioners or Commission staff will be treated in the same way as informal comments, as set forth above. Also, to the extent that an informal participant wishes to submit to each Commissioner a personal copy of a comment and has not submitted or cannot submit the comment by electronic mail, the participant may file an additional 5 copies. The distribution of such copies shall be as follows:

| | |
|---|---|
| Commissioners | 5 |
| Secretary (original) | 1 |
| Reference Information Center | 1 |
| Total | 7 |

(c) Any person desiring to file identical documents in more than one docketed rulemaking proceeding shall furnish the Commission two additional copies of any such document for each additional docket. This requirement does not apply if the proceedings have been consolidated.

(d) Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments.

(e) Comments and replies and other documents filed in electronic form by a party represented by an attorney shall include the name and mailing address of at least one attorney of record. Parties not represented by an attorney that file comments and replies and other documents in electronic form shall provide their name and mailing address.

[28 FR 12432, Nov. 22, 1963, as amended at 41 FR 50399, Nov. 16, 1976; 50 FR 26567, June 27, 1985; 54 FR 29037, July 11, 1989; 63 FR 24125, May 1, 1998; 63 FR 56091, Oct. 21, 1998; 67 FR 13223, Mar. 21, 2002; 76 FR 24392, May 2, 2011]

### § 1.420 Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments, or for amendment of certain FM assignments.

(a) Comments filed in proceedings for amendment of the FM Table of Allotments (§ 73.202 of this chapter) or the Television Table of Allotments (§ 73.606 of this chapter) which are initiated on a petition for rule making shall be served on petitioner by the person who files the comments.

(b) Reply comments filed in proceedings for amendment of the FM or Television Tables of Allotments shall be served on the person(s) who filed the

comments to which the reply is directed.

(c) Such comments and reply comments shall be accompanied by a certificate of service.

(d) Counterproposals shall be advanced in initial comments only and will not be considered if they are advanced in reply comments.

(e) An original and 4 copies of all petitions for rulemaking, comments, reply comments, and other pleadings shall be filed with the Commission.

(f) Petitions for reconsideration and responsive pleadings shall be served on parties to the proceeding and on any licensee or permittee whose authorization may be modified to specify operation on a different channel, and shall be accompanied by a certificate of service.

(g) The Commission may modify the license or permit of a UHF TV station to a VHF channel in the same community in the course of the rule making proceeding to amend §73.606(b), or it may modify the license or permit of an FM station to another class of channel through notice and comment procedures, if any of the following conditions are met:

(1) There is no other timely filed expression of interest, or

(2) If another interest in the proposed channel is timely filed, an additional equivalent class of channel is also allotted, assigned or available for application.

NOTE TO PARAGRAPH (g): In certain situations, a licensee or permittee may seek an adjacent, intermediate frequency or co-channel upgrade by application. See §73.203(b) of this chapter.

(h) Where licensees (or permittees) of television broadcast stations jointly petition to amend §73.606(b) and to exchange channels, and where one of the licensees (or permittees) operates on a commercial channel while the other operates on a reserved noncommercial educational channel within the same band, and the stations serve substantially the same market, then the Commission may amend §73.606(b) and modify the licenses (or permits) of the petitioners to specify operation on the appropriate channels upon a finding that such action will promote the public interest, convenience, and necessity.

NOTE 1 TO PARAGRAPH (h): Licensees and permittees operating Class A FM stations who seek to upgrade their facilities to Class B1, B, C3, C2, C1, or C on Channel 221, and whose proposed 1 mV/m signal contours would overlap the Grade B contour of a television station operating on Channel 6 must meet a particularly heavy burden by demonstrating that grants of their upgrade requests are in the public interest. In this regard, the Commission will examine the record in rule making proceedings to determine the availability of existing and potential non-commercial education service.

(i) In the course of the rule making proceeding to amend §73.202(b) or §73.606(b), the Commission may modify the license or permit of an FM or television broadcast station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's or permittee's present assignment.

(j) Whenever an expression of interest in applying for, constructing, and operating a station has been filed in a proceeding to amend the FM or TV Table of Allotments, and the filing party seeks to dismiss or withdraw the expression of interest, either unilaterally or in exchange for financial consideration, that party must file with the Commission a request for approval of the dismissal or withdrawal, a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) A certification that neither the party withdrawing its interest nor its principals has received or will receive any money or other consideration in excess of legitimate and prudent expenses in exchange for the dismissal or withdrawal of the expression of interest;

(2) The exact nature and amount of any consideration received or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement; and

(4) The terms of any oral agreement related to the dismissal or withdrawal of the expression of interest.

(5) In addition, within 5 days of a party's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(i) A certification that neither it nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the party withdrawing its expression of interest; and

(ii) The terms of any oral agreement relating to the dismissal or withdrawal of the expression of interest.

NOTE TO §1.420: The reclassification of a Class C station in accordance with the procedure set forth in Note 4 to §73.3573 may be initiated through the filing of an original petition for amendment of the FM Table of Allotments. The Commission will notify the affected Class C station licensee of the proposed reclassification by issuing a notice of proposed rule making, except that where a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to §73.3573, and a notice of proposed rule making will be issued only after the reclassification issue is resolved. Triggering petitions will be dismissed upon the filing, rather than the grant, of an acceptable construction permit application to increase antenna height to at least 451 meters HAAT by a subject Class C station.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[39 FR 44022, Dec. 20, 1974, as amended at 40 FR 53391, Nov. 18, 1975; 41 FR 1287, Jan. 7, 1976; 51 FR 15629, Apr. 25, 1986; 51 FR 20291, June 4, 1986; 52 FR 8260, Mar. 17, 1987; 52 FR 25866, July 9, 1987; 54 FR 16366, Apr. 24, 1989; 54 FR 26201, June 22, 1989; 55 FR 28914, July 16, 1990; 58 FR 38535, July 19, 1993; 59 FR 59503, Nov. 17, 1994; 61 FR 43472, Aug. 23, 1996; 65 FR 79776, Dec. 20, 2000; 71 FR 76215, Dec. 20, 2006]

### § 1.421 Further notice of rulemaking.

In any rulemaking proceeding where the Commission deems it warranted, a further notice of proposed rulemaking will be issued with opportunity for parties of record and other interested persons to submit comments in conformity with §§1.415 and 1.419.

### § 1.423 Oral argument and other proceedings.

In any rulemaking where the Commission determines that an oral argument, hearing or any other type of proceeding is warranted, notice of the time, place and nature of such proceeding will be published in the FEDERAL REGISTER.

[58 FR 66300, Dec. 20, 1993]

### § 1.425 Commission action.

The Commission will consider all relevant comments and material of record before taking final action in a rulemaking proceeding and will issue a decision incorporating its finding and a brief statement of the reasons therefor.

### § 1.427 Effective date of rules.

(a) Any rule issued by the Commission will be made effective not less than 30 days from the time it is published in the FEDERAL REGISTER except as otherwise specified in paragraphs (b) and (c) of this section. If the report and order adopting the rule does not specify the date on which the rule becomes effective, the effective date shall be 30 days after the date on which the rule is published in the FEDERAL REGISTER, unless a later date is required by statute or is otherwise specified by the Commission.

(b) For good cause found and published with the rule, any rule issued by the Commission may be made effective within less than 30 days from the time it is published in the FEDERAL REGISTER. Rules involving any military, naval or foreign affairs function of the United States; matters relating to agency management or personnel, public property, loans, grants, benefits or contracts; rules granting or recognizing exemption or relieving restriction; rules of organization, procedure or practice; or interpretative rules; and statements of policy may be made effective without regard to the 30-day requirement.

(c) In cases of alterations by the Commission in the required manner or form of keeping accounts by carriers, notice will be served upon affected carriers not less than 6 months prior to the effective date of such alterations.

[28 FR 12432, Nov. 22, 1963, as amended at 76 FR 24392, May 2, 2011]

**§ 1.429 Petition for reconsideration of final orders in rulemaking proceedings.**

(a) Any interested person may petition for reconsideration of a final action in a proceeding conducted under this subpart (see §§ 1.407 and 1.425). Where the action was taken by the Commission, the petition will be acted on by the Commission. Where action was taken by a staff official under delegated authority, the petition may be acted on by the staff official or referred to the Commission for action.

NOTE: The staff has been authorized to act on rulemaking proceedings described in § 1.420 and is authorized to make editorial changes in the rules (see § 0.231(d)).

(b) A petition for reconsideration which relies on facts or arguments which have not previously been presented to the Commission will be granted only under the following circumstances:

(1) The facts or arguments relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission;

(2) The facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity; or

(3) The Commission determines that consideration of the facts or arguments relied on is required in the public interest.

(c) The petition for reconsideration shall state with particularity the respects in which petitioner believes the action taken should be changed.

(d) The petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of public notice of such action, as that date is defined in § 1.4(b). No supplement to a petition for reconsideration filed after expiration of the 30 day period will be considered, except upon leave granted pursuant to a separate pleading stating the grounds for acceptance of the supplement. The petition for reconsideration shall not exceed 25 double-spaced typewritten pages. See also § 1.49(f).

(e) Except as provided in § 1.420(f), petitions for reconsideration need not be served on parties to the proceeding. (However, where the number of parties is relatively small, the Commission encourages the service of petitions for reconsideration and other pleadings, and agreements among parties to exchange copies of pleadings. See also § 1.47(d) regarding electronic service of documents.) When a petition for reconsideration is timely filed in proper form, public notice of its filing is published in the FEDERAL REGISTER. The time for filing oppositions to the petition runs from the date of public notice. See § 1.4(b).

(f) Oppositions to a petition for reconsideration shall be filed within 15 days after the date of public notice of the petition's filing and need be served only on the person who filed the petition. See also § 1.49(d). Oppositions shall not exceed 25 double-spaced typewritten pages. See § 1.49(f).

(g) Replies to an opposition shall be filed within 10 days after the time for filing oppositions has expired and need be served only on the person who filed the opposition. Replies shall not exceed 10 double-spaced typewritten pages. See also §§ 1.49(d) and 1.49(f).

(h) Petitions for reconsideration, oppositions and replies shall conform to the requirements of §§ 1.49 and 1.52, except that they need not be verified. Except as provided in § 1.420(e), an original and 11 copies shall be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554, by mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System. Petitions submitted only by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

(i) The Commission may grant the petition for reconsideration in whole or in part or may deny or dismiss the petition. Its order will contain a concise statement of the reasons for the action taken. Any order addressing a petition for reconsideration which modifies

rules adopted by the original order is, to the extent of such modification, subject to reconsideration in the same manner as the original order. Except in such circumstance, a second petition for reconsideration may be dismissed by the staff as repetitious. In no event shall a ruling which denies a petition for reconsideration be considered a modification of the original order.

(j) The filing of a petition for reconsideration is not a condition precedent to judicial review of any action taken by the Commission, except where the person seeking such review was not a party to the proceeding resulting in the action or relies on questions of fact or law upon which the Commission has been afforded no opportunity to pass. Subject to the provisions of paragraph (b) of this section, such a person may qualify to seek judicial review by filing a petition for reconsideration.

(k) Without special order of the Commission, the filing of a petition for reconsideration shall not excuse any person from complying with any rule or operate in any manner to stay or postpone its enforcement. However, upon good cause shown, the Commission will stay the effective date of a rule pending a decision on a petition for reconsideration. See, however, § 1.420(f).

(l) Petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the relevant bureau(s) or office(s). Examples include, but are not limited to, petitions that:

(1) Fail to identify any material error, omission, or reason warranting reconsideration;

(2) Rely on facts or arguments which have not previously been presented to the Commission and which do not meet the requirements of paragraphs (b)(1) through (3) of this section;

(3) Rely on arguments that have been fully considered and rejected by the Commission within the same proceeding;

(4) Fail to state with particularity the respects in which petitioner believes the action taken should be changed as required by paragraph (c) of this section;

(5) Relate to matters outside the scope of the order for which reconsideration is sought;

(6) Omit information required by these rules to be included with a petition for reconsideration;

(7) Fail to comply with the procedural requirements set forth in paragraphs (d), (e), and (h) of this section;

(8) Relate to an order for which reconsideration has been previously denied on similar grounds, except for petitions which could be granted under paragraph (b) of this section; or

(9) Are untimely.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[41 FR 1287, Jan. 7, 1976, as amended at 44 FR 5436, Jan. 26, 1979; 46 FR 18556, Mar. 25, 1981; 52 FR 49161, Dec. 30, 1987; 63 FR 24126, May 1, 1998; 76 FR 24392, May 2, 2011]

INQUIRIES

### § 1.430 Proceedings on a notice of inquiry.

The provisions of this subpart also govern proceedings commenced by issuing a ''Notice of Inquiry,'' except that such proceedings do not result in the adoption of rules, and Notices of Inquiry are not required to be published in the FEDERAL REGISTER.

[51 FR 7445, Mar. 4, 1986]

## Subpart D—[Reserved]

## Subpart E—Complaints, Applications, Tariffs, and Reports Involving Common Carriers

SOURCE: 28 FR 12450, Nov. 22, 1963, unless otherwise noted.

GENERAL

### § 1.701 Show cause orders.

(a) The Commission may commence any proceeding within its jurisdiction against any common carrier by serving upon the carrier an order to show cause. The order shall contain a statement of the particulars and matters concerning which the Commission is inquiring and the reasons for such action, and will call upon the carrier to appear before the Commission at a place and time therein stated and give

evidence upon the matters specified in the order.

(b) Any carrier upon whom an order has been served under this section shall file its answer within the time specified in the order. Such answer shall specifically and completely respond to all allegations and matters contained in the show cause order.

(c) All papers filed by a carrier in a proceeding under this section shall conform with the specifications of §§ 1.49 and 1.50 and the subscription and verification requirements of § 1.52.

[28 FR 12450, Nov. 22, 1963, as amended at 36 FR 7423, Apr. 20, 1971]

### § 1.703 Appearances.

(a) *Hearings.* Except as otherwise required by § 1.221 regarding application proceedings, by § 1.91 regarding proceedings instituted under section 312 of the Communications Act of 1934, as amended, or by Commission order in any proceeding, no written statement indicating intent to appear need be filed in advance of actual appearance at any hearing by any person or his attorney.

(b) *Oral arguments.* Within 5 days after release of an order designating an initial decision for oral argument or within such other time as may be specified in the order, any party who wishes to participate in the oral argument shall file a written statement indicating that he will appear and participate. Within such time as may be specified in an order designating any other matter for oral argument, any person wishing to participate in the oral argument shall file a written statement to that effect setting forth the reasons for his interest in the matter. The Commission will advise him whether he may participate. (See § 1.277 for penalties for failure to file appearance statements in proceedings involving oral arguments on initial decisions.)

(c) *Commission counsel.* The requirement of paragraph (b) of this section shall not apply to counsel representing the Commission or the Chief of the Enforcement Bureau.

[28 FR 12450, Nov. 22, 1963, as amended at 67 FR 13223, Mar. 21, 2002]

COMPLAINTS

### § 1.711 Formal or informal complaints.

Complaints filed against carriers under section 208 of the Communications Act may be either formal or informal.

INFORMAL COMPLAINTS

### § 1.716 Form.

An informal complaint shall be in writing and should contain: (a) The name, address and telephone number of the complaint, (b) the name of the carrier against which the complaint is made, (c) a complete statement of the facts tending to show that such carrier did or omitted to do anything in contravention of the Communications Act, and (d) the specific relief of satisfaction sought.

[51 FR 16039, Apr. 30, 1986]

### § 1.717 Procedure.

The Commission will forward informal complaints to the appropriate carrier for investigation. The carrier will, within such time as may be prescribed, advise the Commission in writing, with a copy to the complainant, of its satisfaction of the complaint or of its refusal or inability to do so. Where there are clear indications from the carrier's report or from other communications with the parties that the complaint has been satisfied, the Commission may, in its discretion, consider a complaint proceeding to be closed, without response to the complainant. In all other cases, the Commission will contact the complainant regarding its review and disposition of the matters raised. If the complainant is not satisfied by the carrier's response and the Commission's disposition, it may file a formal complaint in accordance with § 1.721 of this part.

[51 FR 16039, Apr. 30, 1986]

### § 1.718 Unsatisfied informal complaints; formal complaints relating back to the filing dates of informal complaints.

When an informal complaint has not been satisfied pursuant to § 1.717, the complainant may file a formal complaint with this Commission in the

form specified in § 1.721. Such filing will be deemed to relate back to the filing date of the informal complaint: *Provided*, That the formal complaint: (a) Is filed within 6 months from the date of the carrier's report, (b) makes reference to the date of the informal complaint, and (c) is based on the same cause of action as the informal complaint. If no formal complaint is filed within the 6-month period, the complainant will be deemed to have abandoned the unsatisfied informal complaint.

[51 FR 16040, Apr. 30, 1986]

### § 1.719 Informal complaints filed pursuant to section 258.

(a) Notwithstanding the requirements of §§ 1.716 through 1.718, the following procedures shall apply to complaints alleging that a carrier has violated section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, by making an unauthorized change of a subscriber's preferred carrier, as defined by § 64.1100(e) of this chapter.

(b) *Form.* The complaint shall be in writing, and should contain: The complainant's name, address, telephone number and e-mail address (if the complainant has one); the name of both the allegedly unauthorized carrier, as defined by § 64.1100(d) of this chapter, and authorized carrier, as defined by § 64.1100(c) of this chapter; a complete statement of the facts (including any documentation) tending to show that such carrier engaged in an unauthorized change of the subscriber's preferred carrier; a statement of whether the complainant has paid any disputed charges to the allegedly unauthorized carrier; and the specific relief sought.

(c) *Procedure.* The Commission will resolve slamming complaints under the definitions and procedures established in §§ 64.1100 through 64.1190 of this chapter. The Commission will issue a written (or electronic) order informing the complainant, the unauthorized carrier, and the authorized carrier of its finding, and ordering the appropriate remedy, if any, as defined by §§ 64.1160 through 64.1170 of this chapter.

(d) Unsatisfied Informal Complaints Involving Unauthorized Changes of a Subscriber's Preferred Carrier; Formal Complaints Relating Back to the Filing Dates of Informal Complaints. If the complainant is unsatisfied with the resolution of a complaint under this section, the complainant may file a formal complaint with the Commission in the form specified in § 1.721. Such filing will be deemed to relate back to the filing date of the informal complaint filed under this section, so long as the informal complaint complied with the requirements of paragraph (b) of this section and provided that: The formal complaint is filed within 45 days from the date an order resolving the informal complaint filed under this section is mailed or delivered electronically to the complainant; makes reference to both the informal complaint number assigned to and the initial date of filing the informal complaint filed under this section; and is based on the same cause of action as the informal complaint filed under this section. If no formal complaint is filed within the 45–day period, the complainant will be deemed to have abandoned its right to bring a formal complaint regarding the cause of action at issue.

[65 FR 47690, Aug. 3, 2000]

## FORMAL COMPLAINTS

### § 1.720 General pleading requirements.

Formal complaint proceedings are generally resolved on a written record consisting of a complaint, answer, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated affidavits, exhibits and other attachments. Commission proceedings may also require or permit other written submissions such as briefs, written interrogatories, and other supplementary documents or pleadings. Those formal complaint proceedings handled on the Enforcement Bureau's Accelerated Docket are subject to pleading and procedural rules that differ in some respects from the general rules for formal complaint proceedings.

(a) Pleadings must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy, including damages, should be pleaded fully and with specificity.

(b) Pleadings must contain facts which, if true, are sufficient to constitute a violation of the Act or Commission order or regulation, or a defense to such alleged violation.

(c) Facts must be supported by relevant documentation or affidavit.

(d) Legal arguments must be supported by appropriate judicial, Commission, or statutory authority.

(e) Opposing authorities must be distinguished.

(f) Copies must be provided of all non-Commission authorities relied upon which are not routinely available in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies.

(g) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner at any time before a decision is rendered on the merits of the complaint.

(h) Specific reference shall be made to any tariff provision relied on in support of a claim or defense. Copies of relevant tariffs or relevant portions of tariffs that are referred to or relied upon in a complaint, answer, or other pleading shall be appended to such complaint, answer, or other pleading.

(i) All statements purporting to summarize or explain Commission orders or policies must cite, in standard legal form, the Commission ruling upon which such statements are based.

(j) Pleadings shall identify the name, address, telephone number, and facsimile transmission number for either the filing party's attorney or, where a party is not represented by an attorney, the filing party.

[53 FR 11852, Apr. 11, 1988, as amended at 58 FR 25572, Apr. 27, 1993; 63 FR 1035, Jan. 7, 1998; 63 FR 41446, Aug. 4, 1998; 64 FR 60725, Nov. 8, 1999]

### § 1.721 Format and content of complaints.

(a) Subject to paragraph (e) of this section governing supplemental complaints filed pursuant to § 1.722, and paragraph (f) of this section governing Accelerated Docket proceedings, a formal complaint shall contain:

(1) The name of each complainant and defendant;

(2) The occupation, address and telephone number of each complainant and, to the extent known, each defendant;

(3) The name, address, and telephone number of complainant's attorney, if represented by counsel;

(4) Citation to the section of the Communications Act and/or order and/or regulation of the Commission alleged to have been violated.

(5) A complete statement of facts which, if proven true, would constitute such a violation. All material facts must be supported, pursuant to the requirements of § 1.720(c) and paragraph (a)(11) of this section, by relevant affidavits and documentation, including copies of relevant written agreements, offers, counter-offers, denials, or other related correspondence. The statement of facts shall include a detailed explanation of the manner and time period in which a defendant has allegedly violated the Act, Commission order, or Commission rule in question, including a full identification or description of the communications, transmissions, services, or other carrier conduct complained of and the nature of any injury allegedly sustained by the complainant. Assertions based on information and belief are expressly prohibited unless made in good faith and accompanied by an affidavit explaining the basis for the plaintiff's belief and why the complainant could not reasonably ascertain the facts from the defendant or any other source;

(6) Proposed findings of fact, conclusions of law, and legal analysis relevant to the claims and arguments set forth in the complaint;

(7) The relief sought, including recovery of damages and the amount of damages claimed, if known;

(8) Certification that the complainant has, in good faith, discussed or attempted to discuss the possibility of settlement with each defendant prior to the filing of the formal complaint. Such certification shall include a statement that, prior to the filing of the complaint, the complainant mailed

a certified letter outlining the allegations that form the basis of the complaint it anticipated filing with the Commission to the defendant carrier or one of the defendant's registered agents for service of process that invited a response within a reasonable period of time and a brief summary of all additional steps taken to resolve the dispute prior to the filing of the formal complaint. If no additional steps were taken, such certificate shall state the reason(s) why the complainant believed such steps would be fruitless;

(9) Whether a separate action has been filed with the Commission, any court, or other government agency that is based on the same claim or same set of facts, in whole or in part, or whether the complaint seeks prospective relief identical to the relief proposed or at issue in a notice-and-comment proceeding that is concurrently before the Commission;

(10) An information designation containing:

(i) The name, address, and position of each individual believed to have first-hand knowledge of the facts alleged with particularity in the complaint, along with a description of the facts within any such individual's knowledge;

(ii) A description of all documents, data compilations and tangible things in the complainant's possession, custody, or control, that are relevant to the facts alleged with particularity in the complaint. Such description shall include for each document:

(A) The date it was prepared, mailed, transmitted, or otherwise disseminated;

(B) The author, preparer, or other source;

(C) The recipient(s) or intended recipient(s);

(D) Its physical location; and

(E) A description of its relevance to the matters contained in the complaint; and

(iii) A complete description of the manner in which the complainant identified all persons with information and designated all documents, data compilations and tangible things as being relevant to the dispute, including, but not limited to, identifying the individual(s) that conducted the information search and the criteria used to identify such persons, documents, data compilations, tangible things, and information;

(11) Copies of all affidavits, documents, data compilations and tangible things in the complainant's possession, custody, or control, upon which the complainant relies or intends to rely to support the facts alleged and legal arguments made in the complaint;

(12) A completed Formal Complaint Intake Form;

(13) A declaration, under penalty of perjury, by the complainant or complainant's counsel describing the amount, method, and date of the complainant's payment of the filing fee required under §1.1106 and the complainant's 10-digit FCC Registration Number, if any;

(14) A certificate of service; and

(15) A FCC Registration Number is required under Part 1, Subpart W. Submission of a complaint without the FCC Registration Number as required by Part 1, subpart W will result in dismissal of the complaint.

(b) The following format may be used in cases to which it is applicable, with such modifications as the circumstances may render necessary:

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, DC 20554

In the matter of

_____

Complainant,

v.

_____

Defendant.

File No. (To be inserted by the Enforcement Bureau)

*Complaint*

To: The Commission.

The complainant (here insert full name of each complainant and, if a corporation, the corporate title of such complainant) shows that:

1. (Here state occupation, post office address, and telephone number of each complainant).

2. (Here insert the name, occupation and, to the extent known, address and telephone number of defendants).

3. (Here insert fully and clearly the specific act or thing complained of, together with

such facts as are necessary to give a full understanding of the matter, including relevant legal and documentary support).

Wherefore, complainant asks (here state specifically the relief desired).

(Date)

(Name of each complainant)

(Name, address, and telephone number of attorney, if any)

(c) Where the complaint is filed pursuant to §47 U.S.C. §271(d)(6)(B), the complainant shall clearly indicate whether or not it is willing to waive the ninety-day resolution deadline contained within 47 U.S.C. 271(d)(6)(B), in accordance with the requirements of §1.736.

(d) The complainant may petition the staff, pursuant to §1.3, for a waiver of any of the requirements of this section. Such waiver may be granted for good cause shown.

(e) *Supplemental complaints.* (1) Supplemental complaints filed pursuant to §1.722 shall conform to the requirements set out in this section and §1.720, except that the requirements in §§1.720(b), 1.721(a)(4), (a) (5), (a)(8), (9), (a)(12), and (a)(13) shall not apply to such supplemental complaints;

(2) In addition, supplemental complaints filed pursuant to §1.722 shall contain a complete statement of facts which, if proven true, would support complainant's calculation of damages for each category of damages for which recovery is sought. All material facts must be supported, pursuant to the requirements of §1.720(c) and paragraph (a)(11) of this section, by relevant affidavits and other documentation. The statement of facts shall include a detailed explanation of the matters relied upon, including a full identification or description of the communications, transmissions, services, or other matters relevant to the calculation of damages and the nature of any injury allegedly sustained by the complainant. Assertions based on information and belief are expressly prohibited unless made in good faith and accompanied by an affidavit explaining the basis for the complainant's belief and why the complainant could not reasonably ascertain the facts from the defendant or any other source;

(3) Supplemental complaints filed pursuant to §1.722 shall contain a certification that the complainant has, in good faith, discussed or attempted to discuss the possibility of settlement with respect to damages for which recovery is sought with each defendant prior to the filing of the supplemental complaint. Such certification shall include a statement that, no later than 30 days after the release of the liability order, the complainant mailed a certified letter to the primary individual who represented the defendant carrier during the initial complaint proceeding outlining the allegations that form the basis of the supplemental complaint it anticipates filing with the Commission and inviting a response from the carrier within a reasonable period of time. The certification shall also contain a brief summary of all additional steps taken to resolve the dispute prior to the filing of the supplemental complaint. If no additional steps were taken, such certification shall state the reason(s) why the complainant believed such steps would be fruitless.

(f) *Complaints on the Accelerated Docket.* For the purpose of this paragraph (e), the term document also shall include data compilations and tangible things.

(1) Formal complaints that have been accepted onto the Accelerated Docket shall conform to the requirements set out in this section with the following listed exceptions:

(i) The requirement in §1.720(c) and paragraphs (a)(5) and (a)(11) of this section that factual assertions be supported by affidavit shall not apply to complaints on the Accelerated Docket. Nevertheless, allegations of material fact, whether based on personal knowledge or information and belief, that cannot be supported by documentation remain subject to the provisions of §1.52.

(ii) Complaints on the Accelerated Docket are not required to include proposed findings of fact, conclusions of law, and legal analysis relevant to the claims and arguments set forth in the complaint, as required in paragraph (a)(6) of this section. Nevertheless, complaints on the Accelerated Docket

shall fully set out the facts and legal theories on which the complainant premises its claims.

(iii) In light of the requirement for staff-supervised settlement negotiations in §1.730(b), complaints on the Accelerated Docket are not required to include a certification that the complainant has discussed or attempted to discuss the possibility of settlement with each defendant, as required in paragraph (a)(8) of this section.

(iv) In light of the automatic document production required in §1.729(i)(1), complaints on the Accelerated Docket are not required to include a description of all relevant documents in the complainant's possession, custody or control, as required in paragraph (a)(10)(ii) of this section.

(v) Complaints on the Accelerated Docket are not required to provide the description, required in paragraph (a)(10)(iii) of this section, of the manner in which the complainant identified persons with knowledge of, and documents relevant to, the dispute.

(2) Formal complaints that have been accepted onto the Accelerated Docket will comply with the following requirements in addition to those requirements generally applicable in formal complaint proceedings:

(i) As required in §1.729(i)(1), complaints on the Accelerated Docket shall be accompanied, when served on defendants, by copies of documents, within the complainant's possession, custody or control, that are likely to bear significantly on the issues raised in the complaint. Unless otherwise directed, these documents shall not be filed with the Commission.

(ii) Complaints on the Accelerated Docket will bear the following notation in bold typeface above the normal caption on the first page: ''Accelerated Docket Proceeding: Answer Due Within Ten Days of Service Date.''

[53 FR 11853, Apr. 11, 1988, as amended at 63 FR 1035, Jan. 7, 1998; 63 FR 41446, Aug. 4, 1998; 64 FR 60725, Nov. 8, 1999; 66 FR 16616, Mar. 27, 2001; 66 FR 47895, Sept. 14, 2001; 69 FR 41130, July 7, 2004]

### §1.722 Damages.

(a) If a complainant wishes to recover damages, the complaint must contain a clear and unequivocal request for damages.

(b) If a complainant wishes a determination of damages to be made in the same proceeding as the determinations of liability and prospective relief, the complaint must contain the allegations and information required by paragraph (h) of this section.

(c) Notwithstanding paragraph (b) of this section, in any proceeding to which no statutory deadline applies, if the Commission decides that a determination of damages would best be made in a proceeding that is separate from and subsequent to the proceeding in which the determinations of liability and prospective relief are made, the Commission may at any time order that the initial proceeding will determine only liability and prospective relief, and that a separate, subsequent proceeding initiated in accordance with paragraph (e) of this section will determine damages.

(d) If a complainant wishes a determination of damages to be made in a proceeding that is separate from and subsequent to the proceeding in which the determinations of liability and prospective relief are made, the complainant must:

(1) Comply with paragraph (a) of this section, and

(2) State clearly and unequivocally that the complainant wishes a determination of damages to be made in a proceeding that is separate from and subsequent to the proceeding in which the determinations of liability and prospective relief will be made.

(e) If a complainant proceeds pursuant to paragraph (d) of this section, or if the Commission invokes its authority under paragraph (c) of this section, the complainant may initiate a separate proceeding to obtain a determination of damages by filing a supplemental complaint that complies with §1.721(e) and paragraph (h) of this section within sixty days after public notice (as defined in §1.4(b) of this chapter) of a decision that contains a finding of liability on the merits of the original complaint.

(f) If a complainant files a supplemental complaint for damages in accordance with paragraph (e) of this section, the supplemental complaint shall

be deemed, for statutory limitations purposes, to relate back to the date of the original complaint.

(g) Where a complainant chooses to seek the recovery of damages upon a supplemental complaint in accordance with the requirements of paragraph (e) of this section, the Commission will resolve the separate, preceding liability complaint within any applicable complaint resolution deadlines contained in the Act.

(h) In all cases in which recovery of damages is sought, it shall be the responsibility of the complainant to include, within either the complaint or supplemental complaint for damages filed in accordance with paragraph (e) of this section, either:

(1) A computation of each and every category of damages for which recovery is sought, along with an identification of all relevant documents and materials or such other evidence to be used by the complainant to determine the amount of such damages; or

(2) An explanation of:

(i) The information not in the possession of the complaining party that is necessary to develop a detailed computation of damages;

(ii) Why such information is unavailable to the complaining party;

(iii) The factual basis the complainant has for believing that such evidence of; damages exists;

(iv) A detailed outline of the methodology that would be used to create a computation of damages with such evidence.

(i) Where a complainant files a supplemental complaint for damages in accordance with paragraph (e) of this section, the following procedures may apply:

(1) Issues concerning the amount, if any, of damages may be either designated by the Enforcement Bureau for hearing before, or, if the parties agree, submitted for mediation to, a Commission Administrative Law Judge. Such Administrative Law Judge shall be chosen in the following manner:

(i) By agreement of the parties and the Chief Administrative Law Judge; or

(ii) In the absence of such agreement, the Chief Administrative Law Judge shall designate the Administrative Law Judge.

(2) The Commission may, in its discretion, order the defendant either to post a bond for, or deposit into an interest bearing escrow account, a sum equal to the amount of damages which the Commission finds, upon preliminary investigation, is likely to be ordered after the issue of damages is fully litigated, or some lesser sum which may be appropriate, provided the Commission finds that the grant of this relief is favored on balance upon consideration of the following factors:

(i) The complainant's potential irreparable injury in the absence of such deposit;

(ii) The extent to which damages can be accurately calculated;

(iii) The balance of the hardships between the complainant and the defendant; and

(iv) Whether public interest considerations favor the posting of the bond or ordering of the deposit.

(3) The Commission may, in its discretion, suspend ongoing damages proceedings for fourteen days, to provide the parties with a time within which to pursue settlement negotiations and/or alternative dispute resolution procedures.

(4) The Commission may, in its discretion, end adjudication of damages with a determination of the sufficiency of a damages computation method or formula. No such method or formula shall contain a provision to offset any claim of the defendant against the complainant. The parties shall negotiate in good faith to reach an agreement on the exact amount of damages pursuant to the Commission-mandated method or formula. Within thirty days of the release date of the damages order, parties shall submit jointly to the Commission either:

(i) A statement detailing the parties' agreement as to the amount of damages;

(ii) A statement that the parties are continuing to negotiate in good faith and a request that the parties be given an extension of time to continue negotiations; or

(iii) A statement detailing the bases for the continuing dispute and the reasons why no agreement can be reached.

(j) Except where otherwise indicated, the rules governing initial formal complaint proceedings govern supplemental formal complaint proceedings, as well.

[66 FR 16616, Mar. 27, 2001]

### § 1.723 Joinder of complainants and causes of action.

(a) Two or more complainants may join in one complaint if their respective causes of action are against the same defendant and concern substantially the same facts and alleged violation of the Communications Act.

(b) Two or more grounds of complaint involving the same principle, subject, or statement of facts may be included in one complaint, but should be separately stated and numbered.

[53 FR 11853, Apr. 11, 1988]

### § 1.724 Answers.

(a) Subject to paragraph (k) of this section governing Accelerated Docket proceedings, any carrier upon which a copy of a formal complaint is served shall answer such complaint in the manner prescribed under this section within twenty days of service of the formal complaint by the complainant, unless otherwise directed by the Commission.

(b) The answer shall advise the complainant and the Commission fully and completely of the nature of any defense, and shall respond specifically to all material allegations of the complaint. Every effort shall be made to narrow the issues in the answer. The defendant shall state concisely its defense to each claim asserted, admit or deny the averments on which the complainant relies, and state in detail the basis for admitting or denying such averment. General denials are prohibited. Denials based on information and belief are expressly prohibited unless made in good faith and accompanied by an affidavit explaining the basis for the defendant's belief and why the defendant could not reasonably ascertain the facts from the complainant or any other source. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the defendant shall specify so much of it as is true and shall deny only the remainder. The defendant may deny the allegations of the complaint as specific denials of either designated averments or paragraphs.

(c) The answer shall contain proposed findings of fact, conclusions of law, and legal analysis relevant to the claims and arguments set forth in the answer.

(d) Averments in a complaint or supplemental complaint filed pursuant to § 1.722 are deemed to be admitted when not denied in the answer.

(e) Affirmative defenses to allegations contained in the complaint shall be specifically captioned as such and presented separately from any denials made in accordance with paragraph (c) of this section.

(f) The answer shall include an information designation containing:

(1) The name, address, and position of each individual believed to have first-hand knowledge of the facts alleged with particularity in the answer, along with a description of the facts within any such individual's knowledge;

(2) A description of all documents, data compilations and tangible things in the defendant's possession, custody, or control, that are relevant to the facts alleged with particularity in the answer. Such description shall include for each document:

(i) The date it was prepared, mailed, transmitted, or otherwise disseminated;

(ii) The author, preparer, or other source;

(iii) The recipient(s) or intended recipient(s);

(iv) Its physical location; and

(v) A description of its relevance to the matters in dispute.

(3) A complete description of the manner in which the defendant identified all persons with information and designated all documents, data compilations and tangible things as being relevant to the dispute, including, but not limited to, identifying the individual(s) that conducted the information search and the criteria used to identify such persons, documents, data compilations, tangible things, and information;

(g) The answer shall attach copies of all affidavits, documents, data compilations and tangible things in the defendant's possession, custody, or control, upon which the defendant relies or intends to rely to support the facts alleged and legal arguments made in the answer.

(h) The answer shall contain certification that the defendant has, in good faith, discussed or attempted to discuss, the possibility of settlement with the complainant prior to the filing of the formal complaint. Such certification shall include a brief summary of all steps taken to resolve the dispute prior to the filing of the formal complaint. If no such steps were taken, such certificate shall state the reason(s) why the defendant believed such steps would be fruitless;

(i) Where the complaint is filed pursuant to 47 U.S.C. 271(d)(6)(B), the defendant shall clearly indicate its willingness to waive the 90-day resolution deadline contained within 47 U.S.C. 271(d)(6)(B), in accordance with the requirements of § 1.736.

(j) The defendant may petition the staff, pursuant to § 1.3, for a waiver of any of the requirements of this section. Such waiver may be granted for good cause shown.

(k) Accelerated Docket Proceedings. For the purpose of this paragraph (k), the term document also shall include data compilations and tangible things.

(1) Any party named as a defendant in an Accelerated Docket formal complaint shall answer such complaint in the manner prescribed under this section within ten days of service of the complaint by the complainant, unless otherwise directed by the Commission. Except as set forth in this paragraph (k), answers in Accelerated Docket proceedings shall comply with the requirements of this section.

(2) The requirement in § 1.720(c) and paragraph (g) of this section that factual assertions be supported by affidavit shall not apply to answers in Accelerated Docket proceedings. Nevertheless, allegations of material fact, whether based on personal knowledge or information and belief, that cannot be supported by documentation remain subject to the provisions of § 1.52.

(3) Answers on the Accelerated Docket are not required to include proposed findings of fact, conclusions of law, and legal analysis relevant to the defenses and arguments set forth in the answer, as required in paragraph (c) of this section. Nevertheless, answers on the Accelerated Docket shall fully set out the facts and legal theories on which the defendant premises its defenses.

(4) In light of the requirement for staff-supervised settlement negotiations required in § 1.730(b), answers on the Accelerated Docket are not required to include a certification that the defendant has discussed, or attempted to discuss, the possibility of settlement with the complainant, as required in paragraph (h) of this section.

(5) As required in § 1.729(i)(1), answers on the Accelerated Docket shall be accompanied, when served on complainants, by copies of documents, within the defendant's possession, custody or control, that are likely to bear significantly on the issues raised in the proceeding. Unless otherwise directed, these documents shall not be filed with the Commission. In light of this automatic document production requirement, answers on the Accelerated Docket are not required to include a description of all relevant documents in the defendant's possession, custody or control, as required in paragraph (f)(2) of this section.

(6) Answers on the Accelerated Docket are not required to provide the description, required in paragraph (f)(3) of this section, of the manner in which the defendant identified persons with knowledge of, and documents relevant to, the dispute.

(7) In Accelerated Docket proceedings, the defendant, as required in § 1.729(i)(1), shall serve, contemporaneously with its answer, the complainant(s) with copies of documents, within the defendant's possession, custody or control, that are likely to bear significantly on the issues raised in the complaint and/or the answer.

[53 FR 11853, Apr. 11, 1988, as amended at 58 FR 25572, Apr. 27, 1993; 63 FR 1037, Jan. 7, 1998; 63 FR 41446, Aug. 4, 1998; 66 FR 16617, Mar. 27, 2001]

**§ 1.725 Cross-complaints and counterclaims.**

Cross-complaints seeking any relief within the jurisdiction of the Commission against any carrier that is a party (complainant or defendant) to that proceeding are expressly prohibited. Any claim that might otherwise meet the requirements of a cross-complaint may be filed as a separate complaint in accordance with §§ 1.720 through 1.736. For purposes of this subpart, the term ''cross-complaint'' shall include counterclaims.

[63 FR 1037, Jan. 7, 1998]

**§ 1.726 Replies.**

(a) Subject to paragraph (g) of this section governing Accelerated Docket proceedings, within three days after service of an answer containing affirmative defenses presented in accordance with the requirements of § 1.724(e), a complainant may file and serve a reply containing statements of relevant, material facts and legal arguments that shall be responsive to only those specific factual allegations and legal arguments made by the defendant in support of its affirmative defenses. Replies which contain other allegations or arguments will not be accepted or considered by the Commission.

(b) Failure to reply to an affirmative defense shall be deemed an admission of such affirmative defense and of any facts supporting such affirmative defense that are not specifically contradicted in the complaint.

(c) The reply shall contain proposed findings of fact, conclusions of law, and legal analysis relevant to the claims and arguments set forth in the reply.

(d) The reply shall include an information designation containing:

(1) The name, address and position of each individual believed to have first-hand knowledge about the facts alleged with particularity in the reply, along with a description of the facts within any such individual's knowledge.

(2) A description of all documents, data compilations and tangible things in the complainant's possession, custody, or control that are relevant to the facts alleged with particularity in the reply. Such description shall include for each document:

(i) The date prepared, mailed, transmitted, or otherwise disseminated;

(ii) The author, preparer, or other source;

(iii) The recipient(s) or intended recipient(s);

(iv) Its physical location; and

(v) A description of its relevance to the matters in dispute.

(3) A complete description of the manner in which the complainant identified all persons with information and designated all documents, data compilations and tangible things as being relevant to the dispute, including, but not limited to, identifying the individual(s) that conducted the information search and the criteria used to identify such persons, documents, data compilations, tangible things, and information;

(e) The reply shall attach copies of all affidavits, documents, data compilations and tangible things in the complainant's possession, custody, or control upon which the complainant relies or intends to rely to support the facts alleged and legal arguments made in the reply.

(f) The complainant may petition the staff, pursuant to § 1.3, for a waiver of any of the requirements of this section. Such waiver may be granted for good cause shown.

(g) Accelerated Docket Proceedings. For the purpose of this paragraph (g), the term document also shall include data compilations and tangible things.

(1) The filing of a separate pleading to reply to affirmative defenses is not permitted in Accelerated Docket proceedings. Complainants in such proceedings may include, in the § 1.733(i)(4) pre-status-conference filing, those statements that otherwise would have been the subject of a reply.

(2) In Accelerated Docket proceedings, the failure to reply, in the pre-status-conference filing, to an affirmative defense shall be deemed an admission of such affirmative defense and of any facts supporting such affirmative defense that are not specifically contradicted in the complaint.

(3) If a complainant replies to an affirmative defense in its § 1.733(i)(4), pre-

status-conference filing, it shall include in that filing the information, required by paragraph (d)(1) of this section, identifying individuals with first-hand knowledge of the facts alleged in the reply.

(4) An Accelerated Docket complainant that replies to an affirmative defense in its §1.733(i)(4), pre-status-conference filing also shall serve on the defendant, at the same time as that filing, those documents in the complainant's possession, custody or control that were not previously produced to the defendant and that are likely to bear significantly on the issues raised in the reply. Such a complainant is not required to comply with the remainder of the requirements in paragraphs (d) and (e) of this section.

[63 FR 1037, Jan. 7, 1998, as amended at 63 FR 41447, Aug. 4, 1998; 66 FR 16617, Mar. 27, 2001]

### § 1.727 Motions.

(a) A request to the Commission for an order shall be by written motion, stating with particularity the grounds and authority therefor, and setting forth the relief or order sought.

(b) All dispositive motions shall contain proposed findings of fact and conclusions of law, with supporting legal analysis, relevant to the contents of the pleading. Motions to compel discovery must contain a certification by the moving party that a good faith attempt to resolve the dispute was made prior to filing the motion. All facts relied upon in motions must be supported by documentation or affidavits pursuant to the requirements of §1.720(c), except for those facts of which official notice may be taken.

(c) The moving party shall provide a proposed order for adoption, which appropriately incorporates the basis therefor, including proposed findings of fact and conclusions of law relevant to the pleading. The proposed order shall be clearly marked as a ''Proposed Order.'' The proposed order shall be submitted both as a hard copy and on computer disk in accordance with the requirements of §1.734(d). Where appropriate, the proposed order format should conform to that of a reported FCC order.

(d) Oppositions to any motion shall be accompanied by a proposed order for adoption, which appropriately incorporates the basis therefor, including proposed findings of fact and conclusions of law relevant to the pleading. The proposed order shall be clearly captioned as a ''Proposed Order.'' The proposed order shall be submitted both as a hard copy and on computer disk in accordance with the requirements of §1.734(d). Where appropriate, the proposed order format should conform to that of a reported FCC order.

(e) Oppositions to motions may be filed and served within five business days after the motion is filed and served and not after. Oppositions shall be limited to the specific issues and allegations contained in such motion; when a motion is incorporated in an answer to a complaint, the opposition to such motion shall not address any issues presented in the answer that are not also specifically raised in the motion. Failure to oppose any motion may constitute grounds for granting of the motion.

(f) No reply may be filed to an opposition to a motion.

(g) Motions seeking an order that the allegations in the complaint be made more definite and certain are prohibited.

(h) Amendments or supplements to complaints to add new claims or requests for relief are prohibited. Parties are responsible, however, for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding as required under §1.720(g).

[53 FR 11854, Apr. 11, 1988, as amended at 58 FR 25572, Apr. 27, 1993; 63 FR 1036, Jan. 7, 1998; 63 FR 41447, Aug. 4, 1998]

### § 1.728 Formal complaints not stating a cause of action; defective pleadings.

(a) Any document purporting to be a formal complaint which does not state a cause of action under the Communications Act will be dismissed. In such case, any amendment or supplement to such document will be considered a new filing which must be made within the statutory periods of limitations of actions contained in section 415 of the Communications Act.

(b) Any other pleading filed in a formal complaint proceeding not in conformity with the requirements of the applicable rules in this part may be deemed defective. In such case the Commission may strike the pleading or request that specified defects be corrected and that proper pleadings be filed with the Commission and served on all parties within a prescribed time as a condition to being made a part of the record in the proceeding.

[53 FR 11854, Apr. 11, 1988]

**§ 1.729 Discovery.**

(a) Subject to paragraph (i) of this section governing Accelerated Docket proceedings, a complainant may file with the Commission and serve on a defendant, concurrently with its complaint, a request for up to ten written interrogatories. A defendant may file with the Commission and serve on a complainant, during the period starting with the service of the complaint and ending with the service of its answer, a request for up to ten written interrogatories. A complainant may file with the Commission and serve on a defendant, within three calendar days of service of the defendant's answer, a request for up to five written interrogatories. Subparts of any interrogatory will be counted as separate interrogatories for purposes of compliance with this limit. Requests for interrogatories filed and served pursuant to this procedure may be used to seek discovery of any non-privileged matter that is relevant to the material facts in dispute in the pending proceeding, provided, however, that requests for interrogatories filed and served by a complainant after service of the defendant's answer shall be limited in scope to specific factual allegations made by the defendant in support of its affirmative defenses. This procedure may not be employed for the purpose of delay, harassment or obtaining information that is beyond the scope of permissible inquiry related to the material facts in dispute in the pending proceeding.

(b) Requests for interrogatories filed and served pursuant to paragraph (a) of this section shall contain a listing of the interrogatories requested and an explanation of why the information sought in each interrogatory is both necessary to the resolution of the dispute and not available from any other source.

(c) A responding party shall file with the Commission and serve on the propounding party any opposition and objections to the requests for interrogatories as follows:

(1) By the defendant, within ten calendar days of service of the requests for interrogatories served simultaneously with the complaint and within five calendar days of the requests for interrogatories served following service of the answer;

(2) By the complainant, within five calendar days of service of the requests for interrogatories; and

(3) In no event less than three calendar days prior to the initial status conference as provided for in § 1.733(a).

(d) Commission staff will consider the requests for interrogatories, properly filed and served pursuant to paragraph (a) of this section, along with any objections or oppositions thereto, properly filed and served pursuant to paragraph (b) of this section, at the initial status conference, as provided for in § 1.733(a)(5), and at that time determine the interrogatories, if any, to which parties shall respond, and set the schedule of such response.

(e) The interrogatories ordered to be answered pursuant to paragraph (d) of this section are to be answered separately and fully in writing under oath or affirmation by the party served, or if such party is a public or private corporation or partnership or association, by any officer or agent who shall furnish such information as is available to the party. The answers shall be signed by the person making them. The answers shall be filed with the Commission and served on the propounding party.

(f) A propounding party asserting that a responding party has provided an inadequate or insufficient response to Commission-ordered discovery request may file a motion to compel within ten days of the service of such response, or as otherwise directed by Commission staff, pursuant to the requirements of § 1.727.

(g) The Commission may, in its discretion, require parties to provide documents to the Commission in a

scanned or other electronic format that provides:

(1) Indexing by useful identifying information about the documents; and

(2) Technology that allows staff to annotate the index so as to make the format an efficient means of reviewing the documents.

(h) The Commission may allow additional discovery, including, but not limited to, document production, depositions and/or additional interrogatories. In its discretion, the Commission may modify the scope, means and scheduling of discovery in light of the needs of a particular case and the requirements of applicable statutory deadlines.

(i) *Discovery in Accelerated Docket proceedings.* (1) Each party to an Accelerated Docket proceeding shall serve, with its initial pleading and with any reply statements in the pre-status-conference filing (see § 1.726(g)(1)), copies of all documents in the possession, custody or control of the party that are likely to bear significantly on any claim or defense. For the purpose of this paragraph (i), document also shall include data compilations and tangible things. A document is likely to bear significantly on a claim or defense if it:

(i) Appears likely to have an influence on, or affect the outcome of, a claim or defense;

(ii) Reflects the relevant knowledge of persons who, if their potential testimony were known, might reasonably be expected to be deposed or called as a witness by any of the parties;

(iii) Is something that competent counsel would consider reasonably necessary to prepare, evaluate or try a claim or defense; or

(iv) Would not support the disclosing party's contentions.

(2) In their § 1.733(i)(4) pre-status-conference filings, parties to Accelerated Docket proceedings may request the production of additional documents. In their § 1.733(i)(4) filings, parties may also seek leave to conduct a reasonable number of depositions, including depositions of expert witnesses, if any. When requesting additional discovery, each party shall be prepared at the status conference to justify its requests by identifying the specific issue or issues on which it expects to obtain evidence from each request.

(3) Interrogatories shall not be routinely granted in Accelerated Docket proceedings. A party to an Accelerated Docket proceeding that prefers interrogatories to the other forms of available discovery, for reasons of convenience or expense, may seek leave in its § 1.733(i)(4) pre-status-conference filing to propound a limited number of interrogatories.

(4) Expert Witnesses.

(i) Any complainant in an Accelerated Docket proceeding that intends to rely on expert testimony for a purpose other than to rebut a defendant's expert evidence, shall identify its expert witnesses in the information designation required by § 1.721(a)(10)(i). In its § 1.721(a)(10)(i) information designation, such a complainant shall also provide its expert statement. For purposes of this paragraph (i)(4), an expert statement shall include a brief statement of the opinions to be expressed by the expert, the basis and reasons therefor and any data or other information that the witness considered in forming her opinions.

(ii) Any defendant in an Accelerated Docket proceeding that intends to rely on expert testimony shall identify its expert witnesses in the information designation required by § 1.724(f)(1). Such a defendant shall provide its expert statement with its § 1.733(i)(4), pre-status-conference filing.

(iii) Any complainant in an Accelerated Docket proceeding that intends to rely on previously undisclosed expert testimony to rebut any portion of the defendant's case shall identify the expert and provide the appropriate expert statement at the initial status conference.

(iv) Expert witnesses shall be subject to deposition in Accelerated Docket proceedings under the same rules and limitations applicable to fact witnesses.

[63 FR 1038, Jan. 7, 1998, as amended at 63 FR 41447, Aug. 4, 1998]

### § 1.730 The Enforcement Bureau's Accelerated Docket.

(a) Parties to formal complaint proceedings against common carriers

within the responsibility of the Enforcement Bureau (see §§0.111, 0.311, 0.314 of this chapter) may request inclusion on the Bureau's Accelerated Docket. As set out in §§1.720 through 1.736, proceedings on the Accelerated Docket are subject to shorter pleading deadlines and certain other procedural rules that do not apply to other formal complaint proceedings before the Enforcement Bureau.

(b) Any party that contemplates filing a formal complaint may submit a request to the Chief of the Enforcement Bureau's Market Disputes Resolution Division, either by phone or in writing, seeking inclusion of its complaint, once filed, on the Accelerated Docket. In appropriate cases, Commission staff shall schedule and supervise pre-filing settlement negotiations between the parties to the dispute. If the parties do not resolve their dispute and the matter is accepted for handling on the Accelerated Docket, the complainant shall file its complaint with a letter stating that it has gained admission to the Accelerated Docket. When it files its complaint, such a complainant shall also serve a copy of its complaint on the Commission staff that supervised the pre-filing settlement discussions.

(c) Within five days of receiving service of a complaint, any defendant in a formal complaint proceeding may submit by facsimile or hand delivery, to the Chief of the Enforcement Bureau's Market Disputes Resolution Division, a request seeking inclusion of its proceeding on the Accelerated Docket. Such a defendant contemporaneously shall transmit, in the same manner, a copy of its request to all parties to the proceeding. A defendant submitting such a request shall file and serve its answer in compliance with the requirements of §1.724(k), except that the defendant shall not be required to serve with its answer the automatic document production required by §§1.724(k)(7) and 1.729(i)(1). In proceedings accepted onto the Accelerated Docket at a defendant's request, the Commission staff will conduct supervised settlement discussions as appropriate. After accepting such a proceeding onto the Accelerated Docket, Commission staff will establish a schedule for the remainder of the proceeding, including the parties' §1.729(i)(1) automatic production of documents.

(d) During the thirty days following the effective date of these rules, any party to a pending formal complaint proceeding in which an answer has been filed or is past due may seek admission of the proceeding to the Accelerated Docket by submitting a request by facsimile or hand delivery to the Chief of the Enforcement Bureau's Market Disputes Resolution Division, with facsimile copies to all other parties to the proceeding by the same mode of transmission. If a pending proceeding is accepted onto the Accelerated Docket, Commission staff will conduct supervised settlement discussions if appropriate and establish a schedule for the remainder of the proceeding, including the parties' §1.729(i)(1) automatic production of documents if necessary.

(e) In determining whether to admit a proceeding onto the Accelerated Docket, Commission staff may consider factors from the following, nonexclusive list:

(1) Whether it appears that the parties to the dispute have exhausted the reasonable opportunities for settlement during the staff-supervised settlement discussions.

(2) Whether the expedited resolution of a particular dispute or category of disputes appears likely to advance competition in the telecommunications market.

(3) Whether the issues in the proceeding appear suited for decision under the constraints of the Accelerated Docket. This factor may entail, *inter alia*, examination of the number of distinct issues raised in a proceeding, the likely complexity of the necessary discovery, and whether the complainant bifurcates any damages claims for decision in a separate proceeding. See §1.722(b).

(4) Whether the complainant states a claim for violation of the Act, or Commission rule or order that falls within the Commission's jurisdiction.

(5) Whether it appears that inclusion of a proceeding on the Accelerated Docket would be unfair to one party

because of an overwhelming disparity in the parties' resources.

(6) Such other factors as the Commission staff, within its substantial discretion, may deem appropriate and conducive to the prompt and fair adjudication of complaint proceedings.

(f) If it appears at any time that a proceeding on the Accelerated Docket is no longer appropriate for such treatment, Commission staff may remove the matter from the Accelerated Docket either on its own motion or at the request of any party.

(g) Minitrials.

(1) In Accelerated Docket proceedings, the Commission may conduct a minitrial, or hearing-type proceeding, as an alternative to requiring that parties submit briefs in support of their cases. Minitrials typically will take place between 40 and 45 days after the filing of the complaint. A Commission Administrative Law Judge (''ALJ'') typically will preside at the minitrial, administer oaths to witnesses, and time the parties' presentation of their cases. In consultation with the Commission staff, the ALJ will rule on objections or procedural issues that may arise during the course of the minitrial.

(2) Before a minitrial, each party will receive a specific time allotment in which it may present evidence and make argument during the minitrial. The ALJ or other Commission staff presiding at the minitrial will deduct from each party's time allotment any time that the party spends presenting either evidence or argument during the proceeding. The presiding official shall have broad discretion in determining any time penalty or deduction for a party who appears to be intentionally delaying either the proceeding or the presentation of another party's case. Within the limits imposed by its time allotment, a party may present evidence and argument in whatever manner or format it chooses, provided, however, that the submission of written testimony shall not be permitted.

(3) Three days before a minitrial, each party to a proceeding shall serve on all other parties a copy of all exhibits that the party intends to introduce during the minitrial and a list of all witnesses, including expert witnesses, that the party may call during the minitrial. Service of this material shall be accomplished either by hand or by facsimile transmission. Objections to any exhibits or proposed witness testimony will be heard before the beginning of the minitrial.

(4) No party will be permitted to call as a witness in a minitrial, or otherwise offer evidence from, an individual in that party's employ, unless the individual appears on the party's information designation (see §§1.721(a)(10)(i) or 1.724(f)(1)) with a general description of the issues on which she will offer evidence. No party will be permitted to present expert evidence unless the party has complied fully with the expert-disclosure requirements of §1.729(i)(4). The Commission may permit exceptions to the rules in this paragraph (g)(4) for good cause shown.

(5) Two days before the beginning of the minitrial, parties shall file proposed findings of fact and conclusions of law. These submissions shall not exceed 40 pages per party. Within three days after the conclusion of the minitrial, parties may submit revised proposed findings of fact and conclusions of law to meet evidence introduced or arguments raised at the minitrial. These submissions shall not exceed 20 pages per party.

(6) The parties shall arrange for the stenographic transcription of minitrial proceedings so that transcripts are available and filed with the Commission no more than three days after the conclusion of the minitrial. Absent an agreement to the contrary, the cost of the transcript shall be shared equally between the parties to the proceeding.

(h) Applications for review of staff decisions issued on delegated authority in Accelerated Docket proceedings shall comply with the filing and service requirements in §1.115(e)(4). In those Accelerated Docket proceedings which raise issues that may not be decided on delegated authority (see 47 U.S.C. 155(c)(1); 47 CFR 0.291(d)), the staff decision issued after the minitrial will be a recommended decision subject to adoption or modification by the Commission. Any party to the proceeding that seeks modification of the recommended decision may do so by

filing comments challenging the decision within 15 days of its release by the Commission's Office of Media Relations. (Compare §1.4(b)(2).) Opposition comments may be filed within 15 days of the comments challenging the decision; reply comments may be filed 10 days thereafter and shall be limited to issues raised in the opposition comments.

(i) If no party files comments challenging the recommended decision, the Commission will issue its decision adopting or modifying the recommended decision within 45 days of its release. If parties to the proceeding file comments to the recommended decision, the Commission will issue its decision adopting or modifying the recommended decision within 30 days of the filing of the final comments.

[63 FR 41448, Aug. 4, 1998, as amended at 64 FR 60725, Nov. 8, 1999]

### § 1.731 Confidentiality of information produced or exchanged by the parties.

(a) Any materials generated in the course of a formal complaint proceeding may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b) (1) through (9). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality shall have the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in the FOIA.

(b) Materials marked as proprietary may be disclosed solely to the following persons, only for use in prosecuting or defending a party to the complaint action, and only to the extent necessary to assist in the prosecution or defense of the case:

(1) Counsel of record representing the parties in the complaint action and any support personnel employed by such attorneys;

(2) Officers or employees of the opposing party who are named by the opposing party as being directly involved in the prosecution or defense of the case;

(3) Consultants or expert witnesses retained by the parties;

(4) The Commission and its staff; and

(5) Court reporters and stenographers in accordance with the terms and conditions of this section.

(c) These individuals shall not disclose information designated as proprietary to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense in the case before the Commission. Each individual who is provided access to the information shall sign a notarized statement affirmatively stating that the individual has personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(d) No copies of materials marked proprietary may be made except copies to be used by persons designated in paragraph (b) of this section. Each party shall maintain a log recording the number of copies made of all proprietary material and the persons to whom the copies have been provided.

(e) Upon termination of a formal complaint proceeding, including all appeals and petitions, all originals and reproductions of any proprietary materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the complaint proceeding, any notes or other work product derived in whole or in part from the proprietary materials of an opposing or third party shall be destroyed.

[58 FR 25573, Apr. 27, 1993, as amended at 63 FR 1039, Jan. 7, 1998]

### § 1.732 Other required written submissions.

(a) The Commission may, in its discretion, or upon a party's motion showing good cause, require the parties to file briefs summarizing the facts and issues presented in the pleadings and other record evidence.

(b) Unless otherwise directed by the Commission, all briefs shall include all legal and factual claims and defenses previously set forth in the complaint, answer, or any other pleading submitted in the proceeding. Claims and defenses previously made but not reflected in the briefs will be deemed abandoned. The Commission may, in its discretion, limit the scope of any briefs to certain subjects or issues. A party shall attach to its brief copies of all documents, data compilations, tangible things, and affidavits upon which such party relies or intends to rely to support the facts alleged and legal arguments made in its brief and such brief shall contain a full explanation of how each attachment is relevant to the issues and matters in dispute. All such attachments to a brief shall be documents, data compilations or tangible things, or affidavits made by persons, that were identified by any party in its information designations filed pursuant to §§1.721(a)(10)(i), (a)(10)(ii), 1.724(f)(1), (f)(2), and 1.726(d)(1), (d)(2). Any other supporting documentation or affidavits that is attached to a brief must be accompanied by a full explanation of the relevance of such materials and why such materials were not identified in the information designations. These briefs shall contain the proposed findings of fact and conclusions of law which the filing party is urging the Commission to adopt, with specific citation to the record, and supporting relevant authority and analysis.

(c) In cases in which discovery is not conducted, absent an order by the Commission that briefs be filed, parties may not submit briefs. If the Commission does authorize the filing of briefs in cases in which discovery is not conducted, briefs shall be filed concurrently by both the complainant and defendant at such time as designated by the Commission staff and in accordance with the provisions of this section.

(d) In cases in which discovery is conducted, briefs shall be filed concurrently by both the complainant and defendant at such time designated by the Commission staff.

(e) Briefs containing information which is claimed by an opposing or third party to be proprietary under §1.731 shall be submitted to the Commission in confidence pursuant to the requirements of §0.459 of this chapter and clearly marked ''Not for Public Inspection.'' An edited version removing all proprietary data shall also be filed with the Commission for inclusion in the public file. Edited versions shall be filed within five days from the date the unedited brief is submitted, and served on opposing parties.

(f) Initial briefs shall be no longer than twenty-five pages. Reply briefs shall be no longer than ten pages. Either on its own motion or upon proper motion by a party, the Commission staff may establish other page limits for briefs.

(g) The Commission may require the parties to submit any additional information it deems appropriate for a full, fair, and expeditious resolution of the proceeding, including affidavits and exhibits.

(h) The parties shall submit a joint statement of stipulated facts, disputed facts, and key legal issues no later than two business days prior to the initial status conference, scheduled in accordance with the provisions of §1.733(a).

[53 FR 11855, Apr. 11, 1988. Redesignated and amended at 58 FR 25573, Apr. 27, 1993; 63 FR 1039, Jan. 7, 1998]

### §1.733 Status conference.

(a) In any complaint proceeding, the Commission may, in its discretion, direct the attorneys and/or the parties to appear before it for a status conference. Unless otherwise ordered by the Commission, and with the exception of Accelerated Docket proceedings, governed by paragraph (i) of this section, an initial status conference shall take place, at the time and place designated by the Commission staff, ten business days after the date the answer is due to be filed. A status conference may include discussion of:

(1) Simplification or narrowing of the issues;

(2) The necessity for or desirability of additional pleadings or evidentiary submissions;

(3) Obtaining admissions of fact or stipulations between the parties as to

any or all of the matters in controversy;

(4) Settlement of all or some of the matters in controversy by agreement of the parties;

(5) Whether discovery is necessary and, if so, the scope, type and schedule for such discovery;

(6) The schedule for the remainder of the case and the dates for any further status conferences; and

(7) Such other matters that may aid in the disposition of the complaint.

(b)(1) Subject to paragraph (i) of this section governing Accelerated Docket proceedings, parties shall meet and confer prior to the initial status conference to discuss:

(i) Settlement prospects;

(ii) Discovery;

(iii) Issues in dispute;

(iv) Schedules for pleadings;

(v) Joint statement of stipulated facts, disputed facts, and key legal issues; and

(vi) In a 47 U.S.C. 271(d)(6)(B) proceeding, whether or not the parties agree to waive the 47 U.S.C. 271(d)(6)(B) 90-day resolution deadline.

(2) Subject to paragraph (i) of this section governing Accelerated Docket proceedings, parties shall submit a joint statement of all proposals agreed to and disputes remaining as a result of such meeting to Commission staff at least two business days prior to the scheduled initial status conference.

(c) In addition to the initial status conference referenced in paragraph (a) of this section, any party may also request that a conference be held at any time after the complaint has been filed.

(d) During a status conference, the Commission staff may issue oral rulings pertaining to a variety of interlocutory matters relevant to the conduct of a formal complaint proceeding including, *inter alia,* procedural matters, discovery, and the submission of briefs or other evidentiary materials.

(e) Parties may make, upon written notice to the Commission and all attending parties at least three business days prior to the status conference, an audio recording of the Commission staff's summary of its oral rulings. Alternatively, upon agreement among all attending parties and written notice to the Commission at least three business days prior to the status conference, the parties may make an audio recording of, or use a stenographer to transcribe, the oral presentations and exchanges between and among the participating parties, insofar as such communications are ''on-the-record'' as determined by the Commission staff, as well as the Commission staff's summary of its oral rulings. A complete transcript of any audio recording or stenographic transcription shall be filed with the Commission as part of the record, pursuant to the provisions of paragraph (f)(2) of this section. The parties shall make all necessary arrangements for the use of a stenographer and the cost of transcription, absent agreement to the contrary, will be shared equally by all parties that agree to make the record of the status conference.

(f) The parties in attendance, unless otherwise directed, shall either:

(1) Submit a joint proposed order memorializing the oral rulings made during the conference to the Commission by 5:30 pm, Eastern Time, on the business day following the date of the status conference, or as otherwise directed by Commission staff. In the event the parties in attendance cannot reach agreement as to the rulings that were made, the joint proposed order shall include the rulings on which the parties agree, and each party's alternative proposed rulings for those rulings on which they cannot agree. Commission staff will review and make revisions, if necessary, prior to signing and filing the submission as part of the record. The proposed order shall be submitted both as hard copy and on computer disk in accordance with the requirements of § 1.734(d); or

(2) Pursuant to the requirements of paragraph (e) of this section, submit to the Commission by 5:30 pm., Eastern Time, on the third business day following the status conference or as otherwise directed by Commission staff either:

(i) A transcript of the audio recording of the Commission staff's summary of its oral rulings;

(ii) A transcript of the audio recording of the oral presentations and exchanges between and among the participating parties, insofar as such communications are ''on-the-record'' as determined by the Commission staff, and the Commission staff's summary of its oral rulings; or

(iii) A stenographic transcript of the oral presentations and exchanges between and among the participating parties, insofar as such communications are ''on-the-record'' as determined by the Commission staff, and the Commission staff's summary of its oral rulings.

(g) Status conferences will be scheduled by the Commission staff at such time and place as it may designate to be conducted in person or by telephone conference call.

(h) The failure of any attorney or party, following reasonable notice, to appear at a scheduled conference will be deemed a waiver by that party and will not preclude the Commission staff from conferring with those parties and/or counsel present.

(i) *Accelerated Docket Proceedings.* (1) In Accelerated Docket proceedings, the initial status conference will be held 10 days after the answer is due to be filed.

(2) Prior to the initial status conference, the parties shall confer, either in person or by telephone, about:

(i) Discovery to which they can agree;

(ii) Facts to which they can stipulate; and

(iii) Factual and legal issues in dispute.

(3) Two days before the status conference, parties shall submit to Commission staff a joint statement of:

(i) The agreements that they have reached with respect to discovery;

(ii) The facts to which they have agreed to stipulate; and

(iii) The disputed facts or legal issues of which they can agree to a joint statement.

(4) Two days before the status conference, each party also shall submit to Commission staff a separate statement which shall include, as appropriate, the party's statement of the disputed facts and legal issues presented by the complaint proceeding and any additional discovery that the party seeks. A complainant that wishes to reply to a defendant's affirmative defense shall do so in its pre-status-conference filing. To the extent that this filing contains statements replying to an affirmative defense, the complainant shall include, and/or serve with the statement, the witness information and documents required in § 1.726(g)(3)–(4). A defendant that intends to rely on expert evidence shall include its expert statement in its pre-status conference filing. (See § 1.729(i)(4)(ii).)

[53 FR 11855, Apr. 11, 1988. Redesignated and amended at 58 FR 25573, Apr. 27, 1993; 63 FR 1039, Jan. 7, 1998; 63 FR 41449, Aug. 4, 1998]

### § 1.734 Specifications as to pleadings, briefs, and other documents; subscription.

(a) All papers filed in any formal complaint proceeding must be drawn in conformity with the requirements of §§ 1.49 and 1.50.

(b) All averments of claims or defenses in complaints and answers shall be made in numbered paragraphs. The contents of each paragraph shall be limited as far as practicable to a statement of a single set of circumstances. Each claim founded on a separate transaction or occurrence and each affirmative defense shall be separately stated to facilitate the clear presentation of the matters set forth.

(c) The original of all pleadings and other submissions filed by any party shall be signed by the party, or by the party's attorney. The signing party shall include in the document his or her address, telephone number, facsimile number and the date on which the document was signed. Copies should be conformed to the original. Unless specifically required by rule or statute, pleadings need not be verified. The signature of an attorney or party shall be a certificate that the attorney or party has read the pleading, motion, or other paper; that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed solely for purposes of delay or for any other improper purpose.

(d) All proposed orders shall be submitted both as hard copies and on computer disk formatted to be compatible with the Commission's computer system and using the Commission's current wordprocessing software. Each disk should be submitted in ''read only'' mode. Each disk should be clearly labelled with the party's name, proceeding, type of pleading, and date of submission. Each disk should be accompanied by a cover letter. Parties who have submitted copies of tariffs or reports with their hard copies need not include such tariffs or reports on the disk. Upon showing of good cause, the Commission may waive the requirements of this paragraph.

[53 FR 11855, Apr. 11, 1988. Redesignated at 58 FR 25573, Apr. 27, 1993, as amended at 63 FR 1040, Jan. 7, 1998]

### § 1.735 Copies; service; separate filings against multiple defendants.

(a) Complaints may generally be brought against only one named carrier; such actions may not be brought against multiple defendants unless the defendant carriers are commonly owned or controlled, are alleged to have acted in concert, are alleged to be jointly liable to complainant, or the complaint concerns common questions of law or fact. Complaints may, however, be consolidated by the Commission for disposition.

(b) The complainant shall file an original copy of the complaint, accompanied by the correct fee, in accordance with part 1, subpart G (see § 1.1106) and, on the same day:

(1) File three copies of the complaint with the Office of the Commission Secretary;

(2) Serve two copies on the Market Disputes Resolution Division, Enforcement Bureau;

(3) If the complaint is filed against a carrier concerning matters within the responsibility of the International Bureau (see § 0.261 of this chapter), serve a copy on the Chief, Policy Division, International Bureau; and

(4) If a complaint is addressed against multiple defendants, pay a separate fee, in accordance with part 1, subpart G (see § 1.1106), and file three copies of the complaint with the Office of the Commission Secretary for each additional defendant.

(c) Generally, a separate file is set up for each defendant. An original plus two copies shall be filed of all pleadings and documents, other than the complaint, for each file number assigned.

(d) The complainant shall serve the complaint by hand delivery on either the named defendant or one of the named defendant's registered agents for service of process on the same date that the complaint is filed with the Commission in accordance with the requirements of paragraph (b) of this section.

(e) Upon receipt of the complaint by the Commission, the Commission shall promptly send, by facsimile transmission to each defendant named in the complaint, notice of the filing of the complaint. The Commission shall send, by regular U.S. mail delivery, to each defendant named in the complaint, a copy of the complaint. The Commission shall additionally send, by regular U.S. mail to all parties, a schedule detailing the date the answer will be due and the date, time and location of the initial status conference.

(f) All subsequent pleadings and briefs filed in any formal complaint proceeding, as well as all letters, documents or other written submissions, shall be served by the filing party on the attorney of record for each party to the proceeding, or, where a party is not represented by an attorney, each party to the proceeding either by hand delivery, overnight delivery, or by facsimile transmission followed by regular U.S. mail delivery, together with a proof of such service in accordance with the requirements of § 1.47(g). Service is deemed effective as follows:

(1) Service by hand delivery that is delivered to the office of the recipient by 5:30 pm, local time of the recipient, on a business day will be deemed served that day. Service by hand delivery that is delivered to the office of the recipient after 5:30 pm, local time of the recipient, on a business day will be deemed served on the following business day;

(2) Service by overnight delivery will be deemed served the business day following the day it is accepted for overnight delivery by a reputable overnight delivery service such as, or comparable to, the US Postal Service Express Mail, United Parcel Service or Federal Express; or

(3) Service by facsimile transmission that is fully transmitted to the office of the recipient by 5:30 pm, local time of the recipient, on a business day will be deemed served that day. Service by facsimile transmission that is fully transmitted to the office of the recipient after 5:30 pm, local time of the recipient, on a business day will be deemed served on the following business day.

(g) *Supplemental complaint proceedings.* Supplemental complaints filed pursuant to section 1.722 shall conform to the requirements set out in this section, except that the complainant need not submit a filing fee, and the complainant may effect service pursuant to paragraph (f) of this section rather than paragraph (d) of this section numerals.

[53 FR 11855, Apr. 11, 1988. Redesignated and amended at 58 FR 25573, 25574, Apr. 27, 1993, as amended at 63 FR 1040, Jan. 7, 1998; 64 FR 60726, Nov. 8, 1999; 66 FR 16617, Mar. 27, 2001; 67 FR 13223, Mar. 21, 2002; 69 FR 41130, July 7, 2004]

### § 1.736 Complaints filed pursuant to 47 U.S.C. 271(d)(6)(B).

(a) Where a complaint is filed pursuant to 47 U.S.C. 271(d)(6)(B), parties shall indicate whether they are willing to waive the ninety-day resolution deadline contained in 47 U.S.C. 271(d)(6)(B) in the following manner:

(1) The complainant shall so indicate in both the complaint itself and in the Formal Complaint Intake Form, and the defendant shall so indicate in its answer; or

(2) The parties shall indicate their agreement to waive the ninety-day resolution deadline to the Commission staff at the initial status conference, to be held in accordance with § 1.733 of the rules.

(b) Requests for waiver of the ninety-day resolution deadline for complaints filed pursuant to 47 U.S.C. 271(d)(6)(B) will not be entertained by the Commission staff subsequent to the initial status conference, absent a showing by the complainant and defendant that such waiver is in the public interest.

[63 FR 1041, Jan. 7, 1998]

## APPLICATIONS

### § 1.741 Scope.

The general rules relating to applications contained in §§ 1.742 through 1.748 apply to all applications filed by carriers except those filed by public correspondence radio stations pursuant to parts 80, 87, and 101 of this chapter, and those filed by common carriers pursuant to part 25 of this chapter. Parts 21 and 101 of this chapter contain general rules applicable to applications filed pursuant to these parts. For general rules applicable to applications filed pursuant to parts 80 and 87 of this chapter, see such parts and subpart F of this part. For rules applicable to applications filed pursuant to part 25, see said part.

[61 FR 26670, May 28, 1996]

### § 1.742 Place of filing, fees, and number of copies.

All applications which do not require a fee shall be filed at the Commission's main office in Washington, DC., Attention: Office of the Secretary. Hand-delivered applications will be dated by the Secretary upon receipt (mailed applications will be dated by the Mail Branch) and then forwarded to the Wireline Competition Bureau. All applications accompanied by a fee payment should be filed with the Commission's lockbox bank in accordance with § 1.1105, Schedule of Fees. The number of copies required for each application and the nonrefundable processing fees and any applicable regulatory fees (see subpart G of this part) which must accompany each application in order to qualify it for acceptance for filing and consideration are set forth in the rules in this chapter relating to various types of applications. However, if any application is not of the type covered by this chapter, an original and two copies of each such application shall be submitted.

[59 FR 30998, June 16, 1994, as amended at 67 FR 13223, Mar. 21, 2002]

### § 1.743 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission must be signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities such as states and territories of the United States, their political subdivisions, the District of Columbia, and units of local government, including incorporated municipalities, must be signed by a duly elected or appointed official who is authorized to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

(e) ''Signed,'' as used in this section, means an original hand-written signature, except that by public notice in the FEDERAL REGISTER the Wireline Competition Bureau may allow signature by any symbol executed or adopted by the applicant with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

[28 FR 12450, Nov. 22, 1963, as amended at 53 FR 17193, May 16, 1988; 59 FR 59503, Nov. 17, 1994; 67 FR 13223, Mar. 21, 2002]

### § 1.744 Amendments.

(a) Any application not designated for hearing may be amended at any time by the filing of signed amendments in the same manner, and with the same number of copies, as was the initial application. If a petition to deny (or to designate for hearing) has been filed, the amendment shall be served on the petitioner.

(b) After any application is designated for hearing, requests to amend such application may be granted by the presiding officer upon good cause shown by petition, which petition shall be properly served upon all other parties to the proceeding.

(c) The applicant may at any time be ordered to amend his application so as to make it more definite and certain. Such order may be issued upon motion of the Commission (or the presiding officer, if the application has been designated for hearing) or upon petition of any interested person, which petition shall be properly served upon the applicant and, if the application has been designated for hearing, upon all parties to the hearing.

[29 FR 6444, May 16, 1964, and 31 FR 14394, Nov. 9, 1966]

### § 1.745 Additional statements.

The applicant may be required to submit such additional documents and written statements of fact, signed and verified (or affirmed), as in the judgment of the Commission (or the presiding officer, if the application has been designated for hearing) may be necessary. Any additional documents and written statements of fact required in connection with applications under Title II of the Communications Act need not be verified (or affirmed).

[29 FR 6444, May 16, 1964]

### § 1.746 Defective applications.

(a) Applications not in accordance with the applicable rules in this chapter may be deemed defective and returned by the Commission without acceptance of such applications for filing and consideration. Such applications will be accepted for filing and consideration if accompanied by petition showing good cause for waiver of the rule with which the application does not conform.

(b) The assignment of a file number, if any, to an application is for the administrative convenience of the Commission and does not indicate the acceptance of the application for filing and consideration.

### § 1.747 Inconsistent or conflicting applications.

When an application is pending or undecided, no inconsistent or conflicting application filed by the same applicant, his successor or assignee, or on behalf or for the benefit of said applicant, his successor, or assignee, will be considered by the Commission.

### § 1.748 Dismissal of applications.

(a) *Before designation for hearing.* Any application not designated for hearing may be dismissed without prejudice at any time upon request of the applicant. An applicant's request for the return of an application that has been accepted for filing and consideration, but not designated for hearing, will be deemed a request for dismissal without prejudice. The Commission may dismiss an application without prejudice before it has been designated for hearing when the applicant fails to comply or justify noncompliance with Commission requests for additional information in connection with such application.

(b) *After designation for hearing.* A request to dismiss an application without prejudice after it has been designated for hearing shall be made by petition properly served upon all parties to the hearing and will be granted only for good cause shown. An application may be dismissed with prejudice after it has been designated for hearing when the applicant:

(1) Fails to comply with the requirements of § 1.221(c);

(2) Otherwise fails to prosecute his application; or

(3) Fails to comply or justify noncompliance with Commission requests for additional information in connection with such application.

[28 FR 12450, Nov. 22, 1963, as amended at 29 FR 6445, May 16, 1964]

### § 1.749 Action on application under delegated authority.

Certain applications do not require action by the Commission but, pursuant to the delegated authority contained in subpart B of part 0 of this chapter, may be acted upon by the Chief of the Wireline Competition Bureau subject to reconsideration by the Commission.

[67 FR 13223, Mar. 21, 2002]

## SPECIFIC TYPES OF APPLICATIONS UNDER TITLE II OF COMMUNICATIONS ACT

### § 1.761 Cross reference.

Specific types of applications under Title III of the Communications Act involving public correspondence radio stations are specified in parts 23, 80, 87, and 101 of this chapter.

[61 FR 26671, May 28, 1996]

### § 1.763 Construction, extension, acquisition or operation of lines.

(a) Applications under section 214 of the Communications Act for authority to construct a new line, extend any line, acquire or operate any line or extension thereof, or to engage in transmission over or by means of such additional or extended line, to furnish temporary or emergency service, or to supplement existing facilities shall be made in the form and manner, with the number of copies and accompanied by the fees specified in part 63 of this chapter.

(b) In cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points), and the Governor of each State involved. Hearing is held if any of these persons desires to be heard or if the Commission determines that a hearing should be held. Copies of applications

for certificates are filed with the regulatory agencies of the States involved.

[28 FR 12450, Nov. 22, 1963, as amended at 64 FR 39939, July 23, 1999]

### § 1.764 Discontinuance, reduction, or impairment of service.

(a) Applications under section 214 of the Communications Act for the authority to discontinue, reduce, or impair service to a community or part of a community or for the temporary, emergency, or partial discontinuance, reduction, or impairment of service shall be made in the form and manner, with the number of copies specified in part 63 of this chapter (see also subpart G, part 1 of this chapter). Posted and public notice shall be given the public as required by part 63 of this chapter.

(b) In cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points), and the Governor of each State involved. Hearing is held if any of these persons desires to be heard or if the Commission determines that a hearing should be held. Copies of all formal applications under this section requesting authorizations (including certificates) are filed with the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points) and the Governor of each State involved. Copies of all applications under this section requesting authorizations (including certificates) are filed with the regulatory agencies of the States involved.

[28 FR 12450, Nov. 22, 1963, as amended at 52 FR 5289, Feb. 20, 1987]

### § 1.767 Cable landing licenses.

(a) Applications for cable landing licenses under 47 U.S.C. 34–39 and Executive Order No. 10530, dated May 10, 1954, should be filed in accordance with the provisions of that Executive Order. These applications should contain:

(1) The name, address and telephone number(s) of the applicant;

(2) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized;

(3) The name, title, post office address, and telephone number of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed;

(4) A description of the submarine cable, including the type and number of channels and the capacity thereof;

(5) A specific description of the cable landing stations on the shore of the United States and in foreign countries where the cable will land. The description shall include a map showing specific geographic coordinates, and may also include street addresses, of each landing station. The map must also specify the coordinates of any beach joint where those coordinates differ from the coordinates of the cable station. The applicant initially may file a general geographic description of the landing points; however, grant of the application will be conditioned on the Commission's final approval of a more specific description of the landing points, including all information required by this paragraph, to be filed by the applicant no later than ninety (90) days prior to construction. The Commission will give public notice of the filing of this description, and grant of the license will be considered final if the Commission does not notify the applicant otherwise in writing no later than sixty (60) days after receipt of the specific description of the landing points, unless the Commission designates a different time period;

(6) A statement as to whether the cable will be operated on a common carrier or non-common carrier basis;

(7) A list of the proposed owners of the cable system, including each U.S. cable landing station, their respective voting and ownership interests in each U.S. cable landing station, their respective voting interests in the wet link portion of the cable system, and their respective ownership interests by segment in the cable;

(8) For each applicant of the cable system, a certification as to whether the applicant is, or is affiliated with, a foreign carrier, including an entity that owns or controls a foreign cable landing station in any of the cable's

destination markets. Include the citizenship of each applicant and information and certifications required in §§ 63.18(h) through (k), and in § 63.18(o), of this chapter;

(9) A certification that the applicant accepts and will abide by the routine conditions specified in paragraph (g) of this section; and

(10) Any other information that may be necessary to enable the Commission to act on the application.

NOTE TO PARAGRAPH (a)(10): Applicants for cable landing licenses may be subject to the consistency certification requirements of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456, if they propose to conduct activities, in or outside of a coastal zone of a state with a federally-approved management plan, affecting any land or water use or natural resource of that state's coastal zone. Before filing their applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system, applicants must determine whether they are required to certify that their proposed activities will comply with the enforceable policies of a coastal state's approved management program. In order to make this determination, applicants should consult National Oceanic Atmospheric Administration (NOAA) regulations, 15 CFR part 930, Subpart D, and review the approved management programs of coastal states in the vicinity of the proposed landing station to verify that this type of application is not a listed federal license activity requiring review. After the application is filed, applicants should follow the procedures specified in 15 CFR 930.54 to determine whether any potentially affected state has sought or received NOAA approval to review the application as an unlisted activity. If it is determined that any certification is required, applicants shall consult the affected coastal state(s) (or designated state agency(ies)) in determining the contents of any required consistency certification(s). Applicants may also consult the Office of Ocean and Coastal Management (OCRM) within NOAA for guidance. The cable landing license application filed with the Commission shall include any consistency certification required by section 1456(c)(3)(A) for any affected coastal state(s) that lists this type of application in its NOAA-approved coastal management program and shall be updated pursuant to § 1.65 of the Commission's rules, 47 CFR 1.65, to include any subsequently required consistency certification with respect to any state that has received NOAA approval to review the application as an unlisted federal license activity. Upon documentation from the applicant—or notification from each coastal state entitled to review the license application for consistency with a federally approved coastal management program—that the state has either concurred, or by its inaction, is conclusively presumed to have concurred with the applicant's consistency certification, the Commission may take action on the application.

(11)(i) If applying for authority to assign or transfer control of an interest in a cable system, the applicant shall complete paragraphs (a)(1) through (a)(3) of this section for both the transferor/assignor and the transferee/assignee. Only the transferee/assignee needs to complete paragraphs (a)(8) through (a)(9) of this section. At the beginning of the application, the applicant should also include a narrative of the means by which the transfer or assignment will take place. The application shall also specify, on a segment specific basis, the percentage of voting and ownership interests being transferred or assigned in the cable system, including in a U.S. cable landing station. The Commission reserves the right to request additional information as to the particulars of the transaction to aid it in making its public interest determination.

(ii) In the event the transaction requiring an assignment or transfer of control application also requires the filing of a foreign carrier affiliation notification pursuant to § 1.768, the applicant shall reference in the application the foreign carrier affiliation notification and the date of its filing. *See* § 1.768. *See* also paragraph (g)(7) of this section (providing for post-transaction notification of pro forma assignments and transfers of control).

(iii) An assignee or transferee must notify the Commission no later than thirty (30) days after either consummation of the assignment or transfer or a decision not to consummate the assignment or transfer. The notification shall identify the file numbers under which the initial license and the authorization of the assignment or transfer were granted.

(b) These applications are acted upon by the Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as it may require.

(c) Original files relating to submarine cable landing licenses and applications for licenses since June 30, 1934, are kept by the Commission. Such applications for licenses (including all documents and exhibits filed with and made a part thereof, with the exception of any maps showing the exact location of the submarine cable or cables to be licensed) and the licenses issued pursuant thereto, with the exception of such maps, shall, unless otherwise ordered by the Commission, be open to public inspection in the offices of the Commission in Washington, D.C.

(d) Original files relating to licenses and applications for licenses for the landing operation of cables prior to June 30, 1934, were kept by the Department of State, and such files prior to 1930 have been transferred to the Executive and Foreign Affairs Branch of the General Records Office of the National Archives. Requests for inspection of these files should, however, be addressed to the Federal Communications Commission, Washington, D.C., 20554; and the Commission will obtain such files for a temporary period in order to permit inspection at the offices of the Commission.

(e) A separate application shall be filed with respect to each individual cable system for which a license is requested, or for which modification or amendment of a previous license is requested. The application fee for a non common-carrier cable landing license is payment type code BJT. Applicants for common carrier cable landing licenses shall pay the fees for both a common carrier cable landing license (payment type code CXT) and overseas cable construction (payment type code BIT). There is no application fee for modification of a cable landing license, except that the fee for assignment or transfer of control of a cable landing license is payment type code CUT. See § 1.1107(2) of this chapter.

(f) Applicants shall disclose to any interested member of the public, upon written request, accurate information concerning the location and timing for the construction of a submarine cable system authorized under this section. This disclosure shall be made within 30 days of receipt of the request.

(g) *Routine conditions*. Except as otherwise ordered by the Commission, the following rules apply to each licensee of a cable landing license granted on or after March 15, 2002:

(1) Grant of the cable landing license is subject to:

(i) All rules and regulations of the Federal Communications Commission;

(ii) Any treaties or conventions relating to communications to which the United States is or may hereafter become a party; and

(iii) Any action by the Commission or the Congress of the United States rescinding, changing, modifying or amending any rights accruing to any person by grant of the license;

(2) The location of the cable system within the territorial waters of the United States of America, its territories and possessions, and upon its shores shall be in conformity with plans approved by the Secretary of the Army. The cable shall be moved or shifted by the licensee at its expense upon request of the Secretary of the Army, whenever he or she considers such course necessary in the public interest, for reasons of national defense, or for the maintenance and improvement of harbors for navigational purposes;

(3) The licensee shall at all times comply with any requirements of United States government authorities regarding the location and concealment of the cable facilities, buildings, and apparatus for the purpose of protecting and safeguarding the cables from injury or destruction by enemies of the United States of America;

(4) The licensee, or any person or company controlling it, controlled by it, or under direct or indirect common control with it, does not enjoy and shall not acquire any right to handle traffic to or from the United States, its territories or its possessions unless such service is authorized by the Commission pursuant to section 214 of the Communications Act, as amended;

(5)(i) The licensee shall be prohibited from agreeing to accept special concessions directly or indirectly from any foreign carrier, including any entity that owns or controls a foreign cable landing station, where the foreign carrier possesses sufficient market power

on the foreign end of the route to affect competition adversely in the U.S. market, and from agreeing to accept special concessions in the future.

(ii) For purposes of this section, a special concession is defined as an exclusive arrangement involving services, facilities, or functions on the foreign end of a U.S. international route that are necessary to land, connect, or operate submarine cables, where the arrangement is not offered to similarly situated U.S. submarine cable owners, indefeasible-right-of-user holders, or lessors, and includes arrangements for the terms for acquisition, resale, lease, transfer and use of capacity on the cable; access to collocation space; the opportunity to provide or obtain backhaul capacity; access to technical network information; and interconnection to the public switched telecommunications network.

NOTE TO PARAGRAPH (g)(5): Licensees may rely on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points for purposes of determining which foreign carriers are the subject of the requirements of this section. The Commission's list of foreign carriers that do not qualify for the presumption that they lack market power is available from the International Bureau's World Wide Web site at *http://www.fcc.gov/ib*.

(6) Except as provided in paragraph (g)(7) of this section, the cable landing license and rights granted in the license shall not be transferred, assigned, or disposed of, or disposed of indirectly by transfer of control of the licensee, unless the Federal Communications Commission gives prior consent in writing;

(7) A *pro forma* assignee or person or company that is the subject of a *pro forma* transfer of control of a cable landing license is not required to seek prior approval for the *pro forma* transaction. A *pro forma* assignee or person or company that is the subject of a *pro forma* transfer of control must notify the Commission no later than thirty (30) days after the assignment or transfer of control is consummated. The notification must certify that the assignment or transfer of control was *pro forma*, as defined in § 63.24 of this chapter, and, together with all previous *pro forma* transactions, does not result in a change of the licensee's ultimate control. The licensee may file a single notification for an assignment or transfer of control of multiple licenses issued in the name of the licensee if each license is identified by the file number under which it was granted;

(8) Unless the licensee has notified the Commission in the application of the precise locations at which the cable will land, as required by paragraph (a)(5) of this section, the licensee shall notify the Commission no later than ninety (90) days prior to commencing construction at that landing location. The Commission will give public notice of the filing of each description, and grant of the cable landing license will be considered final with respect to that landing location unless the Commission issues a notice to the contrary no later than sixty (60) days after receipt of the specific description. *See* paragraph (a)(5) of this section;

(9) The Commission reserves the right to require the licensee to file an environmental assessment should it determine that the landing of the cable at the specific locations and construction of necessary cable landing stations may significantly affect the environment within the meaning of § 1.1307 implementing the National Environmental Policy Act of 1969. *See* § 1.1307(a) and (b). The cable landing license is subject to modification by the Commission under its review of any environmental assessment or environmental impact statement that it may require pursuant to its rules. *See also* § 1.1306 note 1 and § 1.1307(c) and (d);

(10) The Commission reserves the right, pursuant to section 2 of the Cable Landing License Act, 47 U.S.C. 35, Executive Order No. 10530 as amended, and section 214 of the Communications Act of 1934, as amended, 47 U.S.C. 214, to impose common carrier regulation or other regulation consistent with the Cable Landing License Act on the operations of the cable system if it finds that the public interest so requires;

(11) The licensee, or in the case of multiple licensees, the licensees collectively, shall maintain *de jure* and *de facto* control of the U.S. portion of the

cable system, including the cable landing stations in the United States, sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license;

(12) The licensee shall comply with the requirements of § 1.768;

(13) The cable landing license is revocable by the Commission after due notice and opportunity for hearing pursuant to section 2 of the Cable Landing License Act, 47 U.S.C. 35, or for failure to comply with the terms of the license or with the Commission's rules; and

(14) The licensee must notify the Commission within thirty (30) days of the date the cable is placed into service. The cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.

(h) *Applicants/Licensees*. Except as otherwise required by the Commission, the following entities, at a minimum, shall be applicants for, and licensees on, a cable landing license:

(1) Any entity that owns or controls a cable landing station in the United States; and

(2) All other entities owning or controlling a five percent (5%) or greater interest in the cable system and using the U.S. points of the cable system.

(i) *Processing of cable landing license applications*. The Commission will take action upon an application eligible for streamlined processing, as specified in paragraph (k) of this section, within forty-five (45) days after release of the public notice announcing the application as acceptable for filing and eligible for streamlined processing. If the Commission deems an application seeking streamlined processing acceptable for filing but ineligible for streamlined processing, or if an applicant does not seek streamlined processing, the Commission will issue public notice indicating that the application is ineligible for streamlined processing. Within ninety (90) days of the public notice, the Commission will take action upon the application or provide public notice that, because the application raises questions of extraordinary complexity, an additional 90-day period for review is needed. Each successive 90-day period may be so extended.

(j) *Applications for streamlining*. Each applicant seeking to use the streamlined grant procedure specified in paragraph (i) of this section shall request streamlined processing in its application. Applications for streamlined processing shall include the information and certifications required by paragraph (k) of this section. On the date of filing with the Commission, the applicant shall also send a complete copy of the application, or any major amendments or other material filings regarding the application, to: U.S. Coordinator, EB/CIP, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520–5818; Office of Chief Counsel/NTIA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, DC 20230; and Defense Information Systems Agency, ATTN: GC/DO1, 6910 Cooper Avenue, Fort Meade, MD 20755–7088, and shall certify such service on a service list attached to the application or other filing.

(k) *Eligibility for streamlining*. Each applicant must demonstrate eligibility for streamlining by:

(1) Certifying that it is not a foreign carrier and it is not affiliated with a foreign carrier in any of the cable's destination markets;

(2) Demonstrating pursuant to § 63.12(c)(1)(i) through (iii) of this chapter that any such foreign carrier or affiliated foreign carrier lacks market power; or

(3) Certifying that the destination market where the applicant is, or has an affiliation with, a foreign carrier is a World Trade Organization (WTO) Member and the applicant agrees to accept and abide by the reporting requirements set out in paragraph (l) of this section. An application that includes an applicant that is, or is affiliated with, a carrier with market power in a cable's non-WTO Member destination country is not eligible for streamlining.

(4) Certifying that for applications for a license to construct and operate a submarine cable system or to modify

the construction of a previously approved submarine cable system the applicant is not required to submit a consistency certification to any state pursuant to section 1456(c)(3)(A) of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456.

NOTE TO PARAGRAPH (k)(4): Streamlining of cable landing license applications will be limited to those applications where all potentially affected states, having constructive notice that the application was filed with the Commission, have waived, or are deemed to have waived, any section 1456(c)(3)(A) right to review the application within the thirty-day period prescribed by 15 CFR 930.54.

(l) *Reporting Requirements Applicable to Licensees Affiliated with a Carrier with Market Power in a Cable's WTO Destination Market.* Any licensee that is, or is affiliated with, a carrier with market power in any of the cable's WTO Member destination countries, and that requests streamlined processing of an application under paragraphs (j) and (k) of this section, must comply with the following requirements:

(1) File quarterly reports summarizing the provisioning and maintenance of all network facilities and services procured from the licensee's affiliate in that destination market, within ninety (90) days from the end of each calendar quarter. These reports shall contain the following:

(i) The types of facilities and services provided (for example, a lease of wet link capacity in the cable, collocation of licensee's equipment in the cable station with the ability to provide backhaul, or cable station and backhaul services provided to the licensee);

(ii) For provisioned facilities and services, the volume or quantity provisioned, and the time interval between order and delivery; and

(iii) The number of outages and intervals between fault report and facility or service restoration; and

(2) File quarterly circuit status reports, within ninety (90) days from the end of each calendar quarter and in the format set out by the § 43.82 of this chapter annual circuit status manual with the exception that activated or idle circuits must be reported on a facility-by-facility basis and derived circuits need not be specified. *See* § 63.10(c)(5) of this chapter.

(m) (1) Except as specified in paragraph (m)(2) of this section, amendments to pending applications, and applications to modify a license, including amendments or applications to add a new applicant or licensee, shall be signed by each initial applicant or licensee, respectively. Joint applicants or licensees may appoint one party to act as proxy for purposes of complying with this requirement.

(2) Any licensee that seeks to relinquish its interest in a cable landing license shall file an application to modify the license. Such application must include a demonstration that the applicant is not required to be a licensee under paragraph (h) of this section and that the remaining licensee(s) will retain collectively *de jure* and *de facto* control of the U.S. portion of the cable system sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license, and must be served on each other licensee of the cable system.

(n) Subject to the availability of electronic forms, all applications and notifications described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000 through 1.10018 and the IBFS homepage at *http://www.fcc.gov/ibfs*. See also §§ 63.20 and 63.53 of this chapter.

NOTE TO § 1.767: The terms ''affiliated'' and ''foreign carrier,'' as used in this section, are defined as in § 63.09 of this chapter except that the term ''foreign carrier'' also shall include any entity that owns or controls a cable landing station in a foreign market.

[28 FR 12450, Nov. 22, 1963, as amended at 52 FR 5289, Feb. 20, 1987; 61 FR 15726, Apr. 9, 1996; 64 FR 19061, Apr. 19, 1999; 65 FR 51769, Aug. 25, 2000; 65 FR 54799, Sept. 11, 2000; 67 FR 1619, Jan. 14, 2002; 69 FR 40327, July 2, 2004; 70 FR 38796, July 6, 2005; 72 FR 54366, Sept. 25, 2007; 75 FR 81490, Dec. 28, 2010; 76 FR 32867, June 7, 2011]

**§ 1.768 Notification by and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier.**

Any entity that is licensed by the Commission (''licensee'') to land or operate a submarine cable landing in a particular foreign destination market that becomes, or seeks to become, affiliated with a foreign carrier that is authorized to operate in that market, including an entity that owns or controls a cable landing station in that market, shall notify the Commission of that affiliation.

(a) *Affiliations requiring prior notification:* Except as provided in paragraph (b) of this section, the licensee must notify the Commission, pursuant to this section, forty-five (45) days before consummation of either of the following types of transactions:

(1) Acquisition by the licensee, or by any entity that controls the licensee, or by any entity that directly or indirectly owns more than twenty-five percent (25%) of the capital stock of the licensee, of a controlling interest in a foreign carrier that is authorized to operate in a market where the cable lands; or

(2) Acquisition of a direct or indirect interest greater than twenty-five percent (25%), or of a controlling interest, in the capital stock of the licensee by a foreign carrier that is authorized to operate in a market where the cable lands, or by an entity that controls such a foreign carrier.

(b) *Exceptions:* (1) Notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead by filed pursuant to paragraph (c) of this section, if either of the following is true with respect to the named foreign carrier, regardless of whether the destination market where the cable lands is a World Trade Organization (WTO) or non-WTO Member:

(i) The Commission has previously determined in an adjudication that the foreign carrier lacks market power in that destination market (for example, in an international section 214 application or a declaratory ruling proceeding); or

(ii) The foreign carrier owns no facilities in that destination market. For this purpose, a carrier is said to own facilities if it holds an ownership, indefeasible-right-of-user, or leasehold interest in a cable landing station or in bare capacity in international or domestic telecommunications facilities (excluding switches).

(2) In the event paragraph (b)(1) of this section cannot be satisfied, notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if the licensee certifies that the destination market where the cable lands is a WTO Member and provides certification to satisfy either of the following:

(i) The licensee demonstrates that its foreign carrier affiliate lacks market power in the cable's destination market pursuant to § 63.10(a)(3) of this chapter (*see* § 63.10(a)(3) of this chapter); or

(ii) The licensee agrees to comply with the reporting requirements contained in § 1.767(l) effective upon the acquisition of the affiliation. *See* § 1.767(l).

(c) *Notification after consummation:* Any licensee that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to the requirements of this section shall notify the Commission within thirty (30) days after consummation of the acquisition.

*Example 1 to paragraph (c).* Acquisition by a licensee (or by any entity that directly or indirectly controls, is controlled by, or is under direct or indirect common control with the licensee) of a direct or indirect interest in a foreign carrier that is greater than twenty-five percent (25%) but not controlling is subject to paragraph (c) of this section but not to paragraph (a) of this section.

*Example 2 to paragraph (c).* Notification of an acquisition by a licensee of a hundred percent (100%) interest in a foreign carrier may be made after consummation, pursuant to paragraph (c) of this section, if the foreign carrier operates only as a resale carrier.

*Example 3 to paragraph (c).* Notification of an acquisition by a foreign carrier from a WTO Member of a greater than twenty-five percent (25%) interest in the capital stock of

the licensee may be made after consummation, pursuant to paragraph (c) of this section, if the licensee demonstrates in the post-notification that the foreign carrier lacks market power in the cable's destination market or the licensee agrees to comply with the reporting requirements contained in §1.767(l) effective upon the acquisition of the affiliation.

(d) *Cross-reference:* In the event a transaction requiring a foreign carrier notification pursuant to this section also requires a transfer of control or assignment application pursuant to the requirements of the license granted under §1.767 or §1.767(g), the foreign carrier notification shall reference in the notification the transfer of control or assignment application and the date of its filing. *See* §1.767(g).

(e) *Contents of notification:* The notification shall certify the following information:

(1) The name of the newly affiliated foreign carrier and the country or countries at the foreign end of the cable in which it is authorized to provide telecommunications services to the public or where it owns or controls a cable landing station;

(2) Which, if any, of those countries is a Member of the World Trade Organization;

(3) The name of the cable system that is the subject of the notification, and the FCC file number(s) under which the license was granted;

(4) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten percent (10%) of the equity of the licensee, and the percentage of equity owned by each of those entities (to the nearest one percent (1%));

(5) Interlocking directorates. The name of any interlocking directorates, as defined in §63.09(g) of this chapter, with each foreign carrier named in the notification. *See* §63.09(g) of this chapter.

(6) With respect to each foreign carrier named in the notification, a statement as to whether the notification is subject to paragraph (a) or (c) of this section. In the case of a notification subject to paragraph (a) of this section, the licensee shall include the projected date of closing. In the case of a notification subject to paragraph (c) of this section, the licensee shall include the actual date of closing.

(7) If a licensee relies on an exception in paragraph (b) of this section, then a certification as to which exception the foreign carrier satisfies and a citation to any adjudication upon which the licensee is relying. Licensees relying upon the exceptions in paragraph (b)(2) of this section must make the required certified demonstration in paragraph (b)(2)(i) of this section or the certified commitment to comply with the reporting requirements in paragraph (b)(2)(ii) of this section in the notification required by paragraph (c) of this section.

(f) If the licensee seeks to be excepted from the reporting requirements contained in §1.767(l), the licensee should demonstrate that each foreign carrier affiliate named in the notification lacks market power pursuant to §63.10(a)(3) of this chapter. *See* §63.10(a)(3) of this chapter.

(g) *Procedure.* After the Commission issues a public notice of the submissions made under this section, interested parties may file comments within fourteen (14) days of the public notice.

(1) If the Commission deems it necessary at any time before or after the deadline for submission of public comments, the Commission may impose reporting requirements on the licensee based on the provisions of §1.767(l). *See* §1.767(l).

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section in which the foreign carrier is authorized to operate in, or own a cable landing station in, a non-WTO Member, the licensee must demonstrate that it continues to serve the public interest for it to retain its interest in the cable landing license for that segment of the cable that lands in the non-WTO destination market by demonstrating either that the foreign carrier lacks market power in that destination market pursuant to §63.10(a)(3) of this chapter or the market offers effective opportunities for U.S. companies to land and operate a submarine cable in that country. If the licensee is unable to make either required showing or is notified that the affiliation may otherwise harm the

public interest pursuant to the Commission's policies and rules under 47 U.S.C. 34 through 39 and Executive Order No. 10530, dated May 10, 1954, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.

NOTE TO PARAGRAPH (g)(2): The assessment of whether a destination market offers effective opportunities for U.S. companies to land and operate a submarine cable will be made under the standard established in *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry and Regulation of Foreign-Affiliated Entities,* IB Docket Nos. 97–142 and 95–22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23946 at paragraph 130, 62 FR 64741, December 9, 1997.

(h) All licensees are responsible for the continuing accuracy of information provided pursuant to this section for a period of forty-five (45) days after filing. During this period if the information furnished is no longer accurate, the licensee shall as promptly as possible, and in any event within ten (10) days, unless good cause is shown, file with the Commission a corrected notification referencing the FCC file numbers under which the original notification was provided.

(i) A licensee that files a prior notification pursuant to paragraph (a) of this section may request confidential treatment of its filing, pursuant to § 0.459 of this chapter, for the first twenty (20) days after filing.

(j) Subject to the availability of electronic forms, all notifications described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000 through 1.10018 and the IBFS homepage at *http://www.fcc.gov/ibfs*. See also §§ 63.20 and 63.53.

NOTE TO § 1.768: The terms ''affiliated'' and ''foreign carrier,'' as used in this section, are defined as in § 63.09 of this chapter except that the term ''foreign carrier'' also shall include an entity that owns or controls a cable landing station in a foreign market.

[67 FR 1622, Jan. 14, 2002, as amended at 70 FR 38797, July 6, 2005]

TARIFFS

## § 1.771 Filing.

Schedules of charges, and classifications, practices, and regulations affecting such charges, required under section 203 of the Communications Act shall be constructed, filed, and posted in accordance with and subject to the requirements of part 61 of this chapter.

## § 1.772 Application for special tariff permission.

Applications under section 203 of the Communications Act for special tariff permission shall be made in the form and manner, with the number of copies set out in part 61 of this chapter.

[52 FR 5289, Feb. 20, 1987]

## § 1.773 Petitions for suspension or rejection of new tariff filings.

(a) *Petition*—(1) *Content.* Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing or any provision thereof shall specify the filing's Federal Communications Commission tariff number and carrier transmittal number, the items against which protest is made, and the specific reasons why the protested tariff filing warrants investigation, suspension, or rejection under the Communications Act. No petition shall include a prayer that it also be considered a formal complaint. Any formal complaint shall be filed as a separate pleading as provided in § 1.721.

(i) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing or any provision of such a publication, must specify the pertinent Federal Communications Commission tariff number and carrier transmittal number; the matters protested; and the specific reasons why the tariff warrants investigation, suspension, or rejection. When a single petition asks for more than one form of relief, it must separately and distinctly plead and support each form of relief. However, no petition may ask that it also be considered a formal complaint.

Formal complaints must be separately lodged, as provided in § 1.721.

(ii) For purposes of this section, tariff filings by nondominant carriers will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition requesting suspension shows:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(iii) For the purpose of this section, any tariff filing by a local exchange carrier filed pursuant to the requirements of § 61.39 will be considered prima facie lawful and will not be suspended by the Commission unless the petition requesting suspension shows that the cost and demand studies or average schedule information was not provided upon reasonable request. If such a showing is not made, then the filing will be considered prima facie lawful and will not be suspended by the Commission unless the petition requesting suspension shows each of the following:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That any unreasonable rate would not be corrected in a subsequent filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(iv) For the purposes of this section, tariff filings made pursuant to § 61.49(b) by carriers subject to price cap regulation will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition shows that the support information required in § 61.49(b) was not provided, or unless the petition requesting suspension shows each of the following:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That the suspension would not substantially harm other interested parties;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(v) For the purposes of this section, any tariff filing by a price cap LEC filed pursuant to the requirements of § 61.42(d)(4)(ii) of this chapter will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition requesting suspension shows each of the following:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That any unreasonable rate would not be corrected in a subsequent filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(2) *When filed*. All petitions seeking investigation, suspension, or rejection of a new or revised tariff filing shall meet the filing requirements of this paragraph. In case of emergency and within the time limits provided, a telegraphic request for such relief may be sent to the Commission setting forth succinctly the substance of the matters required by paragraph (a)(1) of this section. A copy of any such telegraphic request shall be sent simultaneously to the Chief, Wireline Competition Bureau, the Chief, Pricing Policy Division, and the publishing carrier. Thereafter, the request shall be confirmed by petition filed and served in accordance with § 1.773(a)(4).

(i) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filed pursuant to section 204(a)(3) of the Communications Act made on 7 days notice shall be filed and served within 3 calendar days after the date of the tariff filing.

(ii) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be filed and served within 6 days after the date of the tariff filing.

(iii) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 15 but less than 30 days notice shall be filed and served within 7 days after the date of the tariff filing.

(iv) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 30 but less than 90 days notice shall be filed and served within 15 days after the date of the tariff filing.

(v) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing mode on 90 or more days notice shall be filed and served within 25 days after the date of the tariff filing.

(3) *Computation of time.* Intermediate holidays shall be counted in determining the above filing dates. If the date for filing the petition falls on a holiday, the petition shall be filed on the next succeeding business day.

(4) *Copies, service.* An original and four copies of each petition shall be filed with the Commission as follows: The original and three copies of each petition shall be filed with the Secretary, 445 12th Street, SW., Washington, DC 20554; one copy must be delivered directly to the Commission's copy contractor. Additional, separate copies shall be served simultaneously upon the Chief, Wireline Competition Bureau; and the Chief, Pricing Policy Division. Petitions seeking investigation, suspension, or rejection of a new or revised tariff made on 15 days or less notice shall be served either personally or via facsimile on the filing carrier. If a petition is served via facsimile, a copy of the petition must also be sent to the filing carrier via first class mail on the same day of the facsimile transmission. Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on more than 15 days notice may be served on the filing carrier by mail.

(b) *Reply*—(1) *When filed.* A publishing carrier's reply to a petition for relief from a tariff filing shall be filed in accordance with the following periods:

(i) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filed pursuant to section 204(a)(3) of the Act made on 7 days notice shall be filed and served within 2 days after the date the petition is filed with the Commission.

(ii) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be filed and served within 3 days after the date the petition is due to be filed with the Commission.

(iii) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 15 but less than 30 days notice shall be filed and served within 4 days after service of the petition.

(iv) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 30 but less than 90 days notice shall be filed and served within 5 days after service of the petition.

(v) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 90 or more days notice shall be filed and served within 8 days after service of the petition.

(vi) Where all petitions against a tariff filing have not been filed on the same day, the publishing carrier may file a consolidated reply to all the petitions. The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by paragraphs (a)(2) (i) through (iv) of this section, and the date on which the consolidated reply is due will be governed by paragraphs (b)(1) (i) through (iv) of this section.

(2) *Computation of time.* Intermediate holidays shall be counted in determining the 3-day filing date for replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice. Intermediate holidays shall not be counted in determining filing dates for replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 15 or more days notice. When a petition is permitted to be served

upon the filing carrier by mail, an additional 3 days (counting holidays) may be allowed for filing the reply. If the date for filing the reply falls on a holiday, the reply may be filed on the next succeeding business day.

(3) *Copies, service.* An original and four copies of each reply shall be filed with the Commission, as follows: the original and three copies must be filed with the Secretary, 445 12th Street, SW., Washington, DC 20554; one copy must be delivered directly to the Commission's copy contractor. Additional separate copies shall be served simultaneously upon the Chief, Wireline Competition Bureau, the Chief, Pricing Policy Division and the petitioner. Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff made on 15 days or less notice shall be served on petitioners personally or via facsimile. Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff made on more than 15 days notice may be served upon petitioner personally, by mail or via facsimile.

[45 FR 64190, Sept. 29, 1980, as amended at 49 FR 40876, Oct. 18, 1984; 49 FR 49466, Dec. 20, 1984; 52 FR 26682, July 16, 1987; 54 FR 19840, May 8, 1989; 58 FR 17529, Apr. 5, 1993; 58 FR 51247, Oct. 1, 1993; 62 FR 5777, Feb. 7, 1997; 64 FR 51264, Sept. 22, 1999; 65 FR 58466, Sept. 29, 2000; 67 FR 13223, Mar. 21, 2002; 71 FR 15618, Mar. 29, 2006; 74 FR 68544, Dec. 28, 2009]

## § 1.774 Pricing flexibility.

(a) *Petitions.* (1) A petition seeking pricing flexibility for specific services pursuant to part 69, subpart H, of this chapter, with respect to a metropolitan statistical area (MSA), as defined in § 22.909(a) of this chapter, or the non-MSA parts of a study area, must show that the price cap LEC has met the relevant thresholds set forth in part 69, subpart H, of this chapter.

(2) The petition must make a separate showing for each MSA for which the petitioner seeks pricing flexibility, and for the portion of the study area that falls outside any MSA.

(3) Petitions seeking pricing flexibility for services described in §§ 69.709(a) and 69.711(a) of this chapter must include:

(i) The total number of wire centers in the relevant MSA or non-MSA parts of a study area, as described in § 69.707 of this chapter;

(ii) The number and location of the wire centers in which competitors have collocated in the relevant MSA or non-MSA parts of a study area, as described in § 69.707 of this chapter;

(iii) In each wire center on which the price cap LEC bases its petition, the name of at least one collocator that uses transport facilities owned by a provider other than the price cap LEC to transport traffic from that wire center; and

(iv)(A) The percentage of the wire centers in the relevant MSA or non-MSA area, as described in § 69.707 of this chapter, in which competitors have collocated and use transport facilities owned by a provider other than the price cap LEC to transport traffic from that wire center; or

(B) The percentage of total base period revenues generated by the services at issue in the petition that are attributable to wire centers in the relevant MSA or non-MSA area, as described in § 69.707 of this chapter, in which competitors have collocated and use transport facilities owned by a provider other than the price cap LEC to transport traffic from that wire center.

(4) Petitions seeking pricing flexibility for services described in § 69.713(a) of this chapter must make a showing sufficient to meet the relevant requirements of § 69.713 of this chapter.

(b) *Confidential treatment.* A price cap LEC wishing to request confidential treatment of information contained in a pricing flexibility petition should demonstrate, by a preponderance of the evidence, that the information should be withheld from public inspection in accordance with the requirements of § 0.459 of this chapter.

(c) *Oppositions.* Any interested party may file comments or oppositions to a petition for pricing flexibility. Comments and oppositions shall be filed no later than 15 days after the petition is filed. Time shall be computed pursuant to § 1.4.

(d) *Replies.* The petitioner may file a reply to any oppositions filed in response to its petition for pricing flexibility. Replies shall be filed no later than 10 days after comments are filed.

Time shall be computed pursuant to § 1.4.

(e) *Copies, service.* (1)(i) Any price cap LEC filing a petition for pricing flexibility must submit its petition pursuant to the Commission's Electronic Tariff Filing System (ETFS), following the procedures set forth in § 61.14(a) of this chapter.

(ii) The price cap LEC must provide to each party upon which the price cap LEC relies to meet its obligations under paragraph (a)(3)(iii) of this section, the information it provides about that party in its petition, even if the price cap LEC requests that the information be kept confidential under paragraph (b) of this section.

(A) The price cap LEC must certify in its pricing flexibility petition that it has made such information available to the party.

(B) The price cap LEC may provide data to the party in redacted form, revealing only that information to the party that relates to the party.

(C) The price cap LEC must provide to the Commission copies of the information it provides to such parties.

(2)(i) Interested parties filing oppositions or comments in response to a petition for pricing flexibility may file those comments through ETFS.

(ii) Any interested party electing to file an opposition or comment in response to a pricing flexibility petition through a method other than ETFS must file an original and four copies of each opposition or comment with the Commission, as follows: the original and three copies of each pleading shall be filed with the Secretary, 445 12th Street, SW., Washington, DC 20554; one copy must be delivered directly to the Commission's copy contractor. Additional, separate copies shall be served upon the Chief, Wireline Competition Bureau and the Chief, Pricing Policy Division.

(iii) In addition, oppositions and comments shall be served either personally or via facsimile on the petitioner. If an opposition or comment is served via facsimile, a copy of the opposition or comment must be sent to the petitioner via first class mail on the same day as the facsimile transmission.

(3) Replies shall be filed with the Commission through ETFS. In addition, petitioners choosing to file a reply must serve a copy on each party filing an opposition or comment, either personally or via facsimile. If a reply is served via facsimile, a copy of the reply must be sent to the recipient of that reply via first class mail on the same day as the facsimile transmission.

(f) *Disposition.* (1) A petition for pricing flexibility pertaining to special access and dedicated transport services shall be deemed granted unless the Chief, Wireline Competition Bureau, denies the petition no later than 90 days after the close of the pleading cycle. The period for filing applications for review begins the day the Bureau grants or denies the petition, or the day that the petition is deemed denied. Time shall be computed pursuant to § 1.4.

(2) A petition for pricing flexibility pertaining to common-line and traffic-sensitive services shall be deemed granted unless the Commission denies the petition no later than five months after the close of the pleading cycle. Time shall be computed pursuant to § 1.4.

[64 FR 51264, Sept. 22, 1999, as amended at 67 FR 13223, Mar. 21, 2002; 71 FR 15618, Mar. 29, 2006; 74 FR 68544, Dec. 28, 2009]

## CONTRACTS, REPORTS, AND REQUESTS REQUIRED TO BE FILED BY CARRIERS

### § 1.781 Requests for extension of filing time.

Requests for extension of time within which to file contracts, reports, and requests referred to in §§ 1.783 through 1.814 shall be made in writing and may be granted for good cause shown.

## CONTRACTS

### § 1.783 Filing.

Copies of carrier contracts, agreements, concessions, licenses, authorizations or other arrangements, shall be filed as required by part 43 of this chapter.

FINANCIAL AND ACCOUNTING REPORTS AND REQUESTS

### § 1.785 Annual financial reports.

(a) An annual financial report shall be filed by telephone carriers and affiliates as required by part 43 of this chapter on form M.

(b) Verified copies of annual reports filed with the Securities and Exchange Commission on its Form 10–K, Form 1–MD, or such other form as may be prescribed by that Commission for filing of equivalent information, shall be filed annually with this Commission by each person directly or indirectly controlling any communications common carrier in accordance with part 43 of this chapter.

(c) Carriers having separate departments or divisions for carrier and non-carrier operations shall file separate supplemental annual reports with respect to such carrier and non-carrier operations in accordance with part 43 of this chapter.

[28 FR 12450, Nov. 22, 1963, as amended at 31 FR 747, Jan. 20, 1966; 47 FR 50697, Nov. 9, 1982; 49 FR 36503, Sept. 18, 1984; 50 FR 41152, Oct. 9, 1985; 58 FR 36143, July 6, 1993]

### § 1.786 [Reserved]

### § 1.787 Reports of proposed changes in depreciation rates.

Carriers shall file reports regarding proposed changes in depreciation rates as required by part 43 of this chapter.

### § 1.788 Reports regarding pensions and benefits.

Carriers shall file reports regarding pensions and benefits as required by part 43 of this chapter.

### § 1.789 Reports regarding division of international telegraph communication charges.

Carriers engaging in international telegraph communication shall file reports in regard to the division of communication charges as required by part 43 of this chapter.

### § 1.790 Reports relating to traffic by international carriers.

Carriers shall file periodic reports regarding international point-to-point traffic as required by part 43 of this chapter.

[57 FR 8579, Mar. 11, 1992]

### § 1.791 Reports and requests to be filed under part 32 of this chapter.

Reports and requests shall be filed either periodically, upon the happening of specified events, or for specific approval by class A and class B telephone companies in accordance with and subject to the provisions of part 32 of this chapter.

[55 FR 30461, July 26, 1990]

### § 1.795 Reports regarding interstate rates of return.

Carriers shall file reports regarding interstate rates of return on FCC Form 492 as required by part 65 of this chapter.

[52 FR 274, Jan. 5, 1987]

SERVICES AND FACILITIES REPORTS

### § 1.802 Reports relating to continuing authority to supplement facilities or to provide temporary or emergency service.

Carriers receiving authority under part 63 of this chapter shall file quarterly or semiannual reports as required therein.

### § 1.803 Reports relating to reduction in temporary experimental service.

As required in part 63 of this chapter, carriers shall report reductions in service which had previously been expanded on an experimental basis for a temporary period.

### § 1.805 Reports relating to service by carriers engaged in public radio service operations.

Monthly and quarterly reports must be filed with the Commission in connection with certain fixed public radio service operations. No form is prescribed. A complete description of the contents of these reports is contained in part 23 of this chapter.

MISCELLANEOUS REPORTS

**§ 1.811 Reports regarding amendments to charters, by-laws and partnership agreements of carriers engaged in domestic public radio services.**

Amendments to such documents shall be reported and filed in accordance with part 21 of this chapter.

**§ 1.814 Reports regarding free service rendered the Government for national defense.**

Carriers rendering free service in connection with the national defense to any agency of the United States Government shall file reports in accordance with part 2 of this chapter.

**§ 1.815 Reports of annual employment.**

(a) Each common carrier licensee or permittee with 16 or more full time employees shall file with the Commission, on or before May 31 of each year, on FCC Form 395, an annual employment report.

(b) A copy of every annual employment report filed by the licensee or permittee pursuant to the provisions herein; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated herein by reference are open for public inspection at the offices of the Commission.

(c) *Cross references*—

(1) [Reserved]

(2) *Applicability of cable television EEO reporting requirements for FSS facilities*, see § 25.601 of this chapter.

[35 FR 12894, Aug. 14, 1970, as amended at 36 FR 3119, Feb. 18, 1971; 58 FR 42249, Aug. 9, 1993; 69 FR 72026, Dec. 10, 2004]

GRANTS BY RANDOM SELECTION

**§ 1.821 Scope.**

The provisions of §§ 1.822 and 1.824 of this part apply as indicated to those applications for permits, licenses or authorizations in the Multichannel Multipoint Distribution Service for which action may be taken by the Wireless Telecommunications Bureau pursuant to delegated authority.

[63 FR 68920, Dec. 14, 1998, as amended at 67 FR 13224, Mar. 21, 2002]

**§ 1.822 General selection procedures.**

(a) Mutually exclusive applications for permits and licenses in the services specified in § 1.821 may be designated for random selection according to the procedures established for each service. Following the random selection, the Commission shall determine whether the applicant is qualified to receive the permit or license. If, after reviewing the tentative selectee's application and pleadings properly filed against it, the Commission determines that a substantial and material question of fact exists, it shall designate the qualifying issue(s) for an expedited hearing.

(b) Expedited hearing procedures. (1) Hearings may be conducted by the Commission or an Administrative Law Judge. In the case of a question which requires oral testimony for its resolution, the hearing will be conducted by an Administrative Law Judge.

(2) Parties have ten (10) days from publication in the FEDERAL REGISTER of the hearing designation order to file notices of appearance.

(3) When the Commission, under § 1.221, issues an order stating the time, place, and nature of the hearing, this order shall instruct the applicant to submit its direct case in writing within thirty (30) days from the order's release date, or as otherwise specified in the order. The direct written case must set forth all those facts and circumstances related to the issues in the designation order. Documentary evidence upon which the applicant relies must be attached. Each exhibit must be numbered and must be accompanied by an affidavit from someone who has personal knowledge of the facts in the submission and who attests to the truth of the submission.

(4) The order will also specify those petitioners that directly raised an issue which was designated and will inform these parties of their opportunity to submit a written rebuttal case within twenty (20) days after the direct case is due. The procedures in paragraph (b)(3) of this section will apply as to

documentary evidence, exhibits, and affidavits.

(5) Appeal of initial decisions rendered by an Administrative Law Judge shall lie with the Commission.

[48 FR 27201, June 13, 1983. Redesignated and amended at 50 FR 5991, Feb. 13, 1985]

### § 1.824 Random selection procedures for Multichannel Multipoint Distribution Service and Multipoint Distribution Service H-Channel stations.

(a) If there are mutually exclusive applications for an initial conditional license or license, the Commission may use the random selection process to select the conditional licensee or licensee. Each such random selection shall be conducted under the direction of the Office of the Managing Director in conjunction with the Office of the Secretary. Following the random selection, the Commission shall announce the tentative selectee and determine whether the applicant is qualified to receive the conditional license or license. If the Commission determines that the tentative selectee is qualified, it shall grant the application. In the event that the tentative selectee's application is denied, a second random selection will be conducted. Petitions for Reconsideration, Motions to Stay or Applications for Review may be submitted at the time the Commission grants or denies the application of the tentative selectee. The filing periods specified in the rules shall apply for such pleadings.

(b) Competing applications for conditional licenses and licenses shall be designated for random selection in accordance with §§1.1621, 1.1622 (a), (b), (c), (d), and (e), and 1.1623. No preferences pursuant to §1.1622 (b)(2) or (b)(3) shall be granted to any MMDS or MDS H-channel applicant whose owners, when aggregated, have an ownership interest of more than 50 percent in the media of mass communication whose service areas, as set forth at §1.1622 (e)(1) through (e)(7), wholly encompass or are encompassed by the protected service area contour, computed in accordance with §21.902(d) of this chapter, for which the license or conditional license is sought.

(c) Petitions to Deny may be filed only against the tentative selectee. These petitions must be filed within 30 days of the Public Notice announcing such tentative selection. A consolidated reply may be filed within 15 days of the due date for Petitions to Deny.

[50 FR 5992, Feb. 13, 1985, as amended at 56 FR 57815, Nov. 14, 1991]

## Subpart F—Wireless Radio Services Applications and Proceedings

SOURCE: 28 FR 12454, Nov. 22, 1963, unless otherwise noted.

SCOPE AND AUTHORITY

### § 1.901 Basis and purpose.

These rules are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq*. The purpose of these rules is to establish the requirements and conditions under which entities may be licensed in the Wireless Radio Services as described in this part and in parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97 and 101 of this chapter.

[68 FR 12755, Mar. 17, 2003]

### § 1.902 Scope.

In case of any conflict between the rules set forth in this subpart and the rules set forth in Parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97, and 101 of title 47, chapter I of the Code of Federal Regulations, the rules in part 1 shall govern.

[68 FR 12755, Mar. 17, 2003]

### § 1.903 Authorization required.

(a) *General rule*. Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section.

(b) *Restrictions*. The holding of an authorization does not create any rights

beyond the terms, conditions and period specified in the authorization. Authorizations may be granted upon proper application, provided that the Commission finds that the applicant is qualified in regard to citizenship, character, financial, technical and other criteria, and that the public interest, convenience and necessity will be served. *See* §§ 301, 308, and 309, 310 of this chapter.

(c) *Subscribers.* Authority for subscribers to operate mobile or fixed stations in the Wireless Radio Services, except for certain stations in the Rural Radiotelephone Service, is included in the authorization held by the licensee providing service to them. Subscribers are not required to apply for, and the Commission does not accept, applications from subscribers for individual mobile or fixed station authorizations in the Wireless Radio Services. Individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as provided in § 22.703 of this chapter. Individual authorizations are required for end users of certain Specialized Mobile Radio Systems as provided in § 90.655 of this chapter. In addition, certain ships and aircraft are required to be individually licensed under parts 80 and 87 of this chapter. See §§ 80.13, 87.18 of this chapter.

[63 FR 68921, Dec. 14, 1998, as amended at 70 FR 19305, Apr. 13, 2005]

### § 1.907 Definitions.

*Antenna structure.* The term antenna structure includes the radiating and receiving elements, its supporting structures, towers, and all appurtenances mounted thereon.

*Application.* A request on a standard form for a station license as defined in § 3(b) of the Communications Act, signed in accordance with § 1.917 of this part, or a similar request to amend a pending application or to modify or renew an authorization. The term also encompasses requests to assign rights granted by the authorization or to transfer control of entities holding authorizations.

*Auctionable license.* A Wireless Radio Service license identified in § 1.2102 of this part for which competitive bidding is used to select from among mutually exclusive applications.

*Auctionable license application.* A Wireless Radio Service license application identified in § 1.2102 of this part for which competitive bidding is used if the application is subject to mutually exclusive applications.

*Authorization.* A written instrument or oral statement issued by the FCC conveying authority to operate, for a specified term, to a station in the Wireless Telecommunications Services.

*Authorized bandwidth.* The maximum bandwidth permitted to be used by a station as specified in the station license. *See* § 2.202 of this chapter.

*Authorized power.* The maximum power a station is permitted to use. This power is specified by the Commission in the station's authorization or rules.

*Control station.* A fixed station, the transmissions of which are used to control automatically the emissions or operations of a radio station, or a remote base station transmitter.

*Effective radiated power (ERP).* The product of the power supplied to the antenna multiplied by the gain of the antenna referenced to a half-wave dipole.

*Equivalent Isotopically Radiated Power (EIRP).* The product of the power supplied to the antenna multiplied by the antenna gain referenced to an isotropic antenna.

*Fixed station.* A station operating at a fixed location.

*Harmful interference.* Interference that endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radio communications service operating in accordance with the Radio Regulations.

*Mobile relay station.* A fixed transmitter used to facilitate the transmission of communications between mobile units.

*Mobile station.* A radio communication station capable of being moved and which ordinarily does move.

*Non-auctionable license.* A Wireless Radio Service license identified in § 1.2102 of this part for which competitive bidding is not used to select from

among mutually exclusive applications.

*Non-auctionable license application.* A Wireless Radio Service license application for which § 1.2102 of this part precludes the use of competitive bidding if the application is subject to mutually exclusive applications.

*Private Wireless Services.* Wireless Radio Services authorized by parts 80, 87, 90, 95, 97, and 101 that are not Wireless Telecommunications Services, as defined in this part.

*Radio station.* A separate transmitter or a group of transmitters under simultaneous common control, including the accessory equipment required for carrying on a radio communications service.

*Receipt date.* The date an electronic or paper application is received at the appropriate location at the Commission or U.S. Bank. Amendments to pending applications may result in the assignment of a new receipt date in accordance with § 1.927 of this part.

*Universal Licensing System.* The Universal Licensing System (ULS) is the consolidated database, application filing system, and processing system for all Wireless Radio Services. ULS supports electronic filing of all applications and related documents by applicants and licensees in the Wireless Radio Services, and provides public access to licensing information.

*Wireless Radio Services.* All radio services authorized in parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97 and 101 of this chapter, whether commercial or private in nature.

*Wireless Telecommunications Services.* Wireless Radio Services, whether fixed or mobile, that meet the definition of ''telecommunications service'' as defined by 47 U.S.C. 153, as amended, and are therefore subject to regulation on a common carrier basis. Wireless Telecommunications Services include all radio services authorized by parts 20, 22, 24, 26, and 27 of this chapter. In addition, Wireless Telecommunications Services include Public Coast Stations authorized by part 80 of this chapter, Commercial Mobile Radio Services authorized by part 90 of this chapter, and common carrier fixed microwave services, Local Television Transmission Service (LTTS), Local Multipoint Distribution Service (LMDS), and Digital Electronic Message Service (DEMS), authorized by part 101 of this chapter.

[63 FR 68921, Dec. 14, 1998, as amended at 73 FR 9018, Feb. 19, 2008]

## APPLICATION REQUIREMENTS AND PROCEDURES

### § 1.911 Station files.

Applications, notifications, correspondence, electronic filings and other material, and copies of authorizations, comprising technical, legal, and administrative data relating to each station in the Wireless Radio Services are maintained by the Commission in ULS. These files constitute the official records for these stations and supersede any other records, database or lists from the Commission or other sources.

[63 FR 68922, Dec. 14, 1998]

### § 1.913 Application and notification forms; electronic and manual filing.

(a) *Application and notification forms.* Applicants, licensees, and spectrum lessees (see § 1.9003) shall use the following forms and associated schedules for all applications and notifications:

(1) *FCC Form 601, Application for Authorization in the Wireless Radio Services.* FCC Form 601 and associated schedules is used to apply for initial authorizations, modifications to existing authorizations, amendments to pending applications, renewals of station authorizations, developmental authorizations, special temporary authority, notifications, requests for extension of time, and administrative updates.

(2) *FCC Form 602, Wireless Radio Services Ownership Form.* FCC Form 602 is used by applicants and licensees in auctionable services to provide and update ownership information as required by §§ 1.919, 1.948, 1.2112, and any other section that requires the submission of such information.

(3) *FCC Form 603, Application for Assignment of Authorization or Transfer of Control.* FCC Form 603 is used by applicants and licensees to apply for Commission consent to assignments of existing authorizations, to apply for Commission consent to transfer control of entities holding authorizations,

to notify the Commission of the consummation of assignments or transfers, and to request extensions of time for consummation of assignments or transfers. It is also used for Commission consent to partial assignments of authorization, including partitioning and disaggregation.

(4) *FCC Form 605, Quick-form Application for Authorization for Wireless Radio Services*. FCC Form 605 is used to apply for Amateur, Ship, Aircraft, and General Mobile Radio Service (GMRS) authorizations, as well as Commercial Radio Operator Licenses.

(5) *FCC Form 608, Notification or Application for Spectrum Leasing Arrangement*. FCC Form 608 is used by licensees and spectrum lessees (*see* §1.9003) to notify the Commission regarding spectrum manager leasing arrangements and to apply for Commission consent for *de facto* transfer leasing arrangements pursuant to the rules set forth in part 1, subpart X. It is also used to notify the Commission if a licensee or spectrum lessee establishes a private commons (*see* §1.9080).

(6) FCC Form 609, Application to Report Eligibility Event. FCC Form 609 is used by licensees to apply for Commission approval of reportable eligibility events, as defined in §1.2114.

(b) *Electronic filing*. Except as specified in paragraph (d) of this section or elsewhere in this chapter, all applications and other filings using the application and notification forms listed in this section or associated schedules must be filed electronically in accordance with the electronic filing instructions provided by ULS. For each Wireless Radio Service that is subject to mandatory electronic filing, this paragraph is effective on July 1, 1999, or six months after the Commission begins use of ULS to process applications in the service, whichever is later. The Commission will announce by public notice the deployment date of each service in ULS.

(1) Attachments to applications and notifications should be uploaded along with the electronically filed applications and notifications whenever possible. The files, other than the ASCII table of contents, should be in Adobe Acrobat Portable Document Format (PDF) whenever possible.

(2) Any associated documents submitted with an application or notification must be uploaded as attachments to the application or notification whenever possible. The attachment should be uploaded via ULS in Adobe Acrobat Portable Document Format (PDF) whenever possible.

(c) *Auctioned license applications*. Auctioned license applications, as defined in §1.907 of this part, shall also comply with the requirements of subpart Q of this part and the applicable Commission orders and public notices issued with respect to each auction for a particular service and spectrum.

(d) *Manual filing*. (1) ULS Forms 601, 603, 605, and 608 may be filed manually or electronically by applicants and licensees in the following services:

(i) The part 90 Private Land Mobile Radio services for shared spectrum, spectrum in the public safety pool below 746 MHz, and spectrum in the public safety allocation above 746 MHz, except those filed by Commission-certified frequency coordinators;

(ii) The part 97 Amateur Radio Service, except those filed by Volunteer Examination Coordinators;

(iii) The part 95 General Mobile Radio Service and Personal Radio Service (excluding 218–219 MHz service);

(iv) The part 80 Maritime Services (excluding the VHF 156–162 MHz Public Coast Stations);

(v) The part 87 Aviation Services;

(vi) Part 13 Commercial Radio Operators; and

(vii) Part 101 licensees who are also members of any of the groups listed in paragraph (d)(1)(i) through (d)(1)(vi) of this section.

(2) Manually filed applications must be submitted to the Commission at the appropriate address with the appropriate filing fee. The addresses for filing and the fee amounts for particular applications are listed in Subpart G of this part, and in the appropriate fee filing guide for each service available from the Commission's Forms Distribution Center by calling 1–800–418-FORM (3676).

(3) Manually filed applications requiring fees as set forth at Subpart G, of this part must be filed in accordance with §0.401(b).

(4) Manually filed applications that do not require fees must be addressed and sent to Federal Communications Commission, 1270 Fairfield Road, Gettysburg, Pennsylvania 17325–7245.

(5) Standard forms may be reproduced and the copies used in accordance with the provisions of § 0.409 of this chapter.

(6) Attachments to manually filed applications may be filed on a standard 3.5 magnetic diskette formatted to be readable by high density floppy drives operating under MS-DOS (version 3.X or later compatible versions). Each diskette submitted must contain an ASCII text file listing each filename and a brief description of the contents of each file and format for each document on the diskette. The files on the diskette, other than the table of contents, should be in Adobe Acrobat Portable Document Format (PDF) whenever possible. All diskettes submitted must be legibly labelled referencing the application and its filing date.

(e) *Applications requiring prior coordination*. Parties filing applications that require frequency coordination shall, prior to filing, complete all applicable frequency coordination requirements in service-specific rules contained within this chapter. After appropriate frequency coordination, such applications may be electronically filed via ULS or, if filed manually, must be forwarded to the appropriate address with the appropriate filing fee (if applicable) in accordance with subparagraph (d). Applications filed by the frequency coordinator on behalf of the applicant must be filed electronically.

(f) *Applications for Amateur licenses*. Each candidate for an amateur radio operator license which requires the applicant to pass one or more examination elements must present the administering Volunteer Examiners (VE) with all information required by the rules prior to the examination. The VEs may collect the information required by these rules in any manner of their choosing, including creating their own forms. Upon completion of the examination, the administering VEs will immediately grade the test papers and will then issue a certificate for successful completion of an amateur radio operator examination (CSCE) if the applicant is successful. The VEs will send all necessary information regarding a candidate to the Volunteer-Examiner Coordinator (VEC) coordinating the examination session. Applications filed with the Commission by VECs must be filed electronically via ULS. All other applications for amateur service licenses may be submitted manually to FCC, 1270 Fairfield Road, Gettysburg, PA 17325–7245, or may be electronically filed via ULS. Feeable requests for vanity call signs must be filed in accordance with § 0.401 of this chapter or electronically filed via ULS.

(g) *Section 337 Requests*. Applications to provide public safety services submitted pursuant to 47 U.S.C. 337 must be filed on the same form and in the same manner as other applications for the requested frequency(ies), except that applicants must select the service code reflective of the type of service the applicant intends to provide.

[63 FR 68922, Dec. 14, 1998, as amended at 66 FR 55, Jan. 2, 2001; 67 FR 34851, May 16, 2002; 68 FR 42995, July 21, 2003; 68 FR 66276, Nov. 25, 2003; 69 FR 77549, Dec. 27, 2004; 71 FR 26251, May 4, 2006]

EFFECTIVE DATE NOTE: At 69 FR 77549, Dec. 27, 2004, § 1.913(a)(5) was added. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.915 General application requirements.

(a) *General requirement*. Except as provided in paragraph (b) of this section, for all Wireless Radio Services, station licenses, as defined in section 308(a) of the Communications Act, as amended, operator licenses, modifications or renewals of licenses, assignments or transfers of control of station licenses or any rights thereunder, and waiver requests associated with any of the foregoing shall be granted only upon an application filed pursuant to §§ 1.913 through 1.917 of this part.

(b)(1) *Exception for emergency filings*. The Commission may grant station licenses, or modifications or renewals thereof, without the filing of a formal application in the following cases:

(i) an emergency found by the Commission to involve danger to life or

property or to be due to damage to equipment;

(ii) a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged, when such action is necessary for the national defense or security or otherwise in furtherance of the war effort; or

(iii) an emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedures.

(2) No such authorization shall be granted for or continue in effect beyond the period of the emergency or war requiring it. The procedures to be followed for emergency requests submitted under this subparagraph are the same as for seeking special temporary authority under §1.931 of this part. After the end of the period of emergency, the party must submit its request by filing the appropriate FCC form in accordance with paragraph (a) of this section.

[63 FR 68923, Dec. 14, 1998]

### § 1.917 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments, and related statements of fact required by the Commission must be signed as follows (either electronically or manually, *see* paragraph (d) of this section): (1) By the applicant, if the applicant is an individual; (2) by one of the partners if the applicant is a partnership; (3) by an officer, director, or duly authorized employee, if the applicant is a corporation; (4) by a member who is an officer, if the applicant is an unincorporated association; or (5) by the trustee if the applicant is an amateur radio service club. Applications, amendments, and related statements of fact filed on behalf of eligible government entities such as states and territories of the United States, their political subdivisions, the District of Columbia, and units of local government, including unincorporated municipalities, must be signed by a duly elected or appointed official who is authorized to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or absence from the United States, or by applicant's designated vessel master when a temporary permit is requested for a vessel. The attorney shall, when applicable, separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's or master's belief only (rather than knowledge), the attorney or master shall separately set forth the reasons for believing that such statements are true. Only the original of applications, amendments, and related statements of fact need be signed.

(c) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, 18 U.S.C. 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to 312(a)(1) of the Communications Act of 1934, as amended.

(d) ''Signed,'' as used in this section, means, for manually filed applications only, an original hand-written signature or, for electronically filed applications only, an electronic signature. An electronic signature shall consist of the name of the applicant transmitted electronically via ULS and entered on the application as a signature.

[63 FR 68923, Dec. 14, 1998]

### § 1.919 Ownership information.

(a) Applicants or licensees in Wireless Radio Services that are subject to the ownership reporting requirements of §1.2112 shall use FCC Form 602 to provide all ownership information required by the chapter.

(b) Any applicant or licensee that is subject to the reporting requirements of §1.2112 or §1.2114 shall file an FCC Form 602, or file an updated form if the ownership information on a previously filed FCC Form 602 is not current, at the time it submits:

(1) An initial application for authorization (FCC Form 601);

(2) An application for license renewal (FCC Form 601);

(3) An application for assignment of authorization or transfer of control (FCC Form 603); or

(4) A notification of consummation of a *pro forma* assignment of authorization or transfer of control (FCC Form 603) under the Commission's forbearance procedures (see §1.948(c ) of this part).

(5) An application reporting any reportable eligibility event, as defined in §1.2114.

(c) *Reporting of Cellular Cross-Ownership Interests.* (1) A cellular licensee of one channel block in a cellular geographic service area (CGSA) must report current ownership information if the licensee, a party that owns a controlling or otherwise attributable interest in the licensee, or a party that actually controls the licensee, obtains a direct or indirect ownership interest of more than 10 percent in a cellular licensee, a party that owns a controlling or otherwise attributable interest in a cellular licensee, or a party that actually controls a cellular licensee, for the other channel block in an overlapping CGSA, if the overlap is located in whole or in part in a Rural Service Area (RSA), as defined in §22.909 of this chapter. The ownership information must be filed on a FCC Form 602 within 30 days of the date of consummation of the transaction and reflect the specific levels of investment.

(2) For the purposes of paragraph (c) of this section, the following definitions and other provisions shall apply:

(i) *Non-controlling interests.* A direct or indirect non-attributable interest in both systems is excluded from the reporting requirement set out in paragraph (c)(1) of this section.

(ii) *Ownership attribution.* For purposes of paragraph (c) of this section, ownership and other interests in cellular licensees will be attributed to their holders pursuant to the following criteria:

(A) Controlling interest shall be attributable. Controlling interest means majority voting equity ownership, any general partnership interest, or any means of actual working control (including negative control) over the operation of the licensee, in whatever manner exercised.

(B) Partnership and other ownership interests and any stock interest amounting to 20 percent or more of the equity, or outstanding stock, or outstanding voting stock of a cellular licensee shall be attributed.

(C) Non-voting stock shall be attributed as an interest in the issuing entity if in excess of the amounts set forth in paragraph (c)(2)(ii)(B) of this section.

(D) Debt and instruments such as warrants, convertible debentures, options, or other interests (except non-voting stock) with rights of conversion to voting interests shall not be attributed unless and until converted.

(E) Limited partnership interests shall be attributed to limited partners and shall be calculated according to both the percentage of equity paid in and the percentage of distribution of profits and losses.

(F) Officers and directors of a cellular licensee shall be considered to have an attributable interest in the entity with which they are so associated. The officers and directors of an entity that controls a cellular licensee shall be considered to have an attributable interest in the cellular licensee.

(G) Ownership interests that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, 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. (For example, if A owns 20 percent of B, and B owns 40 percent of licensee C, then A's interest in licensee C would be 8 percent. If A owns 20 percent of B, and B owns 51 percent of licensee C, then A's interest in licensee C would be 20 percent because B's ownership of C exceeds 50 percent.)

(H) Any person who manages the operations of a cellular licensee pursuant to a management agreement shall be considered to have an attributable interest in such licensee if such person, or its affiliate, has authority to make

decisions or otherwise engage in practices or activities that determine, or significantly influence:

(*1*) The nature or types of services offered by such licensee;

(*2*) The terms upon which such services are offered; or

(*3*) The prices charged for such services.

(I) Any licensee, or its affiliate, who enters into a joint marketing arrangements with a cellular licensee, or its affiliate, shall be considered to have an attributable interest, if such licensee or affiliate has authority to make decisions or otherwise engage in practices or activities that determine, or significantly influence:

(*1*) The nature or types of services offered by such licensee;

(*2*) The terms upon which such services are offered; or

(*3*) The prices charged for such services.

(3) *Sunset Provisions*. This notification requirement will sunset at the earlier of:

(i) Five years after February 14, 2005, or

(ii) At the cellular licensee's specific deadline for renewal.

(d) A single FCC Form 602 may be associated with multiple applications filed by the same applicant or licensee. If an applicant or licensee already has a current FCC Form 602 on file when it files an initial application, renewal application, application for assignment or transfer of control, or notification of a *pro forma* assignment or transfer, it may certify that it has a current FCC Form 602 on file.

(e) No filing fee is required to submit or update FCC Form 602.

(f) Applicants or licensees in Wireless Radio Services that are not subject to the ownership reporting requirements of §1.2112 are not required to file FCC Form 602. However, such applicants and licensees may be required by the rules applicable to such services to disclose the real party (or parties) in interest to the application, including (as required) a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant or licensee.

[63 FR 68923, Dec. 14, 1998, as amended at 68 FR 42995, July 21, 2003; 69 FR 75170, Dec. 15, 2004; 71 FR 26251, May 4, 2006]

### § 1.923 Content of applications.

(a) *General*. Applications must contain all information requested on the applicable form and any additional information required by the rules in this chapter and any rules pertaining to the specific service for which the application is filed.

(b) *Reference to material on file*. Questions on application forms that call for specific technical data, or that can be answered yes or no or with another short answer, must be answered on the form. Otherwise, if documents, exhibits, or other lengthy showings already on file with the FCC contain information required in an application, the application may incorporate such information by reference, provided that:

(1) The referenced information has been filed in ULS or, if manually filed outside of ULS, the information comprises more than one ''8½×11'' page.

(2) The referenced information is current and accurate in all material respects; and

(3) The application states specifically where the referenced information can actually be found, including:

(i) The station call sign or application file number and its location if the reference is to station files or previously filed applications;

(ii) The title of the proceeding, the docket number, and any legal citations, if the reference is to a docketed proceeding.

(c) *Antenna locations*. Applications for stations at fixed locations must describe each transmitting antenna site by its geographical coordinates and also by its street address, or by reference to a nearby landmark. Geographical coordinates, referenced to NAD83, must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude.

(d) *Antenna structure registration*. Owners of certain antenna structures must notify the Federal Aviation Administration and register with the Commission as required by Part 17 of this chapter. Applications proposing

the use of one or more new or existing antenna structures must contain the FCC Antenna Registration Number(s) of each structure for which registration is required. If registration is not required, the applicant must provide information in its application sufficient for the Commission to verify this fact.

(e) *Environmental concerns.* Each applicant is required to indicate at the time its application is filed whether or not a Commission grant of the application may have a significant environmental effect, as defined by §1.1307 of this chapter. If answered affirmatively, an Environmental Assessment, required by §1.1311 of this chapter, must be filed with the application and environmental review by the Commission must be completed prior to construction.

(f) *International coordination.* Channel assignments and/or usage under this part are subject to the applicable provisions and requirements of treaties and other international agreements between the United States government and the governments of Canada and Mexico.

(g) *Quiet zones.* Each applicant is required to comply with the ''Quiet Zone'' rule (see §1.924).

(h) *Taxpayer Identification Number (TINs).* Wireless applicants and licensees, including all attributable owners of auctionable licenses as defined by §1.2112 of this part, are required to provide their Taxpayer Identification Numbers (TINS) (as defined in 26 U.S.C. 6109) to the Commission, pursuant to the Debt Collection Improvement Act of 1996 (DCIA). Under the DCIA, the FCC may use an applicant or licensee's TIN for purposes of collecting and reporting to the Department of the Treasury any delinquent amounts arising out of such person's relationship with the Government. The Commission will not publicly disclose applicant or licensee TINs unless authorized by law, but will assign a ''public identification number'' to each applicant or licensee registering a TIN. This public identification number will be used for agency purposes other than debt collection.

(i) Unless an exception is set forth elsewhere in this chapter, each applicant must specify an address where the applicant can receive mail delivery by the United States Postal Service. This address will be used by the Commission to serve documents or direct correspondence to the applicant.

[63 FR 68924, Dec. 14, 1998, as amended at 64 FR 53238, Oct. 1, 1999]

### § 1.924 Quiet zones.

Areas implicated by this paragraph are those in which it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference. Consent throughout this paragraph means written consent from the quiet zone, radio astronomy, research, and receiving installation entity. The areas involved and procedures required are as follows:

(a) *NRAO, NRRO.* The requirements of this paragraph are intended to minimize possible interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia.

(1) Applicants and licensees planning to construct and operate a new or modified station at a permanent fixed location within the area bounded by N 39°15′0.4″ on the north, W 78°29′59.0″ on the east, N 37°30′0.4″ on the south, and W 80°29′59.2″ on the west must notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical details of the proposed operation. The notification must include the geographical coordinates of the antenna location, the antenna height, antenna directivity (if any), the channel, the emission type and power.

(2) When an application for authority to operate a station is filed with the FCC, the notification required in paragraph (a)(1) of this section may be made prior to, or simultaneously with the application. The application must state the date that notification in accordance with paragraph (a)(1) of this section was made. After receipt of such applications, the FCC will allow a period of 20 days for comments or objections in response to the notifications

indicated. If an applicant submits written consent from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the FCC will process the application without awaiting the conclusion of the 20-day period. For services that do not require individual station authorization, entities that have obtained written consent from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory may begin to operate new or modified facilities prior to the end of the 20-day period. In instances in which notification has been made to the National Radio Astronomy Observatory prior to application filing, the applicant must also provide notice to the quiet zone entity upon actual filing of the application with the FCC. Such notice will be made simultaneous with the filing of the application and shall comply with the requirements of paragraph (a)(1) of this section.

(3) If an objection is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the FCC will, after consideration of the record, take whatever action is deemed appropriate.

(b) *Table Mountain.* The requirements of this paragraph are intended to minimize possible interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado.

(1) Licensees and applicants planning to construct and operate a new or modified station at a permanent fixed location in the vicinity of Boulder County, Colorado are advised to give consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07′49.9″ North Latitude, 105°14′42.0″ West Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the values given in the following table:

FIELD STRENGTH LIMITS FOR TABLE MOUNTAIN [1]

| Frequency range | Field strength (mV/m) | Power flux density (dBW/m$^2$) |
|---|---|---|
| Below 540 kHz | 10 | −65.8 |
| 540 to 1600 kHz | 20 | −59.8 |
| 1.6 to 470 MHz | 10 | −65.8 |
| 470 to 890 MHz | 30 | −56.2 |
| 890 MHz and above | 1 | −85.8 |

[1] NOTE: Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7Ω (120πΩ).

(2) Advance consultation is recommended, particularly for applicants that have no reliable data to indicate whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities. In general, coordination is recommended for:

(i) Stations located within 2.4 kilometers (1.5 miles) of the Table Mountain Radio Receiving Zone;

(ii) Stations located within 4.8 kilometers (3 miles) transmitting with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations located with 16 kilometers (10 miles) transmitting with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations located within 80 kilometers (50 miles) transmitting with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(3) Applicants concerned are urged to communicate with the Radio Frequency Manager, Department of Commerce, 325 Broadway, Boulder, CO 80305; *Telephone:* 303–497–4619, *Fax:* 303–497–6982, *E-mail: frequencymanager@its.bldrdoc.gov,* in advance of filing their applications with the Commission.

(4) The FCC will not screen applications to determine whether advance consultation has taken place. However, such consultation may avoid the filing of objections from the Department of

Commerce or institution of proceedings to modify the authorizations of stations that radiate signals with a field strength or power flux density at the site in excess of those specified herein.

(c) *Federal Communications Commission protected field offices.* The requirements of this paragraph are intended to minimize possible interference to FCC monitoring activities.

(1) Licensees and applicants planning to construct and operate a new or modified station at a permanent fixed location in the vicinity of an FCC protected field office are advised to give consideration, prior to filing applications, to the need to avoid interfering with the monitoring activities of that office. FCC protected field offices are listed in § 0.121 of this chapter.

(2) Applications for stations (except mobile stations) that could produce on any channel a direct wave fundamental field strength of greater than 10 mV/m ($-65.8$ dBW/m$^2$ power flux density assuming a free space characteristic impedance of $120\pi$ $\Omega$) in the authorized bandwidth at the protected field office may be examined to determine the potential for interference with monitoring activities. After consideration of the effects of the predicted field strength of the proposed station, including the cumulative effects of the signal from the proposed station with other ambient radio field strength levels at the protected field office, the FCC may add a condition restricting radiation toward the protected field office to the station authorization.

(3) In the event that the calculated field strength exceeds 10 mV/m at the protected field office site, or if there is any question whether field strength levels might exceed that level, advance consultation with the FCC to discuss possible measures to avoid interference to monitoring activities should be considered. Prospective applicants may communicate with: Chief, Enforcement Bureau, Federal Communications Commission, Washington, DC 20554.

(4) Advance consultation is recommended for applicants that have no reliable data to indicate whether the field strength or power flux density figure indicated would be exceeded by their proposed radio facilities. In general, coordination is recommended for:

(i) Stations located within 2.4 kilometers (1.5 miles) of the protected field office;

(ii) Stations located within 4.8 kilometers (3 miles) with 50 watts or more average effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the protected field offices.

(iii) Stations located within 16 kilometers (10 miles) with 1 kw or more average ERP in the primary plane of polarization in the azimuthal direction of the protected field office;

(iv) Stations located within 80 kilometers (50 miles) with 25 kw or more average ERP in the primary plane of polarization in the azimuthal direction of the protected field office;

(v) Advance coordination for stations transmitting on channels above 1000 MHz is recommended only if the proposed station is in the vicinity of a protected field office designated as a satellite monitoring facility in § 0.121 of this chapter.

(vi) The FCC will not screen applications to determine whether advance consultation has taken place. However, such consultation may serve to avoid the need for later modification of the authorizations of stations that interfere with monitoring activities at protected field offices.

(d) *Notification to the Arecibo Observatory.* 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 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, HC3 Box 53995, Arecibo, Puerto Rico 00612, 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.

(1) In the Amateur radio service:

(i) The provisions of paragraph (d) of this section do not apply to repeaters that transmit on the 1.2 cm or shorter wavelength bands; and

(ii) The coordination provision of paragraph (d) of this section does not apply to repeaters that are located 16 km or more from the Arecibo observatory.

(2) In services in which individual station licenses are issued by the FCC, the notification required in paragraph (d) of this section may be made prior to, or simultaneously with, the filing of the application 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 (d) of this section was made. In services in which individual station licenses are not issued by the FCC, the notification required in paragraph (d) 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. If an applicant submits written consent from the Interference Office, the FCC will process the application without awaiting the conclusion of the 20-day period. For services that do not require individual station authorization, entities that have obtained written consent from the Interference Office may begin to operate new or modified facilities prior to the end of the 20-day period. In instances in which notification has been made to the Interference Office prior to application filing, the applicant must also provide notice to the Interference Office upon actual filing of the application with the FCC. Such notice will be made simultaneous with the filing of the application and shall comply with the requirements of paragraph (d) of this section.

(3) 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.

(4) The provisions of paragraph (d) of this section do not apply to operations that transmit on frequencies above 15 GHz.

(e) *Government satellite earth stations.* (1) To minimize or avoid harmful interference to Government Satellite Earth Stations located in the Denver, Colorado and Washington, DC areas, any application for a new station license to operate in the 17.8–19.7 GHz band (except for low power operations governed by § 101.147(r)(10) of this chapter), or for modification of an existing station license in this band which would change the frequency, power, emission, modulation, polarization, antenna height or directivity, or location of such a station, must be coordinated with the Federal Government by the Commission before an authorization will be issued, if the station or proposed station is located in whole or in part within any of the areas defined by the following rectangles or circles:

DENVER, CO AREA

Rectangle 1:
41°30′00″ N. Lat. on the north
103°10′00″ W. Long. on the east
38°30′00″ N. Lat. on the south
106°30′00″ W. Long. on the west

Rectangle 2:
38°30′00″ N. Lat. on the north

105°00′00″ W. Long. on the east
37°30′00″ N. Lat. on the south
105°50′00″ W. Long. on the west
Rectangle 3:
40°08′00″ N. Lat. on the north
107°00′00″ W. Long. on the east
39°56′00″ N. Lat. on the south
107°15′00″ W. Long. on the west

WASHINGTON, DC AREA

Rectangle
38°40′00″ N. Lat. on the north
78°50′00″ W. Long. on the east
38°10′00″ N. Lat. on the south
79°20′00″ W. Long. on the west; or

(2) Within a radius of 178 km of 38°48′00″ N. Lat./76°52′00″ W. Long.

(3) In addition, no application seeking authority to operate in the 17.8–19.7 GHz band will be accepted for filing if the proposed station is located within 20 km (or within 55 km if the application is for an outdoor low power operation pursuant to §101.147(r)(10) of this chapter) of the following coordinated:

Denver, CO area: 39°43′00″ N. Lat./104°46′00″ W. Long.
Washington, DC area: 38°48′00″ N. Lat./76°52′00″ W. Long.

(4) In the band 17.7–17.8 GHz, fixed service applications, under parts 74, 78, or 101 of this chapter, supporting Multichannel Video Programming Distributors shall be coordinated with the Federal Government by the Commission before an authorization will be issued if the station or proposed station is located in whole or in part within any of the areas defined in paragraphs (e)(1) or (e)(2) of this section.

(f) *420–450 MHz band.* (1) In the band 420–450 MHz, applicants should not expect to be accommodated if their area of service is within 160 kilometers (100 miles) of the following locations:

(i) 41°45′00.2″ N, 70°30′58.3″ W.,
(ii) 64°17′00.0″ N., 149°10′00.0″ W.,

NOTE TO: Paragraph (f)(ii) is referenced to NAD27.

(iii) 48°43′00.0″ N., 97°54′01.4″ W.;

(2) Within 200 kilometers (124 miles) of the following locations:

(i) 32°38′00.5″ N., 83°34′59.7″ W.,
(ii) 31°25′00.6″ N., 100°24′01.3″ W.;

(3) Within 240 kilometers (150 miles) of the following location:

(i) 39°07′59.6″ N., 121°26′03.9″ W.;
(ii) [Reserved]

(4) Within 320 kilometers (200 miles) of the following locations:

(i) 28°21′01.0″ N., 80°42′59.2″ W.,
(ii) 30°30′00.7″ N., 86°29′59.8″ W.,
(iii) 34°08′59.6″ N, 119°11′03.8″ W;

(5) Or in the following locations:

(i) The state of Arizona,
(ii) The state of Florida,
(iii) Portions of California and Nevada south of 37°10′ N.,
(iv) And portions of Texas and New Mexico bounded by 31°45′ N., 34°30′ N., 104°00′ W., and 107°30′ W.

(g) *GOES.* The requirements of this paragraph are intended to minimize harmful interference to Geostationary Operational Environmental Satellite earth stations receiving in the band 1670–1675 MHz, which are located at Wallops Island, Virginia; Fairbanks, Alaska; and Greenbelt, Maryland.

(1) Applicants and licensees planning to construct and operate a new or modified station within the area bounded by a circle with a radius of 100 kilometers (62.1 miles) that is centered on 37°56′44″ N, 75°27′37″ W (Wallops Island) or 64°58′22″ N, 147°30′04″ W (Fairbanks) or within the area bounded by a circle with a radius of 65 kilometers (40.4 miles) that is centered on 39°00′02″ N, 76°50′29″ W (Greenbelt) must notify the National Oceanic and Atmospheric Administration (NOAA) of the proposed operation. For this purpose, NOAA maintains the GOES coordination Web page at *http://www.osd.noaa.gov/radio/frequency.htm*, which provides the technical parameters of the earth stations and the point-of-contact for the notification. The notification shall include the following information: Requested frequency, geographical coordinates of the antenna location, antenna height above mean sea level, antenna directivity, emission type, equivalent isotropically radiated power, antenna make and model, and transmitter make and model.

(2) *Protection.* (i) Wallops Island and Fairbanks. Licensees are required to protect the Wallops Island and Fairbanks sites at all times.

(ii) *Greenbelt.* Licensees are required to protect the Greenbelt site only when it is active. Licensees should coordinate appropriate procedures directly with NOAA for receiving notification of times when this site is active.

(3) When an application for authority to operate a station is filed with the FCC, the notification required in paragraph (f)(1) of this section should be sent at the same time. The application must state the date that notification in accordance with paragraph (f)(1) of this section was made. After receipt of such an application, the FCC will allow a period of 20 days for comments or objections in response to the notification.

(4) If an objection is received during the 20-day period from NOAA, the FCC will, after consideration of the record, take whatever action is deemed appropriate.

NOTE TO § 1.924: Unless otherwise noted, all coordinates cited in this section are specified in terms of the North American Datum of 1983 (NAD 83).

[63 FR 68924, Dec. 14, 1998, as amended at 67 FR 6182, Feb. 11, 2002; 67 FR 13224, Mar. 21, 2002; 67 FR 41852, June 20, 2002; 67 FR 71111, Nov. 29, 2002; 69 FR 17957, Apr. 6, 2004; 70 FR 31372, June 1, 2005; 71 FR 69046, Nov. 29, 2006; 73 FR 25420, May 6, 2008; 75 FR 62932, Oct. 13, 2010]

### § 1.925 Waivers.

(a) *Waiver requests generally*. The Commission may waive specific requirements of the rules on its own motion or upon request. The fees for such waiver requests are set forth in § 1.1102 of this part.

(b) *Procedure and format for filing waiver requests*. (1) Requests for waiver of rules associated with licenses or applications in the Wireless Radio Services must be filed on FCC Form 601, 603, or 605.

(2) Requests for waiver must contain a complete explanation as to why the waiver is desired. If the information necessary to support a waiver request is already on file, the applicant may cross-reference the specific filing where the information may be found.

(3) The Commission may grant a request for waiver if it is shown that:

(i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

(4) Applicants requiring expedited processing of their request for waiver shall clearly caption their request for waiver with the words ''WAIVER—EXPEDITED ACTION REQUESTED.''

(c) *Action on Waiver Requests*. (i) The Commission, in its discretion, may give public notice of the filing of a waiver request and seek comment from the public or affected parties.

(ii) Denial of a rule waiver request associated with an application renders that application defective unless it contains an alternative proposal that fully complies with the rules, in which event, the application will be processed using the alternative proposal as if the waiver had not been requested. Applications rendered defective may be dismissed without prejudice.

[63 FR 68926, Dec. 14, 1998]

### § 1.926 Application processing; initial procedures.

Applications are assigned file numbers and service codes in order to facilitate processing. Assignment of a file number to an application is for administrative convenience and does not constitute a determination that the application is acceptable for filing. Purpose and service codes appear on the Commission forms.

[63 FR 68927, Dec. 14, 1998]

### § 1.927 Amendment of applications.

(a) Pending applications may be amended as a matter of right if they have not been designated for hearing or listed in a public notice as accepted for filing for competitive bidding, except as provided in paragraphs (b) through (e) of this section.

(b) Applicants for an initial license in auctionable services may amend such applications only in accordance with Subpart Q of this part.

(c) Amendments to non-auction applications that are applied for under Part 101 or that resolve mutual exclusivity may be filed at any time, subject to the requirements of § 1.945 of this part.

(d) Any amendment to an application for modification must be consistent

with, and must not conflict with, any other application for modification regarding that same station.

(e) Amendments to applications designated for hearing may be allowed by the presiding officer or, when a proceeding is stayed or otherwise pending before the full Commission, may be allowed by the Commission for good cause shown. In such instances, a written petition demonstrating good cause must be submitted and served upon the parties of record.

(f) Amendments to applications are also subject to the service-specific rules in applicable parts of this chapter.

(g) Where an amendment to an application specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant, the applicant must provide an exhibit with the amendment application containing an affirmative, factual showing as set forth in § 1.948(i)(2).

(h) Where an amendment to an application constitutes a major change, as defined in § 1.929, the amendment shall be treated as a new application for determination of filing date, public notice, and petition to deny purposes.

(i) If a petition to deny or other informal objection has been filed, a copy of any amendment (or other filing) must be served on the petitioner. If the FCC has issued a public notice stating that the application appears to be mutually exclusive with another application (or applications), a copy of any amendment (or other filing) must be served on any such mutually exclusive applicant (or applicants).

[63 FR 68927, Dec. 14, 1998, as amended at 64 FR 53238, Oct. 1, 1999; 70 FR 61058, Oct. 20, 2005]

### § 1.928 Frequency coordination, Canada.

(a) As a result of mutual agreements, the Commission has, since May 1950 had an arrangement with the Canadian Department of Communications for the exchange of frequency assignment information and engineering comments on proposed assignments along the Canada-United States borders in certain bands above 30 MHz. Except as provided in paragraph (b) of this section, this arrangement involves assignments in the following frequency bands.

| MHz |
|---|
| 30.56–32.00 |
| 33.00–34.00 |
| 35.00–36.00 |
| 37.00–38.00 |
| 39.00–40.00 |
| 42.00–46.00 |
| 47.00–49.60 |
| 72.00–73.00 |
| 75.40–76.00 |
| 150.80–174.00 |
| 450–470 |
| 806.00–960.00 |
| 1850.0–2200.0 |
| 2450.0–2690.0 |
| 3700.0–4200.0 |
| 5925.0–7125.0 |

| GHz |
|---|
| 10.55–10.68 |
| 10.70–13.25 |

(b) The following frequencies are not involved in this arrangement because of the nature of the services:

| MHz |
|---|
| 156.3 |
| 156.35 |
| 156.4 |
| 156.45 |
| 156.5 |
| 156.55 |
| 156.6 |
| 156.65 |
| 156.7 |
| 156.8 |
| 156.9 |
| 156.95 |
| 157.0 and 161.6 |
| 157.05 |
| 157.1 |
| 157.15 |
| 157.20 |
| 157.25 |
| 157.30 |
| 157.35 |
| 157.40. |

(c) Assignments proposed in accordance with the railroad industry radio frequency allotment plan along the United States-Canada borders utilized by the Federal Communications Commission and the Department of Transport, respectively, may be excepted from this arrangement at the discretion of the referring agency.

(d) Assignments proposed in any radio service in frequency bands below

470 MHz appropriate to this arrangement, other than those for stations in the Domestic Public (land mobile or fixed) category, may be excepted from this arrangement at the discretion of the referring agency if a base station assignment has been made previously under the terms of this arrangement or prior to its adoption in the same radio service and on the same frequency and in the local area, and provided the basic characteristics of the additional station are sufficiently similar technically to the original assignment to preclude harmful interference to existing stations across the border.

(e) For bands below 470 MHz, the areas which are involved lie between Lines A and B and between Lines C and D, which are described as follows:

Line A—Begins at Aberdeen, Wash., running by great circle arc to the intersection of 48 deg. N., 120 deg. W., thence along parallel 48 deg. N., to the intersection of 95 deg. W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45 deg. N., 85 deg. W., thence southward along meridian 85 deg. W., to its intersection with parallel 41 deg. N., thence along parallel 41 deg. N., to its intersection with meridian 82 deg. W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southern-most point of Searsport, Maine, at which point it terminates; and

Line B—Begins at Tofino, B.C., running by great circle arc to the intersection of 50 deg. N., 125 deg. W., thence along parallel 50 deg. N., to the intersection of 90 deg. W., thence by great circle arc to the intersection of 45 deg. N., 79 deg. 30′ W., thence by great circle arc through the northernmost point of Drummondville, Quebec (lat: 45 deg. 52′ N., long: 72 deg. 30′ W.), thence by great circle arc to 48 deg. 30′ N., 70 deg. W., thence by great circle arc through the northernmost point of Campbellton, N.B., thence by great circle arc through the northernmost point of Liverpool, N.S., at which point it terminates.

Line C—Begins at the intersection of 70 deg. N., 144 deg. W., thence by great circle arc to the intersection of 60 deg. N., 143 deg. W., thence by great circle arc so as to include all of the Alaskan Panhandle; and

Line D—Begins at the intersection of 70 deg. N., 138 deg. W., thence by great circle arc to the intersection of 61 deg. 20′ N., 139 deg. W., (Burwash Landing), thence by great circle arc to the intersection of 60 deg. 45′ N., 135 deg. W., thence by great circle arc to the intersection of 56 deg. N., 128 deg. W., thence south along 128 deg. meridian to Lat. 55 deg. N., thence by great circle arc to the intersection of 54 deg. N., 130 deg. W., thence by great circle arc to Port Clements, thence to the Pacific Ocean where it ends.

(f) For all stations using bands between 470 MHz and 1000 MHz; and for any station of a terrestrial service using a band above 1000 MHz, the areas which are involved are as follows:

(1) For a station the antenna of which looks within the 200 deg. sector toward the Canada-United States borders, that area in each country within 35 miles of the borders;

(2) For a station the antenna of which looks within the 160 deg. sector away from the Canada-United States borders, that area in each country within 5 miles of the borders; and

(3) The area in either country within coordination distance as described in Recommendation 1A of the Final Acts of the EARC, Geneva, 1963 of a receiving earth station in the other country which uses the same band.

(g) Proposed assignments in the space radiocommunication services and proposed assignments to stations in frequency bands allocated coequally to space and terrestrial services above 1 GHz are not treated by these arrangements. Such proposed assignments are subject to the regulatory provisions of the International Radio Regulations.

(h) Assignments proposed in the frequency band 806–890 MHz shall be in accordance with the Canada-United States agreement, dated April 7, 1982.

[64 FR 53238, Oct. 1, 1999]

### § 1.929 Classification of filings as major or minor.

Applications and amendments to applications for stations in the wireless radio services are classified as major or minor ( see § 1.947). Categories of major and minor filings are listed in § 309 of the Communications Act of 1934.

(a) For all stations in all Wireless Radio Services, whether licensed geographically or on a site-specific basis, the following actions are classified as major:

(1) Application for initial authorization;

(2) Any substantial change in ownership or control, including requests for partitioning and disaggregation;

(3) Application for renewal of authorization;

(4) Application or amendment requesting authorization for a facility that would have a significant environmental effect, as defined by §§1.1301 through 1.1319 of the rules;

(5) Application or amendment requiring frequency coordination pursuant to the Commission's rules or international treaty or agreement;

(6) Application or amendment requesting to add a frequency or frequency block for which the applicant is not currently authorized, excluding removing a frequency.

(b) In the Cellular Radiotelephone Service:

(1) Request an authorization or an amendment to a pending application that would expand the cellular geographic service area (COSA) of an existing cellular system or, in the case of an amendment, as previously proposed in an application, except during the applicable five-year build-out period, if any;

(2) Request that a CGSA boundary or portion of a CGSA boundary be determined using an alternative method; or,

(3) Request an authorization for facilities that would produce a *de minimis* service area boundary extension into unserved area in an adjacent market.

(c) In addition to those changes listed in paragraph (a) in this section, the following are major changes applicable to stations licensed to provide base-to-mobile, mobile-to-base, mobile-to-mobile on a site-specific basis:

(1) In the Paging and Radiotelephone Service, Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service (SMR), any change that would increase or expand the applicant's existing composite interference contour.

(2) In the 900 MHz SMR and 220 MHz Service, any change that would increase or expand the applicant's service area as defined in the rule parts governing the particular radio service.

(3) In the Paging and Radiotelephone Service, Rural Radiotelephone Service, Offshore Radiotelephone Service, and Specialized Mobile Radio Service:

(i) Request an authorization or an amendment to a pending application that would establish for the filer a new fixed transmission path;

(ii) Request an authorization or an amendment to a pending application for a fixed station (*i.e.*, control, repeater, central office, rural subscriber, or inter-office station) that would increase the effective radiated power, antenna height above average terrain in any azimuth, or relocate an existing transmitter;

(4) In the Private Land Mobile Radio Services (PLMRS), the remote pickup broadcast auxiliary service, and GMRS systems licensed to non-individuals;

(i) Change in frequency or modification of channel pairs, except the deletion of one or more frequencies from an authorization;

(ii) Change in the type of emission;

(iii) Change in effective radiated power from that authorized or, for GMRS systems licensed to non-individuals, an increase in the transmitter power of a station;

(iv) Change in antenna height from that authorized;

(v) Change in the authorized location or number of base stations, fixed, control, except for deletions of one or more such stations or, for systems operating on non-exclusive assignments in GMRS or the 470–512 MHz, 800 MHz or 900 MHz bands, a change in the number of mobile transmitters, or a change in the area of mobile transmitters, or a change in the area of mobile operations from that authorized;

(vi) Change in the class of a land station, including changing from multiple licensed to cooperative use, and from shared to unshared use.

(d) In the microwave, aural broadcast auxiliary, and television broadcast auxiliary services:

(1) Except as specified in paragraph (d)(2) and (d)(3) of this section, the following, in addition to those filings listed in paragraph (a) of this section, are major actions that apply to stations licensed to provide fixed point-to-point, point-to-multipoint, or multipoint-to-point, communications on a site-specific basis, or fixed or mobile communications on an area-specific basis under part 101 of this chapter:

(i) Any change in transmit antenna location by more than 5 seconds in latitude or longitude for fixed point-to-point facilities (e.g., a 5 second change in latitude, longitude, or both would be

minor); any change in coordinates of the center of operation or increase in radius of a circular area of operation, or any expansion in any direction in the latitude or longitude limits of a rectangular area of operation, or any change in any other kind of area operation;

(ii) Any increase in frequency tolerance;

(iii) Any increase in bandwidth;

(iv) Any change in emission type;

(v) Any increase in EIRP greater than 3 dB;

(vi) Any increase in transmit antenna height (above mean sea level) more than 3 meters, except as specified in paragraph (d)(3) of this section;

(vii) Any increase in transmit antenna beamwidth, except as specified in paragraph (d)(3) of this section;

(viii) Any change in transmit antenna polarization;

(ix) Any change in transmit antenna azimuth greater than 1 degree, except as specified in paragraph (d)(3) of this section ; or,

(x) Any change which together with all minor modifications or amendments since the last major modification or amendment produces a cumulative effect exceeding any of the above major criteria.

(2) Changes to transmit antenna location of Multiple Address System (MAS) Remote Units and Digital Electronic Message Service (DEMS) User Units are not major.

(3) Changes in accordance with paragraphs (d)(1)(vi), (d)(1)(vii) and (d)(1)(ix) of this section are not major for the following:

(i) Fixed Two-Way MAS on the remote to master path,

(ii) Fixed One-Way Inbound MAS on the remote to master path,

(iii) Multiple Two-Way MAS on the remote to master and master to remote paths,

(iv) Multiple One-Way Outbound MAS on the master to remote path,

(v) Mobile MAS Master,

(vi) Fixed Two-Way DEMS on the user to nodal path, and

(vii) Multiple Two-Way DEMS on the nodal to user and user to nodal paths.

NOTE TO PARAGRAPH (d)(3) OF §1.929: For the systems and path types described in paragraph (d)(3) of this section, the data provided by applicants is either a typical value for a certain parameter or a fixed value given in the Form instructions.

(e) In addition to those filings listed in paragraph (a) of this section, the following are major actions that apply to stations licensed to provide service in the Air-ground Radiotelephone Service:

(1) Request an authorization to relocate an existing General Aviation ground station; or,

(2) Request the first authorization for a new Commercial Aviation ground station at a location other than those listed in §22.859 of this chapter.

(f) In addition to those changes listed in paragraph (a), the following are major changes that apply to stations licensed in the industrial radiopositioning stations for which frequencies are assigned on an exclusive basis, Maritime and Aviation services, except Maritime Public Coast VHF (CMRS), Ship and Aircraft stations:

(1) Any change in antenna azimuth;

(2) Any change in beamwidth;

(3) Any change in antenna location;

(4) Any change in emission type;

(5) Any increase in antenna height;

(6) Any increase in authorized power;

(7) Any increase in emission bandwidth.

(g) In addition to those changes listed in paragraph (a), any change requiring international coordination in the Maritime Public Coast VHF (CMRS) Service is major.

(h) In addition to those changes listed in paragraph (a) of this section, the following are major changes that apply to ship stations:

(1) Any request for additional equipment;

(2) A change in ship category;

(3) A request for assignment of a Maritime Mobile Service Identity (MMSI) number; or

(4) A request to increase the number of ships on an existing fleet license.

(i) In addition to those changes listed in paragraph (a) of this section, the following are major changes that apply to aircraft stations:

(1) A request to increase the number of aircraft on an existing fleet license; or

(2) A request to change the type of aircraft (private or air carrier).

(j) In addition to those changes listed in paragraph (a) of this section, the following are major changes that apply to amateur licenses:

(1) An upgrade of an existing license; or

(2) A change of call sign.

(k) Any change not specifically listed above as major is considered minor (*see* §1.947(b). This includes but is not limited to:

(1) Any pro forma assignment or transfer of control;

(2) Any name change not involving change in ownership or control of the license;

(3) Any address and/or telephone number changes;

(4) Any changes in contact person;

(5) Any change to vessel name on a ship station license;

(6) Any change to a site-specific license, except a PLMRS license under part 90, or a license under part 101, where the licensee's interference contours are not extended and co-channel separation criteria are met, except those modifications defined in paragraph (c)(2) of this section; or

(7) Any conversion of multiple site-specific licenses into a single wide-area license, except a PLMRS license under part 90 or a license under part 101 of this chapter, where there is no change in the licensee's composite interference contour or service area as defined in paragraph (c)(2) of this section.

[63 FR 68927, Dec. 14, 1998, as amended at 64 FR 53239, Oct. 1, 1999; 68 FR 12755, Mar. 17, 2003; 70 FR 19306, Apr. 13, 2005; 70 FR 61058, Oct. 20, 2005]

### § 1.931 Application for special temporary authority.

(a) *Wireless Telecommunications Services.* (1) In circumstances requiring immediate or temporary use of station in the Wireless Telecommunications Services, carriers may request special temporary authority (STA) to operate new or modified equipment. Such requests must be filed electronically using FCC Form 601 and must contain complete details about the proposed operation and the circumstances that fully justify and necessitate the grant of STA. Such requests should be filed in time to be received by the Commission at least 10 days prior to the date of proposed operation or, where an extension is sought, 10 days prior to the expiration date of the existing STA. Requests received less than 10 days prior to the desired date of operation may be given expedited consideration only if compelling reasons are given for the delay in submitting the request. Otherwise, such late-filed requests are considered in turn, but action might not be taken prior to the desired date of operation. Requests for STA must be accompanied by the proper filing fee.

(2) Grant without Public Notice. STA may be granted without being listed in a Public Notice, or prior to 30 days after such listing, if:

(i) The STA is to be valid for 30 days or less and the applicant does not plan to file an application for regular authorization of the subject operation;

(ii) The STA is to be valid for 60 days or less, pending the filing of an application for regular authorization of the subject operation;

(iii) The STA is to allow interim operation to facilitate completion of authorized construction or to provide substantially the same service as previously authorized; or

(iv) The STA is made upon a finding that there are extraordinary circumstances requiring operation in the public interest and that delay in the institution of such service would seriously prejudice the public interest.

(3) Limit on STA term. The Commission may grant STA for a period not to exceed 180 days under the provisions of section 309(f) of the Communications Act of 1934, as amended, (47 U.S.C. 309(f)) if extraordinary circumstances so require, and pending the filing of an application for regular operation. The Commission may grant extensions of STA for a period of 180 days, but the applicant must show that extraordinary circumstances warrant such an extension.

(b) *Private Wireless Services.* (1) A licensee of, or an applicant for, a station in the Private Wireless Services may request STA not to exceed 180 days for (A) operation of a new station or (B) operation of a licensed station in a manner which is beyond the scope of that authorized by the existing license. *See* §§1.962(b)(5) and (f). Where the applicant, seeking a waiver of the 180 day

limit, requests STA to operate as a private mobile radio service provider for a period exceeding 180 days, evidence of frequency coordination is required. Requests for shorter periods do not require coordination and, if granted, will be authorized on a secondary, non-interference basis.

(2) STA may be granted in the following circumstances:

(i) In emergency situations;

(ii) To permit restoration or relocation of existing facilities to continue communication service;

(iii) To conduct tests to determine necessary data for the preparation of an application for regular authorization;

(iv) For a temporary, non-recurring service where a regular authorization is not appropriate;

(v) In other situations involving circumstances which are of such extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest.

(3) The nature of the circumstance which, in the opinion of the applicant justifies issuance of STA, must be fully described in the request. Applications for STA must be filed at least 10 days prior to the proposed operation. Applications filed less than 10 days prior to the proposed operation date will be accepted only upon a showing of good cause.

(4) The Commission may grant extensions of STA for a period of 180 days, but the applicant must show that extraordinary circumstances warrant such an extension.

(5) In special situations defined in §1.915(b)(1), a request for STA may be made by telephone or telegraph provided a properly signed application is filed within 10 days of such request.

(6) An applicant for an Aircraft Radio Station License may operate the radio station pending issuance of an Aircraft Radio Station License by the Commission for a period of 90 days under temporary operating authority, evidenced by a properly executed certification made on FCC Form 605.

(7) Unless the Commission otherwise prescribes, a person who has been granted an operator license of Novice, Technician, Technician Plus, General, or Advanced class and who has properly submitted to the administering VEs an application document for an operator license of a higher class, and who holds a CSCE indicating that he/she has completed the necessary examinations within the previous 365 days, is authorized to exercise the rights and privileges of the higher operator class until final disposition of the application or until 365 days following the passing of the examination, whichever comes first.

(8) An applicant for a Ship Radio station license may operate the radio station pending issuance of the ship station authorization by the Commission for a period of 90 days, under a temporary operating authority, evidenced by a properly executed certification made on FCC Form 605.

(9) An applicant for a station license in the Industrial/Business pool (other than an applicant who seeks to provide commercial mobile radio service as defined in Part 20 of this chapter) utilizing an already authorized facility may operate the station for a period of 180 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 601, after filing an application for a station license together with evidence of frequency coordination, if required, with the Commission. The temporary operation of stations, other than mobile stations, within the Canadian coordination zone will be limited to stations with a maximum of 5 watts effective radiated power and a maximum antenna height of 20 feet (6.1 meters) above average terrain.

(10) An applicant for a radio station license under Part 90, Subpart S, of this chapter (other than an applicant who seeks to provide commercial mobile radio service as defined in part 20 of this chapter) to utilize an already existing Specialized Mobile Radio System (SMR) facility or to utilize an already licensed transmitter may operate the radio station for a period of up to 180 days, under a temporary permit. Such request must be evidenced by a properly executed certification of FCC Form 601 after the filing of an application for station license, provided that the antenna employed by the control station is a maximum of 20 feet (6.1 meters) above a man-made structure

(other than an antenna tower) to which it is affixed.

(11) An applicant for an itinerant station license, an applicant for a new private land mobile radio station license in the frequency bands below 470 MHz and in the one-way paging 929–930 MHz band (other than a commercial mobile radio service applicant or licensee on these bands) or an applicant seeking to modify or acquire through assignment or transfer an existing station below 470 MHz or in the one-way paging 929–930 MHz band may operate the proposed station during the pendency of its application for a period of up to 180 days under a conditional permit. Conditional operations may commence upon the filing of a properly completed application that complies with § 90.127 if the application, when frequency coordination is required, is accompanied by evidence of frequency coordination in accordance with § 90.175 of this chapter. Operation under such a permit is evidenced by the properly executed Form 601 with certifications that satisfy the requirements of § 90.159(b).

(12) An applicant for a General Mobile Radio Service system license, sharing a multiple-licensed or cooperative shared base station used as a mobile relay station, may operate the system for a period of 180 days, under a Temporary Permit, evidenced by a properly executed certification made on FCC Form 605.

[63 FR 68928, Dec. 14, 1998]

### § 1.933 Public notices.

(a) *Generally*. Periodically, the Commission issues Public Notices in the Wireless Radio Services listing information of public significance. Categories of Public Notice listings are as follows:

(1) *Accepted for filing*. Acceptance for filing of applications and major amendments thereto.

(2) *Actions*. Commission actions on pending applications previously listed as accepted for filing.

(3) *Environmental considerations*. Special environmental considerations as required by Part 1 of this chapter.

(4) *Informative listings*. Information that the Commission, in its discretion, believes to be of public significance. Such listings do not create any rights to file petitions to deny or other pleadings.

(b) *Accepted for filing public notices*. The Commission will issue at regular intervals public notices listing applications that have been received by the Commission in a condition acceptable for filing, or which have been returned to an applicant for correction. Any application that has been listed in a public notice as acceptable for filing and is (1) subject to a major amendment, or (2) has been returned as defective or incomplete and resubmitted to the Commission, shall be listed in a subsequent public notice. Acceptance for filing shall not preclude the subsequent dismissal of an application as defective.

(c) *Public notice prior to grant*. Applications for authorizations, major modifications, major amendments to applications, and substantial assignment or transfer applications for the following categories of stations and services shall be placed on Public Notice as accepted for filing prior to grant:

(1) Wireless Telecommunications Services.

(2) Industrial radiopositioning stations for which frequencies are assigned on an exclusive basis.

(3) Aeronautical enroute stations.

(4) Aeronautical advisory stations.

(5) Airport control tower stations.

(6) Aeronautical fixed stations.

(7) Alaska public fixed stations.

(8) Broadband Radio Service; and

(9) Educational Broadband Service.

(d) *No public notice prior to grant*. The following types of applications, notices, and other filings need not be placed on Public Notice as accepted for filing prior to grant:

(1) Applications or notifications concerning minor modifications to authorizations or minor amendments to applications.

(2) Applications or notifications concerning non-substantial (*pro forma*) assignments and transfers.

(3) Consent to an involuntary assignment or transfer under section 310(b) of the Communications Act.

(4) Applications for licenses under section 319(c) of the Communications Act.

(5) Requests for extensions of time to complete construction of authorized facilities.

(6) Requests for special temporary authorization not to exceed 30 days where the applicant does not contemplate the filing of an application for regular operation, or not to exceed 60 days pending or after the filing of an application for regular operation.

(7) Requests for emergency authorizations under section 308(a) of the Communications Act.

(8) Any application for temporary authorization under section 101.31(a) of this chapter.

(9) Any application for authorization in the Private Wireless Services.

[63 FR 68929, Dec. 14, 1998, as amended at 69 FR 72026, Dec. 10, 2004]

### § 1.934 Defective applications and dismissal.

(a) *Dismissal of applications*. The Commission may dismiss any application in the Wireless Radio Services at the request of the applicant; if the application is mutually exclusive with another application that is selected or granted in accordance with the rules in this part; for failure to prosecute or if the application is found to be defective; if the requested spectrum is not available; or if the application is untimely filed. Such dismissal may be ''without prejudice,'' meaning that the Commission may accept from the applicant another application for the same purpose at a later time, provided that the application is otherwise timely. Dismissal ''with prejudice'' means that the Commission will not accept another application from the applicant for the same purpose for a period of one year. Unless otherwise provided in this part, a dismissed application will not be returned to the applicant.

(1) *Dismissal at request of applicant*. Any applicant may request that its application be withdrawn or dismissed. A request for the withdrawal of an application after it has been listed on Public Notice as tentatively accepted for filing is considered to be a request for dismissal of that application without prejudice.

(i) If the applicant requests dismissal of its application with prejudice, the Commission will dismiss that application with prejudice.

(ii) If the applicant requests dismissal of its application without prejudice, the Commission will dismiss that application without prejudice, unless:

(A) It has been designated for comparative hearing; or

(B) It is an application for which the applicant submitted the winning bid in a competitive bidding process.

(2) If an applicant who is a winning bidder for a license in a competitive bidding process requests dismissal of its short-form or long-form application, the Commission will dismiss that application with prejudice. The applicant will also be subject to default payments under Subpart Q of this part.

(3) An applicant who requests dismissal of its application after that application has been designated for comparative hearing may submit a written petition requesting that the dismissal be without prejudice. Such petition must demonstrate good cause and be served upon all parties of record. The Commission may grant such petition and dismiss the application without prejudice or deny the petition and dismiss the application with prejudice.

(b) *Dismissal of mutually exclusive applications not granted*. The Commission may dismiss mutually exclusive applications:

(1) For which the applicant did not submit the winning bid in a competitive bidding process; or

(2) That receive comparative consideration in a hearing but are not granted by order of the presiding officer.

(c) *Dismissal for failure to prosecute*. The Commission may dismiss applications for failure of the applicant to prosecute or for failure of the applicant to respond substantially within a specified time period to official correspondence or requests for additional information. Such dismissal will generally be without prejudice if the failure to prosecute or respond occurred prior to designation of the application for comparative hearing, but may be with prejudice in cases of non-compliance with § 1.945 of this part. Dismissal will generally be with prejudice if the failure to prosecute or respond occurred after designation of the application for comparative hearing. The Commission may dismiss applications with prejudice for failure of the applicant to comply with requirements related to a competitive bidding process.

(d) *Dismissal as defective*. The Commission may dismiss without prejudice an application that it finds to be defective. An application is defective if:

(1) It is unsigned or incomplete with respect to required answers to questions, informational showings, or other matters of a formal character;

(2) It requests an authorization that would not comply with one or more of the Commission's rules and does not contain a request for waiver of these rule(s), or in the event the Commission denies such a waiver request, does not contain an alternative proposal that fully complies with the rules;

(3) The appropriate filing fee has not been paid; or

(4) The FCC Registration Number (FRN) has not been provided.

(5) It requests a vanity call sign and the applicant has pending another vanity call sign application with the same receipt date.

(e) *Dismissal because spectrum not available*. The Commission may dismiss applications that request spectrum which is unavailable because:

(1) It is not allocated for assignment in the specific service requested;

(2) It was previously assigned to another licensee on an exclusive basis or cannot be assigned to the applicant without causing harmful interference; or

(3) Reasonable efforts have been made to coordinate the proposed facility with foreign administrations under applicable international agreements, and an unfavorable response (harmful interference anticipated) has been received.

(f) *Dismissal as untimely*. The Commission may dismiss without prejudice applications that are premature or late filed, including applications filed prior to the opening date or after the closing date of a filing window, or after the cut-off date for a mutually exclusive application filing group.

[63 FR 68930, Dec. 14, 1998, as amended at 66 FR 47895, Sept. 14, 2001; 71 FR 66461, Nov. 15, 2006]

### § 1.935 Agreements to dismiss applications, amendments or pleadings.

Parties that have filed applications that are mutually exclusive with one or more other applications, and then enter into an agreement to resolve the mutual exclusivity by withdrawing or requesting dismissal of the application(s), specific frequencies on the application or an amendment thereto, must obtain the approval of the Commission. Parties that have filed or threatened to file a petition to deny, informal objection or other pleading against an application and then seek to withdraw or request dismissal of, or refrain from filing, the petition, either unilaterally or in exchange for a financial consideration, must obtain the approval of the Commission.

(a) The party withdrawing or requesting dismissal of its application (or specific frequencies on the application), petition to deny, informal objection or other pleading or refraining from filing a pleading must submit to the Commission a request for approval of the withdrawal or dismissal, a copy of any written agreement related to the withdrawal or dismissal, and an affidavit setting forth:

(1) A certification that neither the party nor its principals has received or will receive any money or other consideration in excess of the legitimate and prudent expenses incurred in preparing and prosecuting the application, petition to deny, informal objection or other pleading in exchange for the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading, or threat to file a pleading, except that this provision does not apply to dismissal or withdrawal of applications pursuant to bona fide merger agreements;

(2) The exact nature and amount of any consideration received or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement; and

(4) The terms of any oral agreement related to the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading, or threat to file a pleading.

(b) In addition, within 5 days of the filing date of the applicant's or petitioner's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the petitioner in exchange for withdrawing or dismissing the application, petition to deny, informal objection or other pleading; and

(2) The terms of any oral agreement relating to the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading.

(c) No person shall make or receive any payments in exchange for withdrawing a threat to file or refraining from filing a petition to deny, informal objection, or any other pleading against an application. For the purposes of this section, reimbursement by an applicant of the legitimate and prudent expenses of a potential petitioner or objector, incurred reasonably and directly in preparing to file a petition to deny, will not be considered to be payment for refraining from filing a petition to deny or an informal objection. Payments made directly to a potential petitioner or objector, or a person related to a potential petitioner or objector, to implement non-financial promises are prohibited unless specifically approved by the Commission.

(d) For the purposes of this section:

(1) Affidavits filed pursuant to this section must be executed by the filing party, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) Each application, petition to deny, informal objection or other pleading is deemed to be pending before the Commission from the time the petition to deny is filed with the Commission until such time as an order or correspondence of the Commission granting, denying or dismissing it is no longer subject to reconsideration by the Commission or to review by any court.

(3) ''Legitimate and prudent expenses'' are those expenses reasonably incurred by a party in preparing to file, filing, prosecuting and/or settling its application, petition to deny, informal objection or other pleading for which reimbursement is sought.

(4) ''Other consideration'' consists of financial concessions, including, but not limited to, the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

(e) Notwithstanding the provisions of this section, any payments made or received in exchange for withdrawing a short-form application for a Commission authorization awarded through competitive bidding shall be subject to the restrictions set forth in §1.2105(c) of this chapter.

[63 FR 68931, Dec. 14, 1998]

### §1.937 Repetitious or conflicting applications.

(a) Where the Commission has, for any reason, dismissed with prejudice or denied any license application in the Wireless Radio Services, or revoked any such license, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of final Commission action.

(b) [Reserved]

(c) If an appeal has been taken from the action of the Commission dismissing with prejudice or denying any application in the Wireless Radio Services, or if the application is subsequently designated for hearing, a like application for service of the same type to the same area, in whole or in part, filed by that applicant or by its successor or assignee, or on behalf or for the benefit of the parties in interest to the original application, will not be considered until the final disposition of such appeal.

(d) While an application is pending, any subsequent inconsistent or conflicting application submitted by, on behalf of, or for the benefit of the same applicant, its successor or assignee will not be accepted for filing.

[63 FR 68931, Dec. 14, 1998, as amended at 68 FR 25842, May 14, 2003]

**§ 1.939 Petitions to deny.**

(a) *Who may file.* Any party in interest may file with the Commission a petition to deny any application listed in a Public Notice as accepted for filing, whether as filed originally or upon major amendment as defined in § 1.929 of this part.

(1) For auctionable license applications, petitions to deny and related pleadings are governed by the procedures set forth in § 1.2108 of this part.

(2) Petitions to deny for non-auctionable applications that are subject to petitions under § 309(d) of the Communications Act must comply with the provisions of this section and must be filed no later than 30 days after the date of the Public Notice listing the application or major amendment to the application as accepted for filing.

(b) *Filing of petitions.* Petitions to deny and related pleadings may be filed electronically via ULS. Manually filed petitions to deny must be filed with the Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. Attachments to manually filed applications may be filed on a standard 3¼″ magnetic diskette formatted to be readable by high density floppy drives operating under MS–DOS (version 3.X or later compatible versions). Each diskette submitted must contain an ASCII text file listing each filename and a brief description of the contents of each file on the diskette. The files on the diskette, other than the table of contents, should be in Adobe Acrobat Portable Document Format (PDF) whenever possible. Petitions to deny and related pleadings must reference the file number of the pending application that is the subject of the petition.

(c) *Service.* A petitioner shall serve a copy of its petition to deny on the applicant and on all other interested parties pursuant to § 1.47. Oppositions and replies shall be served on the petitioner and all other interested parties.

(d) *Content.* A petition to deny must contain specific allegations of fact sufficient to make a *prima facie* showing that the petitioner is a party in interest and that a grant of the application would be inconsistent with the public interest, convenience and necessity. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof.

(e) *Petitions to deny amended applications.* Petitions to deny a major amendment to an application may raise only matters directly related to the major amendment that could not have been raised in connection with the application as originally filed. This paragraph does not apply to petitioners who gain standing because of the major amendment.

(f) *Oppositions and replies.* The applicant and any other interested party may file an opposition to any petition to deny and the petitioner may file a reply thereto in which allegations of fact or denials thereof, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof. Time for filing of oppositions and replies is governed by § 1.45 of this part for non-auctionable services and § 1.2108 of this part for auctionable services.

(g) *Dismissal of petition.* The Commission may dismiss any petition to deny that does not comply with the requirements of this section if the issues raised become moot, or if the petitioner or his/her attorney fails to appear at a settlement conference pursuant to § 1.956 of this part. The reasons for the dismissal will be stated in the dismissal letter or order. When a petition to deny is dismissed, any related responsive pleadings are also dismissed

(h) *Grant of petitioned application.* If a petition to deny has been filed and the Commission grants the application, the Commission will dismiss or deny the petition by issuing a concise statement of the reason(s) for dismissing or denying the petition, disposing of all substantive issues raised in the petition.

[63 FR 68931, Dec. 14, 1998, as amended at 64 FR 53240, Oct. 1, 1999; 70 FR 61058, Oct. 20, 2005; 71 FR 15619, Mar. 29, 2006; 74 FR 68544, Dec. 28, 2009]

**§ 1.945 License grants.**

(a) *License grants—auctionable license applications.* Procedures for grant of licenses that are subject to competitive

bidding under section 309(j) of the Communications Act are set forth in §§ 1.2108 and 1.2109 of this part.

(b) *License grants—non-auctionable license applications.* No application that is not subject to competitive bidding under § 309(j) of the Communications Act will be granted by the Commission prior to the 31st day following the issuance of a Public Notice of the acceptance for filing of such application or of any substantial amendment thereof, unless the application is not subject to § 309(b) of the Communications Act.

(c) *Grant without hearing.* In the case of both auctionable license applications and non-mutually exclusive non-auctionable license applications, the Commission will grant the application without a hearing if it is proper upon its face and if the Commission finds from an examination of such application and supporting data, any pleading filed, or other matters which it may officially notice, that:

(1) There are no substantial and material questions of fact;

(2) The applicant is legally, technically, financially, and otherwise qualified;

(3) A grant of the application would not involve modification, revocation, or non-renewal of any other existing license;

(4) A grant of the application would not preclude the grant of any mutually exclusive application; and

(5) A grant of the application would serve the public interest, convenience, and necessity.

(d) *Grant of petitioned applications.* The FCC may grant, without a formal hearing, an application against which petition(s) to deny have been filed. If any petition(s) to deny are pending (i.e. have not been dismissed or withdrawn by the petitioner) when an application is granted, the FCC will deny the petition(s) and issue a concise statement of the reason(s) for the denial, disposing of all substantive issues raised in the petitions.

(e) *Partial and conditional grants.* The FCC may grant applications in part, and/or subject to conditions other than those normally applied to authorizations of the same type. When the FCC does this, it will inform the applicant of the reasons therefor. Such partial or conditional grants are final unless the FCC revises its action in response to a petition for reconsideration. Such petitions for reconsideration must be filed by the applicant within thirty days after the date of the letter or order stating the reasons for the partial or conditional grant, and must reject the partial or conditional grant and return the instrument of authorization.

(f) *Designation for hearing.* If the Commission is unable to make the findings prescribed in subparagraph (c), it will formally designate the application for hearing on the grounds or reasons then obtaining and will notify the applicant and all other known parties in interest of such action.

(1) Orders designating applications for hearing will specify with particularity the matters in issue.

(2) Parties in interest, if any, who are not notified by the Commission of its action in designating a particular application for hearing may acquire the status of a party to the proceeding by filing a petition for intervention showing the basis of their interest not more than 30 days after publication in the FEDERAL REGISTER of the hearing issues or any substantial amendment thereto.

(3) The applicant and all other parties in interest shall be permitted to participate in any hearing subsequently held upon such applications. Hearings may be conducted by the Commission or by the Chief of the Wireless Telecommunications Bureau, or, in the case of a question which requires oral testimony for its resolution, an Administrative Law Judge. The burden of proceeding with the introduction of evidence and burden of proof shall be upon the applicant, except that with respect to any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission or the Chief of the Wireless Telecommunications Bureau.

[63 FR 68932, Dec. 14, 1998]

### § 1.946 Construction and coverage requirements.

(a) *Construction and commencement of service requirements.* For each of the Wireless Radio Services, requirements

for construction and commencement of service or commencement of operations are set forth in the rule part governing the specific service. For purposes of this section, the period between the date of grant of an authorization and the date of required commencement of service or operations is referred to as the construction period.

(b) *Coverage and substantial service requirements.* In certain Wireless Radio Services, licensees must comply with geographic coverage requirements or substantial service requirements within a specified time period. These requirements are set forth in the rule part governing each specific service. For purposes of this section, the period between the date of grant of an authorization and the date that a particular degree of coverage or substantial service is required is referred to as the coverage period.

(c) *Termination of authorizations.* If a licensee fails to commence service or operations by the expiration of its construction period or to meet its coverage or substantial service obligations by the expiration of its coverage period, its authorization terminates automatically (in whole or in part as set forth in the service rules), without specific Commission action, on the date the construction or coverage period expires.

(d) *Licensee notification of compliance.* A licensee who commences service or operations within the construction period or meets its coverage or substantial services obligations within the coverage period must notify the Commission by filing FCC Form 601. The notification must be filed within 15 days of the expiration of the applicable construction or coverage period. Where the authorization is site-specific, if service or operations have begun using some, but not all, of the authorized transmitters, the notification must show to which specific transmitters it applies.

(e) *Requests for extension of time.* Licensees may request to extend a construction period or coverage period by filing FCC Form 601. The request must be filed before the expiration of the construction or coverage period.

(1) An extension request may be granted if the licensee shows that failure to meet the construction or coverage deadline is due to involuntary loss of site or other causes beyond its control.

(2) Extension requests will not be granted for failure to meet a construction or coverage deadline due to delays caused by a failure to obtain financing, to obtain an antenna site, or to order equipment in a timely manner. If the licensee orders equipment within 90 days of its initial license grant, a presumption of diligence is established.

(3) Extension requests will not be granted for failure to meet a construction or coverage deadline because the licensee undergoes a transfer of control or because the licensee intends to assign the authorization. The Commission will not grant extension requests solely to allow a transferee or assignee to complete facilities that the transferor or assignor failed to construct.

(4) The filing of an extension request does not automatically extend the construction or coverage period unless the request is based on involuntary loss of site or other circumstances beyond the licensee's control, in which case the construction period is automatically extended pending disposition of the extension request.

(5) A request for extension of time to construct a particular transmitter or other facility does not extend the construction period for other transmitters and facilities under the same authorization.

[63 FR 68933, Dec. 14, 1998, as amended at 69 FR 46397, Aug. 3, 2004; 71 FR 52749, Sept. 7, 2006; 72 FR 48842, Aug. 24, 2007]

### § 1.947 Modification of licenses.

(a) All major modifications, as defined in § 1.929 of this part, require prior Commission approval. Applications for major modifications also shall be treated as new applications for determination of filing date, Public Notice, and petition to deny purposes.

(b) Licensees may make minor modifications to station authorizations, as defined in § 1.929 of this part (other than pro forma transfers and assignments), as a matter of right without prior Commission approval. Where other rule parts permit licensees to make permissive changes to technical

parameters without notifying the Commission (e.g., adding, modifying, or deleting internal sites), no notification is required. For all other types of minor modifications (e.g., name, address, point of contact changes), licensees must notify the Commission by filing FCC Form 601 within thirty (30) days of implementing any such changes.

(c) Multiple pending modification applications requesting changes to the same or related technical parameters on an authorization are not permitted. If a modification application is pending, any additional changes to the same or related technical parameters may be requested only in an amendment to the pending modification application.

(d) Any proposed modification that requires a fee as set forth at part 1, subpart G, of this chapter must be filed in accordance with § 1.913.

[63 FR 68933, Dec. 14, 1998, as amended at 64 FR 53240, Oct. 1, 1999]

### § 1.948 Assignment of authorization or transfer of control, notification of consummation.

(a) *General*. Except as provided in this section, authorizations in the Wireless Radio Services may be assigned by the licensee to another party, voluntarily or involuntarily, directly or indirectly, or the control of a licensee holding such authorizations may be transferred, only upon application to and approval by the Commission.

(b) *Limitations on transfers and assignments*. (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 case-by-case basis considering the distribution of ownership, and the relationships of the owners, including family relationships.

(3) Designated Entities, as defined in § 1.2110(a) of this part, must comply with §§ 1.2110 and 1.2111 of this part when seeking to assign or transfer control of an authorization.

(4) Stations must meet all applicable requirements regarding transfers and assignments contained in the rules pertaining to the specific service in which the station is licensed.

(5) Licenses, permits, and authorizations for stations in the Amateur, Ship, Commercial Operator and Personal Radio Services (except 218–219 MHz Service) may not be assigned or transferred, unless otherwise stated.

(c) *Application required*. In the case of an assignment of authorization or transfer of control, the assignor must file an application for approval of the assignment on FCC Form 603. If the assignee or transferee is subject to the ownership reporting requirements of § 1.2112, the assignee or transferee must also file an updated FCC Form 602 or certify that a current FCC Form 602 is on file.

(1) In the case of a non-substantial (*pro forma*) transfer or assignment involving a telecommunications carrier, as defined in § 153(44) of the Communications Act, filing of the Form 603 and Commission approval in advance of the proposed transaction is not required, provided that:

(i) the affected license is not subject to unjust enrichment provisions under subpart Q of this part;

(ii) the transfer or assignment does not involve a proxy contest; and

(iii) the transferee or assignee provides notice of the transaction by filing FCC Form 603 within 30 days of its completion, and provides any necessary updates of ownership information on FCC Form 602.

(2) In the case of an involuntary assignment or transfer, FCC Form 603 must be filed no later than 30 days after the event causing the involuntary assignment or transfer.

(d) *Notification of consummation*. In all Wireless Radio Services, licensees are required to notify the Commission of consummation of an approved transfer or assignment using FCC Form 603. The assignee or transferee is responsible for providing this notification, including the date the transaction was consummated. For transfers and assignments that require prior Commission approval, the transaction must be consummated and notification provided to the Commission within 180 days of public notice of approval, and notification of consummation must occur no later than 30 days after actual consummation, unless a request for an extension of time to consummate is filed on FCC

Form 603 prior to the expiration of this 180-day period. For transfers and assignments that do not require prior Commission approval, notification of consummation must be provided on FCC Form 603 no later than 30 days after consummation, along with any necessary updates of ownership information on FCC Form 602.

(e) *Partial assignment of authorization.* If the authorization for some, but not all, of the facilities of a radio station in the Wireless Radio Services is assigned to another party, voluntarily or involuntarily, such action is a partial assignment of authorization. To request Commission approval of a partial assignment of authorization, the assignor must notify the Commission on FCC Form 603 of the facilities that will be deleted from its authorization upon consummation of the assignment.

(f) *Partitioning and disaggregation.* Where a licensee proposes to partition or disaggregate a portion of its authorization to another party, the application will be treated as a request for partial assignment of authorization. The assignor must notify the Commission on FCC Form 603 of the geographic area or spectrum that will be deleted from its authorization upon consummation of the assignment.

(g) *Involuntary transfer and assignment.* In the event of the death or legal disability of a permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee, the Commission shall be notified promptly of the occurrence of such death or legal disability. Within 30 days after the occurrence of such death or legal disability (except in the case of a ship or amateur station), an application shall be filed for consent to involuntary assignment of such permit or license, or for involuntary transfer of control of such corporation, to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved. The procedures and forms to be used are the same procedures and forms as those specified in paragraph (b) of this section. In the case of Ship, aircraft, Commercial Operator, Amateur, and Personal Radio Services (except for 218–219 MHz Service) involuntary assignment of licenses will not be granted; such licenses shall be surrendered for cancellation upon the death or legal disability of the licensee. Amateur station call signs assigned to the station of a deceased licensee shall be available for reassignment pursuant to § 97.19 of this chapter.

(h) *Disclosure requirements.* Applicants for transfer or assignment of licenses in auctionable services must comply with the disclosure requirements of §§ 1.2111 and 1.2112 of this part.

(i) *Trafficking.* Applications for approval of assignment or transfer may be reviewed by the Commission to determine if the transaction is for purposes of trafficking in service authorizations.

(1) Trafficking consists of obtaining or attempting to obtain an authorization for the principal purpose of speculation or profitable resale of the authorization rather than for the provision of telecommunication services to the public or for the licensee's own private use.

(2) The Commission may require submission of an affirmative, factual showing, supported by affidavit of persons with personal knowledge thereof, to demonstrate that the assignor did not acquire the authorization for the principal purpose of speculation or profitable resale of the authorization. This showing may include, for example, a demonstration that the proposed assignment is due to changed circumstances (described in detail) affecting the licensee after the grant of the authorization, or that the proposed assignment is incidental to a sale of other facilities or a merger of interests.

(j) *Processing of applications.* Applications for assignment of authorization or transfer of control relating to the Wireless Radio Services will be processed pursuant either to general approval procedures or the immediate approval procedures, as discussed herein.

(1) *General approval procedures.* Applications will be processed pursuant to the general approval procedures set forth in this paragraph unless they are submitted and qualify for the immediate approval procedures set forth in paragraph (j)(2) of this section.

(i) To be accepted for filing under these general approval procedures, the application must be sufficiently complete and contain all necessary information and certifications requested on the applicable form, FCC Form 603, including any information and certifications (including those of the proposed assignee or transferee relating to eligibility, basic qualifications, and foreign ownership) required by the rules of this chapter and any rules pertaining to the specific service for which the application is filed, and must include payment of the required application fee(s) (*see* § 1.1102).

(ii) Once accepted for filing, the application will be placed on public notice, except no prior public notice will be required for applications involving authorizations in the Private Wireless Services, as specified in § 1.933(d)(9).

(iii) Petitions to deny filed in accordance with section 309(d) of the Communications Act must comply with the provisions of § 1.939, except that such petitions must be filed no later than 14 days following the date of the public notice listing the application as accepted for filing.

(iv) No later than 21 days following the date of the public notice listing an application as accepted for filing, the Wireless Telecommunications Bureau (Bureau) will affirmatively consent to the application, deny the application, or determine to subject the application to further review. For applications for which no prior public notice is required, the Bureau will affirmatively consent to the application, deny the application, or determine to subject the application to further review no later than 21 days following the date on which the application has been filed, if filed electronically, and any required application fee has been paid (*see* § 1.1102); if filed manually, the Bureau will affirmatively consent to the application, deny the application, or determine to subject the application to further review no later than 21 days after the necessary data in the manually filed application is entered into ULS.

(v) If the Bureau determines to subject the application to further review, it will issue a public notice so indicating. Within 90 days following the date of that public notice, the Bureau will either take action upon the application or provide public notice that an additional 90-day period for review is needed.

(vi) Consent to the application is not deemed granted until the Bureau affirmatively acts upon the application.

(vii) Grant of consent to the application will be reflected in a public notice (see § 1.933(a)) promptly issued after the grant.

(viii) If any petition to deny is filed, and the Bureau grants the application, the Bureau will deny the petition(s) and issue a concise statement of the reason(s) for denial, disposing of all substantive issues raised in the petition(s).

(2) *Immediate approval procedures.* Applications that meet the requirements of paragraph (j)(2)(i) of this section qualify for the immediate approval procedures.

(i) To qualify for the immediate approval procedures, the application must be sufficiently complete, contain all necessary information and certifications (including those relating to eligibility, basic qualifications, and foreign ownership), and include payment of the requisite application fee(s), as required for an application processed under the general approval procedures set forth in paragraph (j)(1) of this section, and also must establish, through certifications, that the following additional qualifications are met:

(A) The license does not involve spectrum licensed in a Wireless Radio Service that may be used to provide interconnected mobile voice and/or data services under the applicable service rules and that would, if assigned or transferred, create a geographic overlap with spectrum in any licensed Wireless Radio Service (including the same service) in which the proposed assignee or transferee already holds a direct or indirect interest of 10% or more (*see* § 1.2112), either as a licensee or a spectrum lessee, and that could be used by the assignee or transferee to provide interconnected mobile voice and/or data services;

(B) The licensee is not a designated entity or entrepreneur subject to unjust enrichment requirements and/or transfer restrictions under applicable Commission rules (*see* §§ 1.2110 and

1.2111, and §§24.709, 24.714, and 24.839 of this chapter); and,

(C) The assignment or transfer of control does not require a waiver of, or declaratory ruling pertaining to, any applicable Commission rules, and there is no pending issue as to whether the license is subject to revocation, cancellation, or termination by the Commission.

(ii) Provided that the application establishes that it meets all of the requisite elements to qualify for these immediate approval procedures, consent to the assignment or transfer of control will be reflected in ULS. If the application is filed electronically, consent will be reflected in ULS on the next business day after the filing of the application; if filed manually, consent will be reflected in ULS on the next business day after the necessary data in the manually filed application is entered into ULS. Consent to the application is not deemed granted until the Bureau affirmatively acts upon the application.

(iii) Grant of consent to the application under these immediate approval procedures will be reflected in a public notice (*see* §1.933(a)) promptly issued after the grant, and is subject to reconsideration (*see* §§1.106(f), 1.108, 1.113).

[63 FR 68933, Dec. 14, 1998, as amended at 64 FR 62120, Nov. 16, 1999; 68 FR 42995, July 21, 2003; 68 FR 66276, Nov. 25, 2003; 69 FR 77549, Dec. 27, 2004; 69 FR 77944, Dec. 29, 2004; 76 FR 17349, Mar. 29, 2011]

EFFECTIVE DATE NOTE: At 69 FR 77549, Dec. 27, 2004, §1.948(j)(2) was revised. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.949 Application for renewal of license.

(a) Applications for renewal of authorizations in the Wireless Radio Services must be filed no later than the expiration date of the authorization for which renewal is sought, and no sooner than 90 days prior to expiration. Renewal applications must be filed on the same form as applications for initial authorization in the same service, *i.e.*, FCC Form 601 or 605. Additional renewal requirements applicable to specific services are set forth in the subparts governing those services.

(b) Licensees with multiple authorizations in the same service may request a common day and month on which such authorizations expire for renewal purposes. License terms may be shortened by up to one year but will not be extended to accommodate the applicant's selection.

[63 FR 68934, Dec. 14, 1998]

### § 1.951 Duty to respond to official communications.

Licensees or applicants in the Wireless Radio Services receiving official notice of an apparent or actual violation of a federal statute, international agreement, Executive Order, or regulation pertaining to communications shall respond in writing within 10 days to the office of the FCC originating the notice, unless otherwise specified. Responses to official communications must be complete and self-contained without reference to other communications unless copies of such other communications are attached to the response. Licensees or applicants may respond via ULS.

[63 FR 68934, Dec. 14, 1998]

### § 1.955 Termination of authorizations.

(a) Authorizations in general remain valid until terminated in accordance with this section, except that the Commission may revoke an authorization pursuant to section 312 of the Communications Act of 1934, as amended. *See* 47 U.S.C. 312.

(1) *Expiration*. Authorizations automatically terminate, without specific Commission action, on the expiration date specified therein, unless a timely application for renewal is filed. *See* §1.949 of this part. No authorization granted under the provisions of this part shall be for a term longer than ten years, except to the extent a longer term is authorized under §27.13 of part 27 of this chapter.

(2) *Failure to meet construction or coverage requirements*. Authorizations automatically terminate (in whole or in part as set forth in the service

rules), without specific Commission action, if the licensee fails to meet applicable construction or coverage requirements. *See* § 1.946(c).

(3) *Service discontinued.* Authorizations automatically terminate, without specific Commission action, if service is permanently discontinued. The Commission authorization or the individual service rules govern the definition of permanent discontinuance for purposes of this section. A licensee who discontinues operations shall notify the Commission of the discontinuance of operations by submitting FCC Form 601 or 605 requesting license cancellation.

(b) Special temporary authority (STA) automatically terminates without specific Commission action upon failure to comply with the terms and conditions therein, or at the end of the period specified therein, unless a timely request for an extension of the STA term is filed in accordance with § 1.931 of this part. If a timely filed request for extension of the STA term is dismissed or denied, the STA automatically terminates, without specific Commission action, on the day after the applicant or the applicant's attorney is notified of the Commission's action dismissing or denying the request for extension.

(c) Authorizations submitted by licensees for cancellation terminate when the Commission gives Public Notice of such action.

[63 FR 68934, Dec. 14, 1998, as amended at 64 FR 53240, Oct. 1, 1999; 70 FR 61058, Oct. 20, 2005; 72 FR 27708, May 16, 2007; 72 FR 48843, Aug. 24, 2007]

EDITORIAL NOTE: At 64 FR 53240, Oct. 1, 1999, § 1.955 was amended by revising the last sentence of paragraph (b)(2) to read ''*See* § 1.946(c) of this part.'', effective Nov. 30, 1999. However, paragraph (b)(2) does not exist in the 1998 volume.

### § 1.956 Settlement conferences.

Parties are encouraged to use alternative dispute resolution procedures to settle disputes. *See* subpart E of this part. In any contested proceeding, the Commission, in its discretion, may direct the parties or their attorneys to appear before it for a conference.

(a) The purposes of such conferences are:

(1) To obtain admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

(2) To consider the necessity for or desirability of amendments to the pleadings, or of additional pleadings or evidentiary submissions;

(3) To consider simplification or narrowing of the issues;

(4) To encourage settlement of the matters in controversy by agreement between the parties; and

(5) To consider other matters that may aid in the resolution of the contested proceeding.

(b) Conferences are scheduled by the Commission at a time and place it may designate, to be conducted in person or by telephone conference call.

(c) The failure of any party or attorney, following reasonable notice, to appear at a scheduled conference will be deemed a failure to prosecute, subjecting that party's application or petition to dismissal by the Commission.

[63 FR 68935, Dec. 14, 1998]

### § 1.957 Procedure with respect to amateur radio operator license.

Each candidate for an amateur radio license which requires the applicant to pass one or more examination elements must present the Volunteer Examiners (VEs) with a properly completed FCC Form 605 prior to the examination. Upon completion of the examination, the VEs will grade the test papers. If the applicant is successful, the VEs will forward the candidate's application to a Volunteer-Examiner Coordinator (VEC). The VEs will then issue a certificate for sucessful completion of an amateur radio operator examination. The VEC will forward the application to the Commission's Gettysburg, Pennsylvania, facility.

[63 FR 68935, Dec. 14, 1998]

### § 1.958 Distance computation.

The method given in this section must be used to compute the distance between any two locations, except that, for computation of distance involving stations in Canada and Mexico, methods for distance computation specified in the applicable international agreement, if any, must be

used instead. The result of a distance calculation under parts 21 and 101 of this chapter must be rounded to the nearest tenth of a kilometer. The method set forth in this paragraph is considered to be sufficiently accurate for distances not exceeding 475 km (295 miles).

(a) Convert the latitudes and longitudes of each reference point from degree-minute-second format to degree-decimal format by dividing minutes by 60 and seconds by 3600, then adding the results to degrees.

$$LATX_{dd} = DD + \frac{MM}{60} + \frac{SS}{3600}$$

$$LONX_{dd} = DDD + \frac{MM}{60} + \frac{SS}{3600}$$

(b) Calculate the mean geodetic latitude between the two reference points by averaging the two latitudes:

$$ML = \frac{LAT1_{dd} + LAT2_{dd}}{2}$$

(c) Calculate the number of kilometers per degree latitude difference for the mean geodetic latitude calculated in paragraph (b) of this section as follows:

$KPD_{lat}$ = 111.13209 − 0.56605 cos 2ML + 0.00120 cos 4ML

(d) Calculate the number of kilometers per degree of longitude difference for the mean geodetic latitude calculated in paragraph (b) of this section as follows:

$KPD_{lon}$ = 111.41513 cos 5ML − 0.09455 cos 3ML + 0.00012 cos 5ML

(e) Calculate the North-South distance in kilometers as follows:

$NS = KPD_{lat} \times (LAT1_{dd} - LAT2_{dd})$

(f) Calculate the East-West distance in kilometers as follows:

$EW = KPD_{lon} \times (LON1_{dd} - LON2_{dd})$

(g) Calculate the distance between the locations by taking the square root of the sum of the squares of the East-West and North-South distances:

$$DIST = \sqrt{NS^2 + EW^2}$$

(h) Terms used in this section are defined as follows:

(1) $LAT1_{dd}$ and $LON1_{dd}$ are the coordinates of the first location in degree-decimal format.

(2) $LAT2_{dd}$ and $LON2_{dd}$ are the coordinates of the second location in degree-decimal format.

(3) ML is the mean geodetic latitude in degree-decimal format.

(4) $KPD_{lat}$ is the number of kilometers per degree of latitude at a given mean geodetic latitude.

(5) $KPD_{lon}$ is the number of kilometers per degree of longitude at a given mean geodetic latitude.

(6) NS is the North-South distance in kilometers.

(7) EW is the East-West distance in kilometers.

(8) DIST is the distance between the two locations, in kilometers.

[70 FR 19306, Apr. 13, 2005]

### § 1.959 Computation of average terrain elevation.

Except as otherwise specified in § 90.309(a)(4) of this chapter, average terrain elevation must be calculated by computer using elevations from a 30 second point or better topographic data file. The file must be identified. If a 30 second point data file is used, the elevation data must be processed for intermediate points using interpolation techniques; otherwise, the nearest point may be used. In cases of dispute, average terrain elevation determinations can also be done manually, if the results differ significantly from the computer derived averages.

(a) Radial average terrain elevation is calculated as the average of the elevation along a straight line path from 3 to 16 kilometers (2 and 10 miles) extending radially from the antenna site. If a portion of the radial path extends over foreign territory or water, such portion must not be included in the computation of average elevation unless the radial path again passes over United States land between 16 and 134 kilometers (10 and 83 miles) away from the station. At least 50 evenly spaced data points for each radial should be used in the computation.

(b) Average terrain elevation is the average of the eight radial average terrain elevations (for the eight cardinal radials).

(c) For locations in Dade and Broward Counties, Florida, the method prescribed above may be used or average terrain elevation may be assumed to be 3 meters (10 feet).

[70 FR 19306, Apr. 13, 2005]

REPORTS TO BE FILED WITH THE COMMISSION

### § 1.981 Reports, annual and semi-annual.

(a) Licensees of stations authorized for developmental operation shall submit a report on the results of the developmental program. The report shall be filed with and made a part of each application for renewal of authorization. The report shall be filed at the Commission's offices in Washington, DC or alternatively may be sent to the commission electronically via the ULS.

(b) The report shall include comprehensive and detailed information on the following:

(1) The final objective.

(2) Results of operation to date.

(3) Analysis of the results obtained.

(4) Copies of any published reports.

(5) Need for continuation of the program.

(6) Number of hours of operation on each frequency.

(c) Where required by the particular service rules, licensees who have entered into agreements with other persons for the cooperative use of radio station facilities must submit annually an audited financial statement reflecting the nonprofit cost-sharing nature of the arrangement to the Commission's offices in Washington, DC or alternatively may be sent to the Commission electronically via the ULS, no later than three months after the close of the licensee's fiscal year.

[63 FR 68935, Dec. 14, 1998]

## Subpart G—Schedule of Statutory Charges and Procedures for Payment

SOURCE: 52 FR 5289, Feb. 20, 1987, unless otherwise noted.

### § 1.1101 Authority.

Authority to impose and collect these charges is contained in title III, section 3001 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239), revising 47 U.S.C. 158, which directs the Commission to prescribe charges for certain of the regulatory services it provides to many of the communications entities within its jurisdiction. This law revises section 8 of the Communications Act of 1934, as amended, which contains a Schedule of Charges as well as procedures for modifying and collecting these charges.

[55 FR 19155, May 8, 1990]

### § 1.1102 Schedule of charges for applications and other filings in the wireless telecommunications services.

Those services designated with an asterisk in the payment type code column have associated regulatory fees that must be paid at the same time the application fee is paid. Please refer to § 1.1152 for the appropriate regulatory fee that must be paid for this service. Remit manual filings and/or payment for these services to the: Federal Communications Commission, Wireless Bureau Applications, P.O. Box 979097, St. Louis, MO 63197–9000.

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| 1. Marine Coast: | | | |
| a. New; Renewal/Modification | 601 & 159 | $120.00 | PBMR * |
| b. Modification; Public Coast CMRS; Non-Profit | 601 & 159 | 120.00 | PBMM |
| c. Assignment of Authorization | 603 & 159 | 120.00 | PBMM |
| d. Transfer of Control | 603 & 159 | 60.00 | PATM |
| Spectrum Leasing for Public Coast | 608 & 159 | 60.00 | PATM |
| e. Duplicate License | 601 & 159 | 60.00 | PADM |
| f. Special Temporary Authority | 601 & 159 | 175.00 | PCMM |
| g. Renewal Only | 601 & 159 | 120.00 | PBMR * |
| h. Renewal (Electronic Filing) | 601 & 159 | 120.00 | PBMR * |
| i. Renewal Only (Non-Profit; CMRS) | 601 & 159 | 120.00 | PBMM |
| j. Renewal (Electronic Filing) Non-profit, CMRS | 601 & 159 | 120.00 | PBMM |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| k. Rule Waiver | 601, 603 or 608 & 159 | 180.00 | PDWM |
| l. Modification for Spectrum Leasing for Public Coast Stations. | 608 & 159 | 120.00 | PBMM |
| m. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | PATM |
| 2. Aviation Ground: | | | |
| a. New; Renewal/Modification | 601 & 159 | 120.00 | PBVR * |
| b. Modification; Non-Profit | 601 & 159 | 120.00 | PBVM |
| c. Assignment of Authorization | 603 & 159 | 120.00 | PBVM |
| d. Transfer of Control | 603 & 159 | 60.00 | PATM |
| e. Duplicate License | 601 & 159 | 60.00 | PADM |
| f. Special Temporary Authority | 601 & 159 | 175.00 | PCVM |
| g. Renewal Only | 601 & 159 | 120.00 | PBVR * |
| h. Renewal (Electronic Filing) | 601 & 159 | 120.00 | PBVR * |
| i. Renewal Only Non-Profit | 601 & 159 | 120.00 | PBVM |
| j. Renewal Non-Profit (Electronic Filing) | 601 & 159 | 120.00 | PBVM |
| k. Rule Waiver | 601 or 603 & 159 | 180.00 | PDWM |
| 3. Ship: | | | |
| a. New; Renewal/Modification; Renewal Only | 605 & 159 | 60.00 | PASR * |
| b. New; Renewal/Modification; Renewal Only (Electronic Filing). | 605 & 159 | 60.00 | PASR * |
| c. Renewal Only; Non-profit | 605 & 159 | 60.00 | PASM |
| d. Renewal Only; Non-profit (Electronic Filing) | 605 & 159 | 60.00 | PASM |
| e. Modification; Non-profit | 605 & 159 | 60.00 | PASM |
| f. Modification; Non-profit (Electronic Filing) | 605 & 159 | 60.00 | PASM |
| g. Duplicate License | 605 & 159 | 60.00 | PADM |
| h. Duplicate License (Electronic Filing) | 605 & 159 | 60.00 | PADM |
| i. Exemption from Ship Station Requirements | 605 & 159 | 180.00 | PDWM |
| j. Rule Waiver | 605 & 159 | 180.00 | PDWM |
| k. Exemption from Ship Station Requirements (Electronic Filing). | 605 & 159 | 180.00 | PDWM |
| l. Rule Waiver (Electronic Filing) | 605 & 159 | 180.00 | PDWM |
| 4. Aircraft: | | | |
| a. New; Renewal/Modification | 605 & 159 | 60.00 | PAAR * |
| b. New; Renewal/Modification (Electronic Filing) | 605 & 159 | 60.00 | PAAR * |
| c. Modification; Non-Profit | 605 & 159 | 60.00 | PAAM |
| d. Modification; Non-Profit (Electronic Filing) | 605 & 159 | 60.00 | PAAM |
| e. Renewal Only | 605 & 159 | 60.00 | PAAR * |
| f. Renewal (Electronic Filing) | 605 & 159 | 60.00 | PAAR * |
| g. Renewal Only; Non-Profit | 605 & 159 | 60.00 | PAAM |
| h. Renewal; Renewal/Modification; Non-Profit (Electronic Filing). | 605 & 159 | 60.00 | PAAM |
| i. Duplicate License | 605 & 159 | 60.00 | PADM |
| j. Duplicate License (Electronic Filing) | 605 & 159 | 60.00 | PADM |
| k. Rule Waiver | 605 & 159 | 180.00 | PDWM |
| l. Rule Waiver (Electronic Filing) | 605 & 159 | 180.00 | PDWM |
| 5. Private Operational Fixed Microwave and Private DEMS: | | | |
| a. New; Renewal/Modification | 601 & 159 | 270.00 | PEOR * |
| b. New; Renewal/Modification (Electronic Filing) | 601 & 159 | 270.00 | PEOR * |
| c. Modification; Consolidate Call Signs; Non-Profit | 601 & 159 | 270.00 | PEOM |
| d. Modification; Consolidate Call Signs; Non-Profit (Electronic Filing). | 601 & 159 | 270.00 | PEOM |
| e. Renewal Only | 601 & 159 | 270.00 | PEOR * |
| f. Renewal (Electronic Filing) | 601 & 159 | 270.00 | PEOR * |
| g. Renewal Only Non-Profit | 601 & 159 | 270.00 | PEOM |
| h. Renewal Non-Profit (Electronic Filing) | 601 & 159 | 270.00 | PEOM |
| i. Assignment | 603 & 159 | 270.00 | PEOM |
| j. Assignment (Electronic Filing) | 603 & 159 | 270.00 | PEOM |
| k. Transfer of Control | 603 & 159 | 60.00 | PATM |
| Spectrum Leasing | 608 & 159 | 60.00 | PATM |
| l. Transfer of Control | 603 & 159 | 60.00 | PATM |
| Spectrum Leasing (Electronic Filing) | 608 & 159 | 60.00 | PATM |
| m. Duplicate License | 601 & 159 | 60.00 | PADM |
| n. Duplicate License (Electronic Filing) | 601 & 159 | 60.00 | PADM |
| o. Special Temporary Authority | 601 & 159 | 60.00 | PAOM |
| p. Special Temporary Authority (Electronic Filing) | 601 & 159 | 60.00 | PAOM |
| q. Rule Waiver | 601, 603 or 608 & 159 | 180.00 | PDWM |
| | | 180.00 | PDWM |
| r. Rule Waiver (Electronic Filing) | 601, 603 or 608 & 159 | 180.00 | PDWM |
| | | 180.00 | PDWM |
| s. Modification for Spectrum Leasing | 608 & 159 | 270.00 | PEOM |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| t. Modification for Spectrum Leasing (Electronic Filing). | 608 & 159 | 270.00 | PEOM |
| u. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | PATM |
| 6. Land Mobile PMRS; Intelligent Transportation Service: | | | |
| a. New or Renewal/Modification (Frequencies below 470 MHz (except 220 MHz)) 902–928 MHz & RS. | 601 & 159 | 60.00 | PALR * |
| b. New; Renewal/Modification (Frequencies below 470 MHz (except 220 MHz)) (Electronic Filing). | 601 & 159 | 60.00 | PALR * |
| c. New; Renewal/Modification (Frequencies 470 MHz and above and 220 MHz Local). | 601 & 159 | 60.00 | PALS * |
| d. New; Renewal/Modification (Frequencies 470 MHz and above and 220 MHz Local) (Electronic Filing). | 601 & 159 | 60.00 | PALS * |
| e. New; Renewal/Modification (220 MHz Nationwide). | 601 & 159 | 60.00 | PALT * |
| f. New; Renewal/Modification (220 MHz Nationwide) (Electronic Filing). | 601 & 159 | 60.00 | PALT * |
| g. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS. | 601 & 159 | 60.00 | PALM |
| h. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS (Electronic Filing). | 601 & 159 | 60.00 | PALM |
| i. Renewal Only | 601 & 159 | 60.00 | PALR * |
| | 601 & 159 | 60.00 | PALS * |
| | 601 & 159 | 60.00 | PALT * |
| j. Renewal (Electronic Filing) | 601 & 159 | 60.00 | PALR * |
| | 601 & 159 | 60.00 | PALS * |
| | 601 & 159 | 60.00 | PALT * |
| k. Renewal Only (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety). | 601 & 159 | 60.00 | PALM |
| l. Renewal (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety) (Electronic Filing). | 601 & 159 | 60.00 | PALM |
| m. Assignment of Authorization (PMRS & CMRS) | 603 & 159 | 60.00 | PALM |
| n. Assignment of Authorization (PMRS & CMRS) (Electronic Filing). | 603 & 159 | 60.00 | PALM |
| o. Transfer of Control (PMRS & CMRS) | 603 & 159 | 60.00 | PATM |
| Spectrum Leasing | 608 & 159 | 60.00 | PATM |
| p. Transfer of Control (PMRS & CMRS) | 603 & 159 | 60.00 | PATM |
| Spectrum Leasing (Electronic Filing) | 608 & 159 | 60.00 | PATM |
| q. Duplicate License | 601 & 159 | 60.00 | PADM |
| r. Duplicate License (Electronic Filing) | 601 & 159 | 60.00 | PADM |
| s. Special Temporary Authority | 601 & 159 | 60.00 | PALM |
| t. Special Temporary Authority (Electronic Filing) | 601 & 159 | 60.00 | PALM |
| u. Rule Waiver | 601, 603 or | 180.00 | PDWM |
| | 608 & 159 | 180.00 | PDWM |
| v. Rule Waiver (Electronic Filing) | 601, 603 or | 180.00 | PDWM |
| | 608 & 159 | 180.00 | PDWM |
| w. Consolidate Call Signs | 601 & 159 | 60.00 | PALM |
| x. Consolidate Call Signs (Electronic Filing) | 601 & 159 | 60.00 | PALM |
| y. Modification for Spectrum Leasing | 608 & 159 | 60.00 | PALM |
| z. Modification for Spectrum Leasing (Electronic Filing). | 608 & 159 | 60.00 | PALM |
| aa. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | PATM |
| 7. 218–219 MHz (previously IVDS): | | | |
| a. New; Renewal/Modification | 601 & 159 | 60.00 | PAIR * |
| b. New; Renewal/Modification (Electronic Filing) | 601 & 159 | 60.00 | PAIR * |
| c. Modification; Non-Profit | 601 & 159 | 60.00 | PAIM |
| d. Modification; Non-Profit (Electronic Filing) | 601 & 159 | 60.00 | PAIM |
| e. Renewal Only | 601 & 159 | 60.00 | PAIR * |
| f. Renewal (Electronic Filing) | 601 & 159 | 60.00 | PAIR * |
| g. Assignment of Authorization | 603 & 159 | 60.00 | PAIM |
| h. Assignment of Authorization (Electronic Filing) | 603 & 159 | 60.00 | PAIM |
| i. Transfer of Control | 603 & 159 | 60.00 | PATM |
| Spectrum Leasing | 608 & 159 | 60.00 | PATM |
| j. Transfer of Control | 603 & 159 | 60.00 | PATM |
| Spectrum Leasing (Electronic Filing) | 608 & 159 | 60.00 | PATM |
| k. Duplicate License | 601 & 159 | 60.00 | PADM |
| l. Duplicate License (Electronic Filing) | 601 & 159 | 60.00 | PADM |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| m. Special Temporary Authority | 601 & 159 | 60.00 | PAIM |
| n. Special Temporary Authority (Electronic Filing) | 601 & 159 | 60.00 | PAIM |
| o. Modification for Spectrum Leasing | 608 & 159 | 60.00 | PAIM |
| p. Modification for Spectrum Leasing (Electronic Filing). | 608 & 159 | 60.00 | PAIM |
| q. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | PATM |
| 8. General Mobile Radio (GMRS): | | | |
| a. New; Renewal/Modification | 605 & 159 | 60.00 | PAZR * |
| b. New; Renewal/Modification (Electronic Filing) | 605 & 159 | 60.00 | PAZR * |
| c. Modification | 605 & 159 | 60.00 | PAZM |
| d. Modification (Electronic Filing) | 605 & 159 | 60.00 | PAZM |
| e. Renewal Only | 605 & 159 | 60.00 | PAZR * |
| f. Renewal (Electronic Filing) | 605 & 159 | 60.00 | PAZR * |
| g. Duplicate License | 605 & 159 | 60.00 | PADM |
| h. Duplicate License (Electronic Filing) | 605 & 159 | 60.00 | PADM |
| i. Special Temporary Authority | 605 & 159 | 60.00 | PAZM |
| j. Special Temporary Authority (Electronic Filing) | 605 & 159 | 60.00 | PAZM |
| k. Rule Waiver | 605 & 159 | 180.00 | PDWM |
| l. Rule Waiver (Electronic Filing) | 605 & 159 | 180.00 | PDWM |
| 9. Restricted Radiotelephone: | | | |
| a. New (Lifetime Permit) | 605 & 159 | 60.00 | PARR |
| New (Limited Use) | 605 & 159 | 60.00 | PARR |
| b. Duplicate/Replacement Permit | 605 & 159 | 60.00 | PADM |
| Duplicate/Replacement Permit (Limited Use) | 605 & 159 | 60.00 | PADM |
| 10. Commercial Radio Operator: | | | |
| a. Renewal Only; Renewal/ Modification | 605 & 159 | 60.00 | PACS |
| b. Duplicate | 605 & 159 | 60.00 | PADM |
| 11. Hearing | Corres & 159 | 11,590.00 | PFHM |
| 12. Common Carrier Microwave (Pt. To Pt., Local TV Trans. & Millimeter Wave Service): | | | |
| a. New; Renewal/Modification (Electronic Filing Required). | 601 & 159 | 270.00 | CJPR * |
| b. Major Modification; Consolidate Call Signs (Electronic Filing Required). | 601 & 159 | 270.00 | CJPM |
| c. Renewal (Electronic Filing Required) | 601 & 159 | 270.00 | CJPR * |
| d. Assignment of Authorization; Transfer of Control | 603 & 159 | 95.00 | CCPM |
| Spectrum Leasing | 608 & 159 | 95.00 | CCPM |
| Additional Stations (Electronic Filing Required). | 603 or 608 & 159 | 60.00 | CAPM |
| e. Duplicate License (Electronic Filing Required) | 601 & 159 | 60.00 | PADM |
| f. Extension of Construction Authority (Electronic Filing Required). | 601 & 159 | 95.00 | CCPM |
| g. Special Temporary Authority | 601 & 159 | 120.00 | CEPM |
| h. Special Temporary Authority (Electronic Filing) | 601 & 159 | 120.00 | CEPM |
| i. Major Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 270.00 | CJPM |
| j. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | CAPM |
| 13. Common Carrier Microwave (DEMS): | | | |
| a. New; Renewal/Modification (Electronic Filing Required). | 601 & 159 | 270.00 | CJLR * |
| b. Major Modification; Consolidate Call Signs (Electronic Filing Required). | 601 & 159 | 270.00 | CJLM |
| c. Renewal (Electronic Filing Required) | 601 & 159 | 270.00 | CJLR * |
| d. Assignment of Authorization; Transfer of Control | 603 & 159 | 95.00 | CCLM |
| Spectrum Leasing | 608 & 159 | 95.00 | CCLM |
| Additional Stations (Electronic Filing Required). | 603 or 608 & 159 | 60.00 | CALM |
| e. Duplicate License (Electronic Filing Required) | 601 & 159 | 60.00 | PADM |
| f. Extension of Construction Authority (Electronic Filing Required). | 601 & 159 | 95.00 | CCLM |
| g. Special Temporary Authority | 601 & 159 | 120.00 | CELM |
| h. Special Temporary Authority (Electronic Filing) | 601 & 159 | 120.00 | CELM |
| i. Major Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 270.00 | CJLM |
| j. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | CALM |
| 14. Broadcast Auxiliary (Aural and TV Microwave): | | | |
| a. New; Modification; Renewal/Modification | 601 & 159 | 150.00 | MEA |
| b. New; Modification; Renewal/Modification (Electronic Filing). | 601 & 159 | 150.00 | MEA |
| c. Special Temporary Authority | 601 & 159 | 175.00 | MGA |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| d. Special Temporary Authority (Electronic Filing) | 601 & 159 | 175.00 | MGA |
| e. Renewal Only | 601 & 159 | 60.00 | MAA |
| f. Renewal (Electronic Filing) | 601 & 159 | 60.00 | MAA |
| 15. Broadcast Auxiliary (Remote and Low Power): | | | |
| a. New; Modification; Renewal/Modification | 601 & 159 | 150.00 | MEA |
| b. New; Modification; Renewal/Modification (Electronic Filing). | 601 & 159 | 150.00 | MEA |
| c. Renewal Only | 601 & 159 | 60.00 | MAA |
| d. Renewal (Electronic Filing) | 601 & 159 | 60.00 | MAA |
| e. Special Temporary Authority | 601 & 159 | 175.00 | MGA |
| f. Special Temporary Authority (Electronic Filing) | 601 & 159 | 175.00 | MGA |
| 16. Pt 22 Paging & Radiotelephone: | | | |
| a. New; Major Mod; Additional Facility; Major Amendment; Major Renewal/Mod; Fill in Transmitter (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 395.00 | CMD |
| b. Minor Mod; Renewal; Minor Renewal/Mod; (Per Call Sign) 900 MHz Nationwide Renewal Net Organ; New Operator (Per Operator/Per City) Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic Filing Required). | 601 & 159 | 60.00 | CAD |
| c. Auxiliary Test (Per Transmitter); Consolidate Call Signs (Per Call Sign) (Electronic Filing Required). | 601 & 159 | 345.00 | CLD |
| d. Special Temporary Authority (Per Location/Per Frequency). | 601 & 159 | 345.00 | CLD |
| e. Special Temporary Authority (Per Location/Per Frequency) (Electronic Filing). | 601 & 159 | 345.00 | CLD |
| f. Assignment of License or Transfer of Control | 603 & 159 | 395.00 | CMD |
| Spectrum Leasing (Full or Partial) (Per First Call Sign). | 608 & 159 | 395.00 | CMD |
| Additional Call Signs (Per Call Signs) (Electronic Filing Required). | 603 or 608 & 159 | 60.00 | CAD |
| g. Subsidiary Comm. Service (Per Request) (Electronic Filing Required). | 601 & 159 | 175.00 | CFD |
| h. Major Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 395.00 | CMD |
| i. Minor Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 60.00 | CAD |
| j. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | CAD |
| 17. Cellular: | | | |
| a. New; Major Mod; Additional Facility; Major Renewal/Mod (Per Call Sign) (Electronic Filing Required). | 601 & 159 | 395.00 | CMC |
| b. Minor Modification; Minor Renewal/Mod (Per Call Sign) (Electronic Filing Required). | 601 & 159 | 105.00 | CDC |
| c. Assignment of License; Transfer of Control (Full or Partial) (Per Call Sign). | 603 & 159 | 395.00 | CMC |
| Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 395.00 | CMC |
| d. Notice of Extension of Time to Complete Construction; (Per Request) Renewal (Per Call Sign) (Electronic Filing Required). | 601 & 159 | 60.00 | CAC |
| e. Special Temporary Authority (Per Request) | 601 & 159 | 345.00 | CLC |
| f. Special Temporary Authority (Per Request) (Electronic Filing). | 601 & 159 | 345.00 | CLC |
| g. Major Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 395.00 | CMC |
| h. Minor Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 105.00 | CDC |
| 18. Rural Radio: | | | |
| a. New; Major Renew/Mod; Additional Facility (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 180.00 | CGRR * |
| b. Major Mod; Major Amendment (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 180.00 | CGRM |
| c. Minor Modification; (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 60.00 | CARM |
| d. Assignment of License; Transfer of Control (Full or Partial) (Per Call Sign). | 603 & 159 | 180.00 | CGRM |
| Spectrum Leasing | 608 & 159 | 180.00 | CGRM |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| Additional Calls (Per Call Sign) (Electronic Filing Required). | 603 or 608 & 159 | 60.00 | CARM |
| e. Renewal (Per Call Sign); Minor Renewal/Mod (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 60.00 | CARR * |
| f. Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic Filing Required). | 601 & 159 | 60.00 | CARM |
| g. Special Temporary Authority (Per Transmitter) | 601 & 159 | 345.00 | CLRM |
| h. Special Temporary Authority (Per Transmitter) (Electronic Filing). | 601 & 159 | 345.00 | CLRM |
| i. Combining Call Signs (Per Call Sign) (Electronic Filing Required). | 601 & 159 | 345.00 | CLRM |
| j. Auxiliary Test Station (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 345.00 | CLRM |
| k. Major Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 180.00 | CGRM |
| l. Minor Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 60.00 | CARM |
| 19. Offshore Radio: | | | |
| a. New; Major Mod; Additional Facility; Major Amendment; Major Renew/Mod; Fill in Transmitters (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 180.00 | CGF |
| b. Consolidate Call Signs (Per Call Sign); Auxiliary Test (Per Transmitter) (Electronic Filing Required). | 601 & 159 | 345.00 | CLF |
| c. Minor Modification; Minor Renewal/Modification (Per Transmitter); Notice of Completion of Construction or Extension of Time to Construct (Per Application); Renewal (Per Call Sign) (Electronic Filing Required). | 601 & 159 | 60.00 | CAF |
| d. Assignment of License; Transfer of Control (Full or Partial). | 603 & 159 | 180.00 | CGF |
| Spectrum Leasing | 608 & 159 | 180.00 | CGF |
| Additional Calls (Electronic Filing Required). | 603 or 608 & 159 | 60.00 | CAF |
| e. Special Temporary Authority (Per Transmitter) | 601 & 159 | 345.00 | CLF |
| f. Special Temporary Authority (Per Transmitter) (Electronic Filing). | 601 & 159 | 345.00 | CLF |
| g. Major Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 180.00 | CGF |
| h. Minor Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 60.00 | CAF |
| 20. Broadband Radio Service (Previously Multipoint Distribution Service): | | | |
| a. New station/Renewal/Modification (Electronic Filing Required). | 601 & 159 | 270.00 | CJM |
| b. Major Modification of Licenses (Electronic Filing Required). | 601 & 159 | 270.00 | CJM |
| c. Certification of Completion of Construction (Electronic Filing Required). | 601 & 159 | 785.00 | CPM * |
| d. License Renewal (Electronic Filing Required) | 601 & 159 | 270.00 | CJM |
| e. Assignment of Authorization; Transfer of Control (first station) (Electronic Filing Required). | 603 & 159 | 95.00 | CCM |
| Spectrum Leasing (first station) | 608 & 159 | 95.00 | CCM |
| Additional Station | 608 & 159 | 60.00 | CAM |
| f. Extension of Construction Authorization (Electronic Filing Required). | 601 & 159 | 225.00 | CHM |
| g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (Electronic Filing). | 601 & 159 | 120.00 | CEM |
| h. Special Temporary Authority | 601 & 159 | 120.00 | CEM |
| i. Major Modification for Spectrum Leasing (Electronic Filing Required). | 608 & 159 | 270.00 | CJM |
| j. Designated Entity Licensee Reportable Eligibility Event. | 609–T & 159 | 60.00 | CAM |
| 21. Communications Assistance for Law Enforcement (CALEA) Petitions. | Correspondence & 159 | 6,085.00 | CALA |

[76 FR 29159, May 20, 2011]

### § 1.1103 Schedule of charges for equipment approval, experimental radio services (or service).

Remit manual filings and/or payment for these services to the: Federal Communications Commission, OET Services, P.O. Box 979095, St. Louis, MO 63197–9000.

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| Equipment Approval Service(s): | | | |
| 1. Certification | | | |
| a. Receivers (except TV and FM) (Electronic Filing Only). | 731 & 159 | $490.00 | EEC |
| b. Devices Under Parts 11, 15 & 18 (except receivers) (Electronic Filing Only). | 731 & 159 | 1,265.00 | EGC |
| c. All Other Devices (Electronic Filing Only). | 731 & 159 | 635.00 | EFT |
| d. Modifications and Class II Permissive Changes (Electronic Filing Only). | 731 & 159 | 60.00 | EAC |
| e. Request for Confidentiality under Certification (Electronic Filing Only). | 731 & 159 | 180.00 | EBC |
| f. Class III Permissive Changes (Electronic Filing Only). | 731 & 159 | 635.00 | ECC |
| 2. Advance Approval of Subscription TV Systems | Corres & 159 | 3,870.00 | EIS |
| a. Request for Confidentiality For Advance Approval of Subscription TV Systems. | Corres & 159 | 180.00 | EBS |
| 3. Assignment of Grantee Code: | | | |
| a. For all Application Types, except Subscription TV (Electronic Filing Only—Optional Electronic Payment). | Electronic Assignment & Form 159 or Optional Electronic Payment. | 60.00 | EAG |
| 4. Experimental Radio Service(s): | | | |
| a. New Station Authorization | 442 & 159 | 60.00 | EAE |
| b. Modification of Authorization | 442 & 159 | 60.00 | EAE |
| c. Renewal of Station Authorization | 405 & 159 | 60.00 | EAE |
| d. Assignment of License or Transfer of Control. | 702 & 159 | 60.00 | EAC |
| | or | | |
| | 703 & 159 | 703 & 159 | EAE |
| e. Special Temporary Authority | Corres & 159 | 60.00 | EAE |
| f. Additional fee required for any of the above applications that request withholding from public inspection. | Corres & 159 | 60.00 | EAE |

[76 FR 29163, May 20, 2011]

### § 1.1104 Schedule of charges for applications and other filings for media services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Media Bureau Services, P.O. Box 979089, St. Louis, MO 63197–9000. The asterisk (*) indicates that multiple stations and multiple fee submissions are acceptable within the same post office box.

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| 1. Commercial TV Services: | | | |
| a. New and Major Change Construction Permits (per application) (Electronic Filing). | 301 & 159 | $4,350.00 | MVT |
| b. Minor Change (per application) (Electronic Filing). | 301 & 159 | 970.00 | MPT |
| c. Main Studio Request | Corres & 159 | 970.00 | MPT |
| d. New License (per application) (Electronic Filing) | 302–TV & 159 | 295.00 | MJT |
| | 302–DTV & 159 | 295.00 | MJT |
| e. License Renewal (per application) (Electronic Filing). | 303–S & 159 | 175.00 | MGT |
| f. License Assignment | | | |
| (i) Long Form (Electronic Filing) | 314 & 159 | 970.00 | MPT* |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDT* |
| g. Transfer of Control | | | |
| (i) Long Form (Electronic Filing) | 315 & 159 | 970.00 | MPT* |
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDT* |
| h. Call Sign (Electronic Filing) | 380 & 159 | 95.00 | MBT |
| i. Special Temporary Authority | Corres & 159 | 175.00 | MGT |
| j. Petition for Rulemaking for New Community of License (Electronic Filing). | 301 & 159 | 2,685.00 | MRT |
| | 302–TV & 159 | 2,685.00 | MRT |
| k. Ownership Report (Electronic Filing) | 323 & 159 | 60.00 | MAT* |
| | Corres &159 | 60.00 | MAT* |
| 2. Commercial AM Radio Stations: | | | |
| a. New or Major Change Construction Permit (Electronic Filing). | 301 & 159 | 3,870.00 | MUR |
| b. Minor Change (per application) (Electronic Filing). | 301 & 159 | 970.00 | MPR |
| c. Main Studio Request (per request) | Corres & 159 | 970.00 | MPR |
| d. New License (per application) (Electronic Filing) | 302–AM & 159 | 635.00 | MMR |
| e. AM Directional Antenna (per application) (Electronic Filing). | 302–AM & 159 | 730.00 | MOR |
| f. AM Remote Control (per application) (Electronic Filing). | 301 & 159 | 60.00 | MAR |
| g. License Renewal (per application) (Electronic Filing). | 303–S & 159 | 175.00 | MGR |
| h. License Assignment | | | |
| (i) Long Form (Electronic Filing) | 314 & 159 | 970.00 | MPR* |
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDR* |
| i. Transfer of Control | | | |
| (i) Long Form (Electronic Filing) | 315 & 159 | 970.00 | MPR* |
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDR* |
| j. Call Sign (Electronic Filing) | 380 & 159 | 95.00 | MBR |
| k. Special Temporary Authority | Corres & 159 | 175.00 | MGR |
| l. Ownership Report (Electronic Filing) | 323 & 159 | 60.00 | MAR |
| | or | | |
| | Corres & 159 | 60.00 | MAR |
| 3. Commercial FM Radio Stations: | | | |
| a. New or Major Change Construction Permit (Electronic Filing). | 301 & 159 | 3,485.00 | MTR |
| b. Minor Change (Electronic Filing) | 301 & 159 | 970.00 | MPR |
| c. Main Studio Request (per request) | Corres & 159 | 970.00 | MPR |
| d. New License (Electronic Filing) | 302–FM & 159 | 200.00 | MHR |
| e. FM Directional Antenna (Electronic Filing) | 302–FM & 159 | 610.00 | MLR |
| f. License Renewal (per application) (Electronic Filing). | 303–S & 159 | 175.00 | MGR |
| g. License Assignment | | | |
| (i) Long Form (Electronic Filing) | 314 & 159 | 970.00 | MPR* |
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDR* |
| h. Transfer of Control | | | |
| (i) Long Form (Electronic Filing) | 315 & 159 | 970.00 | MPR* |
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDR* |
| i. Call Sign (Electronic Filing) | 380 & 159 | 95.00 | MBR |
| j. Special Temporary Authority | Corres & 159 | 175.00 | MGR |
| k. Petition for Rulemaking for New Community of License or Higher Class Channel (Electronic Filing). | 301 & 159 | 2,685.00 | MRR |
| | or | | |
| | 302–FM & 159 | 2,685.00 | MRR |
| l. Ownership Report (Electronic Filing) | 323 & 159 | 60.00 | MAR |
| | or | | |
| | Corres & 159 | 60.00 | MAR |
| 4. FM Translators: | | | |
| a. New or Major Change Construction Permit (Electronic Filing). | 349 & 159 | 730.00 | MOF |
| b. New License (Electronic Filing) | 350 & 159 | 150.00 | MEF |
| c. License Renewal (Electronic Filing) | 303–S & 159 | 60.00 | MAF |
| d. Special Temporary Authority | Corres & 159 | 175.00 | MGF |
| e. License Assignment (Electronic Filing) | 345 & 159 | 140.00 | MDF* |
| | 314 & 159 | 140.00 | MDF* |
| | 316 & 159 | 140.00 | MDF* |
| f. Transfer of Control (Electronic Filing) | 345 & 159 | 140.00 | MDF* |
| | 315 & 159 | 140.00 | MDF* |
| | 316 & 159 | 140.00 | MDF* |
| 5. TV Translators and LPTV Stations: | | | |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| a. New or Major Change Construction Permit (per application) (Electronic Filing). | 346 & 159 | 730.00 | MOL |
| b. New License (per application) (Electronic Filing) | 347 & 159 | 150.00 | MEL |
| c. License Renewal (Electronic Filing) | 303–S & 159 | 60.00 | MAL * |
| d. Special Temporary Authority | Corres & 159 | 175.00 | MGL |
| e. License Assignment (Electronic Filing) | 345 & 159 | 140.00 | MDL * |
| | 314 & 159 | 140.00 | MDL * |
| | 316 & 159 | 140.00 | MDL * |
| f. Transfer of Control (Electronic Filing) | 345 & 159 | 140.00 | MDL * |
| | 315 & 159 | 140.00 | MDL * |
| | 316 & 159 | 140.00 | MDL * |
| g. Call Sign (Electronic Filing) | 380 & 159 | 95.00 | MBT |
| 6. FM Booster Stations: | | | |
| a. New or Major Change Construction Permit (Electronic Filing). | 349 & 159 | 730.00 | MOF |
| b. New License (Electronic Filing) | 350 & 159 | 150.00 | MEF |
| c. Special Temporary Authority | Corres & 159 | 175.00 | MGF |
| 7. TV Booster Stations: | | | |
| a. New or Major Change (Electronic Filing) | 346 & 159 | 730.00 | MOF |
| b. New License (Electronic Filing) | 347 & 159 | 150.00 | MEF |
| c. Special Temporary Authority | Corres & 159 | 175.00 | MGF |
| 8. Class A TV Services: | | | |
| a. New and Major Change Construction Permits (per application) (Electronic Filing). | 301–CA & 159 | 4,350.00 | MVT |
| b. New License (per application) (Electronic Filing) | 302–CA & 159 | 295.00 | MJT |
| c. License Renewal (per application) (Electronic Filing). | 303–S & 159 | 175.00 | MGT |
| d. Special Temporary Authority | Corres & 159 | 175.00 | MGT |
| e. License Assignment. | | | |
| (i) Long Form (Electronic Filing) | 314 & 159 | 970.00 | MPT * |
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDT * |
| f. Transfer of Control | | | |
| (i) Long Form (Electronic Filing) | 315 & 159 | 970.00 | MPT * |
| (ii) Short Form (Electronic Filing) | 316 & 159 | 140.00 | MDT * |
| g. Main Studio Request | Corres & 159 | 970.00 | MPT |
| h. Call Sign (Electronic Filing) | 380 & 159 | 95.00 | MBT |
| 9. Cable Television Services: | | | |
| a. CARS License | 327 & 159 | 270.00 | TIC |
| b. CARS Modifications | 327 & 159 | 270.00 | TIC |
| c. CARS License Renewal (Electronic Filing) | 327 & 159 | 270.00 | TIC |
| d. CARS License Assignment | 327 & 159 | 270.00 | TIC |
| e. CARS Transfer of Control | 327 & 159 | 270.00 | TIC |
| f. Special Temporary Authority | Corres & 159 | 175.00 | TGC |
| g. Cable Special Relief Petition | Corres & 159 | 1,355.00 | TQC |
| h. Cable Community Registration (Electronic Filing). | 322 & 159 | 60.00 | TAC |
| i. Aeronautical Frequency Usage Notifications (Electronic Filing). | 321 & 159 | 60.00 | TAC |

[76 FR 29164, May 20, 2011]

### § 1.1105 Schedule of charges for applications and other filings for the wireline competition services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Wireline Competition Bureau Applications, P.O. Box 979091, St. Louis, MO 63197–9000.

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| 1. Domestic 214 Applications | Corres & 159 | 1,050.00 | CDT |
| 2. Tariff Filings: | | | |
| a. Filing Fees (per transmittal or cover letter) | Corres & 159 | 845.00 | CQK |
| b. Application for Special Permission Filing (request for waiver of any rule in Part 61 of the Commission's Rules) (per request). | Corres & 159 | 845.00 | CQK |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| c. Waiver of Part 69 Tariff Rules (per request) | Corres & 159 | 845.00 | CQK |
| 3. Accounting: | | | |
| a. Review of Depreciation Update Study (single state). | Corres & 159 | 35,465.00 | BKA |
| (i) Each Additional State | Corres & 159 | 1,170.00 | CVA |
| b. Petition for Waiver (per petition) | | | |
| (i) Waiver of Part 69 Accounting Rules & Part 32 Accounting Rules Part 43 Reporting Requirements Part 64 Allocation of Costs Rules Part 65 Rate of Return & Rate Base Rules | Corres & 159 | 7,990.00 | BEA |
| (ii) Part 36 Separation Rules | Corres & 159 | 7,990.00 | BEB |

[76 FR 29165, May 20, 2011]

## § 1.1106 Schedule of charges for applications and other filings for the enforcement services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Enforcement Bureau, P.O. Box 979094, St. Louis, MO 63197–9000 with the exception of Accounting and Audits, which will be invoiced. Carriers should follow invoice instructions when making payment.

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| 1. Formal Complaints | Corres & 159 | $210.00 | CIZ |
| 2. Accounting and Audits: | | | |
| a. Field Audit | Carriers will be invoiced for the amount due. | 106,790.00 | BMA |
| b. Review of Attest Audit | Carriers will be invoiced for the amount due. | 58,290.00 | BLA |
| 3. Development and Review of Agreed upon—Procedures Engagement. | Corres & 159 | 58,290.00 | BLA |
| 4. Pole Attachment Complaint | Corres & 159 | 260.00 | TPC |

[76 FR 29166, May 20, 2011]

## § 1.1107 Schedule of charges for applications and other filings for the international services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, International Bureau Applications, P.O. Box 979093, St. Louis, MO 63197–9000.

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| 1. International Fixed Public Radio (Public & Control Stations): | | | |
| a. Initial Construction Permit (per station) | 407 & 159 | $875.00 | CSN |
| b. Assignment or Transfer (per Application) | 702 & 159 | 875.00 | CSN |
| | or | | |
| | 704 & 159 | 875.00 | CSN |
| c. Renewal (per license ) | 405 & 159 | 635.00 | CON |
| d. Modification (per station) | 403 & 159 | 635.00 | CON |
| e. Extension of Construction Authorization (per station). | 701 & 159 | 320.00 | CKN |
| f. Special Temporary Authority or request for Waiver (per request). | Corres & 159 | 320.00 | CKN |
| 2. Section 214 Applications: | | | |
| a. Overseas Cable Construction | Corres & 159 | 15,645.00 | BIT |
| b. Cable Landing License | | | |
| (i) Common Carrier | Corres & 159 | 1,760.00 | CXT |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| (ii) Non-Common Carrier | Corres & 159 | 17,405.00 | BJT |
| c. All other International 214 Applications | Corres & 159 | 1,050.00 | CUT |
| d. Special Temporary Authority (all services) | Corres & 159 | 1,050.00 | CUT |
| e. Assignments or transfers (all services) | Corres & 159 | 1,050.00 | CUT |
| 3. Fixed Satellite Transmit/Receive Earth Stations: | | | |
| a. Initial Application (per station) | 312 Main & Schedule B & 159 | 2,615.00 | BAX |
| b. Modification of License (per station) | 312 Main & Schedule B & 159 | 180.00 | CGX |
| c. Assignment or Transfer | | | |
| (i) First station | 312 Main & Schedule A & 159 | 515.00 | CNX |
| (ii) Each Additional Station | Attachment to 312–Schedule A | 175.00 | CFX |
| d. Renewal of License (per station ) | 312–R & 159 | 180.00 | CGX |
| e. Special Temporary Authority (per request) | 312 Main & 159 | 180.00 | CGX |
| f. Amendment of Pending Application (per station) | 312 Main & Schedule B & 159 | 180.00 | CGX |
| g. Extension of Construction Permit (modification) (per station). | 312 Main & 159 | 180.00 | CGX |
| 4. Fixed Satellite transmit/receive Earth Stations (2 meters or less operating in the 4/6 GHz frequency band): | | | |
| a. Lead Application | 312 Main & Schedule B & 159 | 5,795.00 | BDS |
| b. Routine Application (per station) | 312 Main & Schedule B & 159 | 60.00 | CAS |
| c. Modification of License (per station) | 312 Main & Schedule B & 159 | 180.00 | CGS |
| d. Assignment or Transfer | | | |
| (i) First Station | 312 Main & Schedule A & 159 | 515.00 | CNS |
| (ii) Each Additional Station | Attachment to 312–Schedule A | 60.00 | CAS |
| e. Renewal of License (per station) | 312–R & 159 | 180.00 | CGS |
| f. Special Temporary Authority (per request) | 312 Main & 159 | 180.00 | CGS |
| g. Amendment of Pending Application (per station) | 312 Main & Schedule A or B & 159. | 180.00 | CGS |
| h. Extension of Construction Permit (modification) (per station ). | 312 & 159 | 180.00 | CGS |
| 5. Receive Only Earth Stations: | | | |
| a. Initial Applications for Registration or License (per station). | 312 Main & Schedule B & 159 | 395.00 | CMO |
| b. Modification of License or Registration (per station). | 312 Main & Schedule B & 159 | 180.00 | CGO |
| c. Assignment or Transfer | | | |
| (i) First Station | 312 Main & Schedule A & 159 | 515.00 | CNO |
| (ii) Each Additional Station | Attachment to 312–Schedule A | 175.00 | CFO |
| d. Renewal of License (per station) | 312–R & 159 | 180.00 | CGO |
| e. Amendment of Pending Application (per station) | 312 Main & Schedule A or B & 159. | 180.00 | CGO |
| f. Extension of Construction Permit (modification) (per station). | 312 Main & 159 | 180.00 | CGO |
| g. Waivers (per request) | Corres & 159 | 180.00 | CGO |
| 6. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems: | | | |
| a. Initial Application (per station) | 312 Main & Schedule B & 159 | 9,655.00 | BGV |
| b. Modification of License (per system) | 312 Main & Schedule B & 159 | 180.00 | CGV |
| c. Assignment or Transfer of System | 312 Main & Schedule A & 159 | 2,585.00 | CZV |
| d. Renewal of License (per system) | 312–R & 159 | 180.00 | CGV |
| e. Special Temporary Authority (per request) | 312 & 159 | 180.00 | CGV |
| f. Amendment of Pending Application (per system) | 312 Main & Schedule A or B & 159. | 180.00 | CGV |
| g. Extension of Construction Permit (modification) (per system). | 312 & 159 | 180.00 | CGV |
| 7. Mobile Satellite Earth Stations: | | | |
| a. Initial Applications of Blanket Authorization | 312 Main & Schedule B & 159 | 9,655.00 | BGB |
| b. Initial Application for Individual Earth Station | 312 Main & Schedule B & 159 | 2,315.00 | CYB |
| c. Modification of License (per system) | 312 Main & Schedule B & 159 | 180.00 | CGB |
| d. Assignment or Transfer (per system) | 312 Main & Schedule A & 159 | 2,585.00 | CZB |
| e. Renewal of License (per system) | 312–R & 159 | 180.00 | CGB |
| f. Special Temporary Authority (per request) | 312 & 159 | 180.00 | CGB |
| g. Amendment of Pending Application (per system). | 312 Main & Schedule B & 159 | 180.00 | CGB |
| h. Extension of Construction Permit (modification) (per system). | 312 & 159 | 180.00 | CGB |
| 8. Space Stations (Geostationary): | | | |
| a. Application for Authority to Launch & Operate (per satellite) | | | |
| (i) Initial Application | 312 Main & Schedule S & 159 | 120,005.00 | BNY |
| (ii) Replacement Satellite | 312 Main & Schedule S & 159 | 120,005.00 | BNY |
| b. Assignment or Transfer (per satellite) | 312 Main & Schedule A & 159 | 8,575.00 | BFY |
| c. Modification (per satellite) | 312 Main & Schedule S (if needed) & 159. | 8,575.00 | BFY |

| Service | FCC Form No. | Fee amount | Payment type code |
|---|---|---|---|
| d. Special Temporary Authority (per satellite) | 312 & 159 | 860.00 | CRY |
| e. Amendment of Pending Application (per satellite). | 312 Main & Schedule S (if needed) & 159. | 1,715.00 | CWY |
| f. Extension of Launch Authority (per satellite) | 312 Main & Corres & 159 | 860.00 | CRY |
| 9. Space Stations (NGSO): | | | |
| a. Application for Authority to Launch & Operate (per system of technically identical satellites) satellites). | 312 Main & Schedule S & 159 | 413,295.00 | CLW |
| b. Assignment or Transfer (per system) | 312 Main & Schedule A & 159 | 11,815.00 | CZW |
| c. Modification (per system) | 312 Main & Schedule S (if needed) & 159. | 29,525.00 | CGW |
| d. Special Temporary Authority (per request) | Corres & 159 | 2,960.00 | CXW |
| e. Amendment of Pending Application (per request). | 312 Main & Schedule S & 159 | 5,910.00 | CAW |
| f. Extension of Launch Authority (per system) | 312 Main & 159 | 2,960.00 | CXW |
| 10. Direct Broadcast Satellites: | | | |
| a. Authorization to Construct or Major Modification (per satellite). | 312 Main & Schedule S & 159 | 3,485.00 | MTD |
| b. Construction Permit and Launch Authority (per satellite). | 312 Main & Schedule S & 159 | 33,790.00 | MXD |
| c. License to Operate (per satellite) | 312 Main & Schedule S & 159 | 970.00 | MPD |
| d. Special Temporary Authority (per satellite) | 312 Main & 159 | 175.00 | MGD |
| 11. International Broadcast Stations: | | | |
| a. New Station & Facilities Change Construction Permit (per application). | 309 & 159 | 2,925.00 | MSN |
| b. New License (per application) | 310 & 159 | 665.00 | MNN |
| c. License Renewal (per application) | 311 & 159 | 165.00 | MFN |
| d. License Assignment or Transfer of Control (per station license). | 314 & 159 | 105.00 | MCN |
| | or | | |
| | 315 & 159 | 105.00 | MCN |
| | or | | |
| | 316 & 159 | 105.00 | MCN |
| e. Frequency Assignment & Coordination (per frequency hour). | Corres & 159 | 60.00 | MAN |
| f. Special Temporary Authorization (per application). | Corres & 159 | 175.00 | MGN |
| 12. Permit to Deliver Programs to Foreign Broadcast Stations (per application): | | | |
| a. Commercial Television Stations | 308 & 159 | 95.00 | MBT |
| b. Commercial AM or FM Radio Stations | 308 & 159 | 95.00 | MBR |
| 13. Recognized Operating Agency (per application): | Corres & 159 | 1,050.00 | CUG |

[76 FR 29166, May 20, 2011]

### § 1.1108 Schedule of charges for applications and other filings for the international telecommunication services.

Remit payment (along with a copy of invoice) for these services to the: Federal Communications Commission, International Telecommunication Fees, P.O. Box 979096, St. Louis, MO 63197–9000.

| | | | |
|---|---|---|---|
| 1. Administrative Fee For Collections (per line item). | 99 & 99A | $2.00 | IAT |
| 2. Telecommunication Charges | 99 & 99A | | ITTS |

[76 FR 29168, May 20, 2011]

### § 1.1109 Schedule of charges for applications and other filings for the Homeland services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Homeland

Bureau Applications, P.O. Box 979092, St. Louis, MO 63197–9000.

| | | | |
|---|---|---|---|
| 1. Communication Assistance for Law Enforcement (CALEA) Petitions. | Corres & 159 ..... | 6,085.00 | CLEA |

[76 FR 29168, May 20, 2011]

### § 1.1110 Attachment of charges.

The charges required to accompany a request for the Commission's regulatory services listed in §§ 1.1102 through 1.1109 of this subpart will not be refundable to the applicant irrespective of the Commission's disposition of that request. Return or refund of charges will be made only in certain limited instances as set out at § 1.1115 of this subpart.

[74 FR 3445, Jan. 21, 2009]

### § 1.1111 Payment of charges.

(a) The schedule of fees for applications and other filings (Bureau/Office Fee Filing Guides) lists those applications and other filings that must be accompanied by an FCC Form 159, Remittance Advice' or the electronic version of the form, FCC Form 159–E, one of the forms that is automatically generated when an applicant accesses the Commission's on-line filing and payment process.

(b) Applicants may access the Commission's on-line filing (*http://www.fcc.gov/e-file.html*) and fee payment program by accessing (*http://www.fcc.gov/feefiler.html*). Applicants who use the on-line process will be directed to the appropriate electronic application and payment forms for completion and submission of the required application(s) and payment information.

(c) Applications and other filings that are not submitted in accordance with these instructions will be returned as unprocessable.

NOTE TO PARAGRAPH (c): This requirement for the simultaneous submission of fee forms with applications or other filings does not apply to the payment of fees for which the Commission has established a billing process. *See* § 1.1121 of this subpart.

(d) Applications returned to applicants for additional information or corrections will not require an additional fee when resubmitted, unless the additional information results in an increase of the original fee amount. Those applications not requiring an additional fee should be resubmitted directly to the Bureau/Office requesting the additional information. The original fee will be forfeited if the additional information or corrections are not resubmitted to the appropriate Bureau/Office by the prescribed deadline. A forfeited application fee will not be refunded. If an additional fee is required, the original fee will be returned and the application must be resubmitted with a new remittance in the amount of the required fee to the Commission's lockbox bank. Applicants should attach a copy of the Commission's request for additional or corrected information to their resubmission.

(1) If the Bureau/Office staff discovers within 30 days after the resubmission that the required fee was not submitted, the application will be dismissed.

(2) If after 30 days the Bureau/Office staff discovers the required fee has not been paid, the application will be retained and a 25 percent late fee will be assessed on the deficient amount even if the Commission has completed its action on the application. Any Commission actions taken prior to timely payment of these charges are contingent and subject to recession.

(e) Should the staff change the status of an application, resulting in an increase in the fee due, the applicant will be billed for the remainder under the conditions established by § 1.1118(b) of the rules.

NOTE TO PARAGRAPH (e): Due to the statutory requirements applicable to tariff filings, the procedures for handling tariff filings may vary from the procedures set out in the rules.

[74 FR 3445, Jan. 21, 2009]

**§ 1.1112 Form of payment.**

(a) Fee payments should be in the form of a check, bank draft, on money order denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission or by a Visa, MasterCard, American Express, or Discover credit card. No other credit card is acceptable. Fees for applications and other filings paid by credit card will not be accepted unless the credit card section of FCC Form 159 is completed in full. The Commission discourages applicants from submitting cash and will not be responsible for cash sent through the mail. Personal or corporate checks dated more than six months prior to their submission to the Commission's lockbox bank and postdated checks will not be accepted and will be returned as deficient. Third party checks (i.e., checks with a third party as maker or endorser) will not be accepted.

(1) Specific procedures for electronic payments are announced in Bureau/Office fee filing guides.

(2) It is the responsibility of the payer to insure that any electronic payment is made in the manner required by the Commission. Failure to comply with the Commission's procedures will result in the return of the application or other filing.

(3) Payments by wire transfer will be accepted; however, to insure proper credit, applicants must follow the instructions set out in the appropriate Bureau/Office fee filing guide.

(b) Applicants are required to submit one payment instrument (check, bank draft or money order) and FCC Form 159 with each application or filing. Multiple payment instruments for a single application or filing are not permitted. Except that a separate Fee Form (FCC Form 159) will not be required once the information requirements of that form (the Fee Code, fee amount, and total fee remitted) are incorporated into the underlying application form.

(c) The Commission may accept multiple money orders in payment of a fee for a single application where the fee exceeds the maximum amount for a money order established by the issuing agency and the use of multiple money orders is the only practical method available for fee payment.

(d) The Commission may require payment of fees with a cashier's check upon notification to an applicant or filer or prospective group of applicants under the conditions set forth below in paragraphs (d) (1) and (2) of this section.

(1) Payment by cashier's check may be required when a person or organization has made payment, on one or more occasions with a payment instrument on which the Commission does not receive final payment and such failure is not excused by bank error.

(2) The Commission will notify the party in writing that future payments must be made by cashier's check until further notice. If, subsequent to such notice, payment is not made by cashier's check, the party's payment will not be accepted and its application or other filing will be returned.

(e) All fees collected will be paid into the general fund of the United States Treasury in accordance with Pub. L. 99–272.

(f) The Commission will furnish a stamped receipt of an application only upon request that complies with the following instructions. In order to obtain a stamped receipt for an application (or other filing), the application package must include a copy of the first page of the application, clearly marked ''copy'', submitted expressly for the purpose of serving as a receipt of the filing. The copy should be the top document in the package. The copy will be date-stamped immediately and provided to the bearer of the submission, if hand delivered. For submissions by mail, the receipt copy will be provided through return mail if the filer has attached to the receipt copy a stamped self-addressed envelope of sufficient size to contain the date stamped copy of the application. No remittance receipt copies will be furnished.

[52 FR 5289, Feb. 20, 1987; 52 FR 38232, Oct. 15, 1987, as amended at 53 FR 40888, Oct. 19, 1988; 55 FR 19171, May 8, 1990. Redesignated at 59 FR 30998, June 16, 1994, as amended at 59 FR 30999, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 67 FR 46303, July 12, 2002; 67 FR 67337, Nov. 5, 2002. Redesignated and amended at 74 FR 3445, Jan. 21, 2009]

**§ 1.1113 Filing locations.**

(a) Except as noted in this section, applications and other filings, with attached fees and FCC Form 159, must be submitted to the locations and addresses set forth in §§ 1.1102 through 1.1109.

(1) Tariff filings shall be filed with the Secretary, Federal Communications Commission, Washington DC 20554. On the same day, the filer should submit a copy of the cover letter, the FCC Form 159, and the appropriate fee to the Commission's lockbox bank at the address established in § 1.1105.

(2) Bills for collection will be paid at the Commission's lockbox bank at the address of the appropriate service as established in §§ 1.1102 through 1.1109, as set forth on the bill sent by the Commission. Payments must be accompanied by the bill sent by the Commission. Payments must be accompanied by the bill to ensure proper credit.

(3) Petitions for reconsideration or applications for review of fee decisions pursuant to § 1.1119(b) of this subpart must be accompanied by the required fee for the application or other filing being considered or reviewed.

(4) Applicants claiming an exemption from a fee requirement for an application or other filing under 47 U.S.C. 158(d)(1) or § 1.1116 of this subpart shall file their applications in the appropriate location as set forth in the rules for the service for which they are applying, except that request for waiver accompanied by a tentative fee payment should be filed at the Commission's lockbox bank at the address for the appropriate service set forth in §§ 1.1102 through 1.1109.

(b) Except as provided for in paragraph (c) of this section, all materials must be submitted as one package. The Commission will not take responsibility for matching fees, forms and applications submitted at different times or locations. Materials submitted at other than the location and address required by § 0.401(b) and paragraph (a) of this section will be returned to the applicant or filer.

(c) Fees for applications and other filings pertaining to the Wireless Radio Services that are submitted electronically via ULS may be paid electronically or sent to the Commission's lock box bank manually. When paying manually, applicants must include the application file number (assigned by the ULS electronic filing system on FCC Form 159) and submit such number with the payment in order for the Commission to verify that the payment was made. Manual payments must be received no later than ten (10) days after receipt of the application on ULS or the application will be dismissed. Payment received more than ten (10) days after electronic filing of an application on a Bureau/Office electronic filing system (*e.g.*, ULS) will be forfeited (*see* §§ 1.934 and 1.1111.)

(d) Fees for applications and other filings pertaining to the Multichannel Video and Cable Television Service (MVCTS) and the Cable Television Relay Service (CARS) that are submitted electronically via the Cable Operations and Licensing System (COALS) may be paid electronically or sent to the Commission's lock box bank manually. When paying manually, applicants must include the FCC Form 159 generated by COALS (prefilled with the transaction confirmation number) and completed with the necessary additional payment information to allow the Commission to verify that payment was made. Manual payments must be received no later than ten (10) days after receipt of the application or filing in COALS or the application or filing will be dismissed.

[55 FR 19171, May 8, 1990. Redesignated at 59 FR 30998, June 16, 1994, as amended at 59 FR 30999, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 63 FR 68941, Dec. 14, 1998; 65 FR 49762, Aug. 15, 2000; 68 FR 27001, May 19, 2003; 69 FR 41176, July 7, 2004. Redesignated and amended at 74 FR 3445, Jan. 21, 2009; 74 FR 5117, Jan. 29, 2009; 75 FR 36550, June 28, 2010]

**§ 1.1114 Conditionality of Commission or staff authorizations.**

(a) Any instrument of authorization granted by the Commission, or by its staff under delegated authority, will be conditioned upon final payment of the applicable fee or delinquent fees and timely payment of bills issued by the Commission. As applied to checks, bank drafts and money orders, final payment shall mean receipt by the

Treasury of funds cleared by the financial institution on which the check, bank draft or money order is drawn.

(1) If, prior to a grant of an instrument of authorization, the Commission is notified that final payment has not been made, the application or filing will be:

(i) Dismissed and returned to the applicant;

(ii) Shall lose its place in the processing line;

(iii) And will not be accorded *nunc pro tunc* treatment if resubmitted after the relevant filing deadline.

(2) If, subsequent to a grant of an instrument of authorization, the Commission is notified that final payment has not been made, the Commission will:

(i) Automatically rescind that instrument of authorization for failure to meet the condition imposed by this subsection; and

(ii) Notify the grantee of this action; and

(iii) Not permit *nunc pro tunc* treatment for the resubmission of the application or filing if the relevant deadline has expired.

(3) Upon receipt of a notification of rescision of the authorization, the grantee will immediately cease operations initiated pursuant to the authorization.

(b) In those instances where the Commission has granted a request for deferred payment of a fee or issued a bill payable at a future date, further processing of the application or filing, or the grant of authority, shall be conditioned upon final payment of the fee, plus other required payments for late payments, by the date prescribed by the deferral decision or bill. Failure to comply with the terms of the deferral decision or bill shall result in the automatic dismissal of the submission or rescision of the Commission authorization for failure to meet the condition imposed by this subpart. The Commission reserves the right to return payments received after the date established on the bill and exercise the conditions attached to the application. The Commission shall:

(1) Notify the grantee that the authorization has been rescinded;

(i) Upon such notification, the grantee will immediately cease operations initiated pursuant to the authorization.

(ii) [Reserved]

(2) Not permit *nunc pro tunc* treatment to applicants who attempt to refile after the original deadline for the underlying submission.

(c) (1) Where an applicant is found to be delinquent in the payment of application fees, the Commission will make a written request for the delinquent fee, together with any penalties that may be due under this subpart. Such request shall inform the applicant/filer that failure to pay or make satisfactory payment arrangements will result in the Commission's withholding action on, and/or as appropriate, dismissal of, any applications or requests filed by the applicant. The staff shall also inform the applicant of the procedures for seeking Commission review of the staff's fee determination.

(2) If, after final determination that the fee is due or that the applicant is delinquent in the payment of fees, and payment is not made in a timely manner, the staff will withhold action on the application or filing until payment or other satisfactory arrangement is made. If payment or satisfactory arrangement is not made within 30 days of the date of the original notification, the application will be dismissed.

[52 FR 5289, Feb. 20, 1987, as amended at 55 FR 19171, May 8, 1990. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 69 FR 27847, May 17, 2004. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

### § 1.1115 Return or refund of charges.

(a) All refunds will be issued to the payer named in the appropriate block of the FCC Form 159. The full amount of any fee submitted will be returned or refunded, as appropriate, under the authority granted at § 0.231.

(1) When no fee is required for the application or other filing. (*see* § 1.1111).

(2) When the fee processing staff or bureau/office determines that an insufficient fee has been submitted within 30 calendar days of receipt of the application or filing and the application or filing is dismissed.

(3) When the application is filed by an applicant who cannot fulfill a prescribed age requirement.

(4) When the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.

(5) When a waiver is granted in accordance with this subpart.

NOTE: Payments in excess of an application fee will be refunded only if the overpayment is $10 or more.

(6) When an application for new or modified facilities is not timely filed in accordance with the filing window as established by the Commission in a public notice specifying the earliest and latest dates for filing such applications.

(b) Comparative hearings are no longer required.

(c) Applicants in the Media Services for first-come, first-served construction permits will be entitled to a refund of the fee, if, within fifteen days of the issuance of a Public Notice, applicant indicates that there is a previously filed pending application for the same vacant channel, such applicant notifies the Commission that they no longer wish their application to remain on file behind the first applicant and any other applicants filed before his or her application, and the applicant specifically requests a refund of the fee paid and dismissal of his or her application.

(d) Applicants for space station licenses under the first-come, first served procedure set forth in part 25 of this title will be entitled to a refund of the fee if, before the Commission has placed the application on public notice, the applicant notifies the Commission that it no longer wishes to keep its application on file behind the licensee and any other applicants who filed their applications before its application, and specifically requests a refund of the fee and dismissal of its application.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 56 FR 795, Jan. 9, 1991; 56 FR 56602, Nov. 6, 1991. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 67 FR 46303, July 12, 2002; 67 FR 67337, Nov. 5, 2002; 68 FR 51502, Aug. 27, 2003; 69 FR 41177, July 7, 2004; 71 54234, Sept. 14, 2006. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

### § 1.1116 General exemptions to charges.

No fee established in §§ 1.1102 through 1.1109 of this subpart, unless otherwise qualified herein, shall be required for:

(a) Applications filed for the sole purpose of modifying an existing authorization (or a pending application for authorization) in order to comply with new or additional requirements of the Commission's rules or the rules of another Federal agency. However, if the applicant also requests an additional modification, renewal, or other action, the appropriate fee for such additional request must accompany the application. Cases in which a fee will be paid include applications by FM and TV licensees or permittees seeking to upgrade channel after a rulemaking.

(b) Applicants in the Special Emergency Radio and Public Safety Radio Services that are government entities or nonprofit entities. Applicants claiming nonprofit status must include a current Internal Revenue Service Determination Letter documenting this nonprofit status.

(c) Applicants, permittees or licensees of noncommercial educational (NCE) broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees operating in accordance with § 73.503 of this chapter.

(d) Applicants, permittees, or licensees qualifying under paragraph (c) of this section requesting Commission authorization in any other mass media radio service (except the international broadcast (HF) service) private radio service, or common carrier radio communications service otherwise requiring a fee, if the radio service is used in conjunction with the NCE broadcast station on an NCE basis.

(e) Other applicants, permittees, or licensees providing, or proposing to

provide, an NCE or instructional service, but not qualifying under paragraph (c) of this section, may be exempt from filing fees, or be entitled to a refund, in the following circumstances.

(1) An applicant is exempt from filing fees if it is an organization that, like the Public Broadcasting Service or National Public Radio, receives funding directly or indirectly through the Public Broadcasting Fund, 47 U.S.C. 396(k), distributed by the Corporation for Public Broadcasting, where the authorization requested will be used in conjunction with the organization on an NCE basis;

(2) An applicant for a translator or low power television station that proposes an NCE service will be entitled to a refund of fees paid for the filing of the application when, after grant, it provides proof that it has received funding for the construction of the station through the National Telecommunications and Information Administration (NTIA) or other showings as required by the Commission.

(3) An applicant that has qualified for a fee refund under paragraph (e)(2) of this section and continues to operate as an NCE station is exempt from fees for broadcast auxiliary stations (subparts D, E, and F of part 74) or stations in the private radio or common carrier services where such authorization is to be used in conjunction with the NCE translator or low power station.

(4) An applicant that is the licensee in the Educational Broadband Service (EBS) (formerly, Instructional Television Fixed Service (ITFS)) (parts 27 and 74, e.g., §§ 27.1200, *et seq.*, and 74.832(b), of this chapter) is exempt from filing fees where the authorization requested will be used by the applicant in conjunction with the provision of the EBS.

(f) Applicants, permittees or licensees who qualify as governmental entities. For purposes of this exemption a governmental entity is defined as any state, possession, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected or duly appointed public officials exercising sovereign direction and control over their respective communities or programs.

(g) Applications for Restricted Radiotelephone Operator Permits where the applicant intends to use the permit solely in conjunction with duties performed at radio facilities qualifying for fee exemption under paragraphs (c), (d), or (e) of this section.

NOTE: Applicants claiming exemptions under the terms of this subpart must certify as to their eligibility for the exemption through a cover letter accompanying the application or filing. This certification is not required if the applicable FCC Form requests the information justifying the exemption.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 55 FR 19172, May 8, 1990; 56 FR 56602, Nov. 6, 1991. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 69 FR 41177, July 7, 2004; 71 FR 54234, Sept. 14, 2006. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

### § 1.1117 Adjustments to charges.

(a) The Schedule of Charges established by §§ 1.1102 through 1.1109 of this subpart shall be reviewed by the Commission on October 1, 1999 and every two years thereafter, and adjustments made, if any, will be reflected in the next publication of Schedule of Charges.

(1) The fees will be adjusted by the Commission to reflect the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) from the date of enactment of the authorizing legislation (December 19, 1989) to the date of adjustment, and every two years thereafter, to reflect the percentage change in the CPI-U in the period between the enactment date and the adjustment date.

(2) Adjustments based upon the percentage change in the CPI-U will be applied against the base fees as enacted or amended by Congress in the year the fee was enacted or amended.

(b) Increases or decreases in charges will apply to all categories of fees covered by this subpart. Individual fees will not be adjusted until the increase or decrease, as determined by the net change in the CPI-U since the date of enactment of the authorizing legislation, amounts to at least $5 in the case of fees under $100, or 5% or more in the case of fees of $100 or greater. All fees

will be adjusted upward to the next $5 increment.

(c) Adjustments to fees made pursuant to these procedures will not be subject to notice and comment rulemakings, nor will these decisions be subject to petitions for reconsideration under §1.429 of the rules. Requests for modifications will be limited to correction of arithmetical errors made during an adjustment cycle.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 55 FR 19172, May 8, 1990. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 69 FR 41177, July 7, 2004. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

### §1.1118 Penalty for late or insufficient payments.

(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed under §1.1111 (d) of this subpart where the defect is discovered by the Commission's staff within 30 calendar days from the receipt of the application or filing by the Commission.

(1) A defective fee may be corrected by resubmitting the application or other filing, together with the entire correct fee.

(2) For purposes of determining whether the filing is timely, the date of resubmission with the correct fee will be considered the date of filing. However, in cases where the fee payment fails due to error of the applicant's bank, as evidenced by an affidavit of an officer of the bank, the date of the original submission will be considered the date of filing.

(b) Applications or filings accompanied by insufficient fees or no fees, or where such applications or filings are made by persons or organizations that are delinquent in fees owed to the Commission, that are inadvertently forwarded to Commission staff for substantive review will be billed for the amount due if the discrepancy is not discovered until after 30 calendar days from the receipt of the application or filing by the Commission. Applications or filings that are accompanied by insufficient fees or no fees will have a penalty charge equaling 25 percent of the amount due added to each bill. Any Commission action taken prior to timely payment of these charges is contingent and subject to rescission.

(c) Applicants to whom a deferral of payment is granted under the terms of this subsection will be billed for the amount due plus a charge equalling 25 percent of the amount due. Any Commission actions taken prior to timely payment of these charges are contingent and subject to rescission.

(d) Failure to submit fees, following notice to the applicant of failure to submit the required fee, is subject to collection of the fee, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321, 1358 (Apr. 26, 1996), codified at 31 U.S.C. 3711 *et seq.* *See* 47 CFR 1.1901 through 1.1952. The debt collection processes described above may proceed concurrently with any other sanction in this paragraph.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 55 FR 19172, May 8, 1990. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 67 FR 67337, Nov. 5, 2002; 69 FR 41177, July 7, 2004; 69 FR 27847, May 17, 2004; 69 FR 41177, July 7, 2004. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

EDITORIAL NOTE: At 69 FR 57230, Sept. 24, 2004, §1.1116(a) introductory text was corrected by changing the reference to "§1.1109(b)" to read "§1.1109(d)"; however, the amendment could not be incorporated because that reference does not exist in the paragraph.

### §1.1119 Petitions and applications for review.

(a) The fees established by this subpart may be waived or deferred in specific instances where good cause is shown and where waiver or deferral of the fee would promote the public interest.

(b) Requests for waivers or deferrals will only be considered when received from applicants acting in respect to their own applications. Requests for waivers or deferrals of entire classes of services will not be considered.

(c) Petitions for waivers, deferrals, fee determinations, reconsiderations and applications for review will be

acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission. Requests for deferral of a fee payment for financial hardship must be accompanied by supporting documentation.

(1) Petitions and applications for review submitted with a fee must be submitted to the Commission's lock box bank at the address for the appropriate service set forth in §§1.1102 through 1.1107.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

(d) Deferrals of fees will be granted for an established period of time not to exceed six months.

(e) Applicants seeking waivers must submit the request for waiver with the application or filing, required fee and FCC Form 159, or a request for deferral. A petition for waiver and/or deferral of payment must be submitted to the Office of the Managing Director as specified in paragraph (c) of this section. Waiver requests that do not include these materials will be dismissed in accordance with §1.1111 of this subpart. Submitted fees will be returned if a waiver is granted. The Commission will not be responsible for delays in acting upon these requests.

(f) Petitions for waiver of a fee based on financial hardship will be subject to the provisions of paragraph 1.1166(e).

[52 FR 5289, Feb. 20, 1987, as amended at 55 FR 19172, May 8, 1990; 55 FR 38065, Sept. 17, 1990. Redesignated and amended at 59 FR 30998, June 16, 1994, as further amended at 59 FR 30999, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 66 FR 36202, July 11, 2001; 67 FR 67337, Nov. 5, 2002; 68 FR 48467, Aug. 13, 2003. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

### § 1.1120 Error claims.

(a) Applicants who wish to challenge a staff determination of an insufficient fee or delinquent debt may do so in writing. A challenge to a determination that a party is delinquent in paying the full application fee must be accompanied by suitable proof that the fee had been paid or waived (or deferred from payment during the period in question), or by the required application payment and any assessment penalty payment (*see* §1.1118) of this subpart). Failure to comply with these procedures will result in dismissal of the challenge. These claims should be addressed to the Federal Communications Commission, Attention: Financial Operations, 445 12th St., SW., Washington, DC 20554 or e-mailed to *ARINQUIRIES@fcc.gov*.

(b) Actions taken by Financial Operations staff are subject to the reconsideration and review provisions of §§1.106 and 1.115 of this part, EXCEPT THAT reconsideration and/or review will only be available where the applicant has made the full and proper payment of the underlying fee as required by this subpart.

(1) Petitions for reconsideration and/or applications for review submitted by applicants that have not made the full and proper fee payment will be dismissed; and

(2) If the fee payment should fail while the Commission is considering the matter, the petition for reconsideration or application for review will be dismissed.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49763, Aug. 15, 2000; 69 FR 27848, May 17, 2004. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

### § 1.1121 Billing procedures.

(a) The fees required for the International Telecommunications Settlements (§1.1103 of this subpart), Accounting and Audits Field Audits and Review of Arrest Audits (§1.1106 of this subpart) should not be paid with the filing or submission of the request. The fees required for requests for Special Temporary Authority (*see* generally §§1.1102, 1.1104, 1.1106 & 1.1107 of this subpart) that the applicant believes is of an urgent or emergency nature and are filed directly with the appropriate Bureau or Office should not be paid with the filing of the request with that Bureau or Office.

(b) In these cases, the appropriate fee will be determined by the Commission and the filer will be billed for that fee. The bill will set forth the amount to be paid, the date on which payment is due, and the address to which the payment should be submitted. *See also* § 1.1113 of this subpart.

[55 FR 19172, May 8, 1990, as amended at 58 FR 68541, Dec. 28, 1993. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49763, Aug. 15, 2000; 67 FR 67337, Nov. 5, 2002; 69 FR 41177, July 7, 2004. Redesignated and amended at 74 FR 3445–3446, Jan. 21, 2009]

## § 1.1151 Authority to prescribe and collect regulatory fees.

Authority to impose and collect regulatory fees is contained in title VI, section 6002(a) of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, 107 Stat. 397), enacting section 9 of the Communications Act, 47 U.S.C. 159, which directs the Commission to prescribe and collect annual regulatory fees from designated regulatees in order to recover the costs of certain of its regulatory activities in the private radio, mass media, common carrier, and cable television services.

[59 FR 30999, June 16, 1994]

## § 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

| Exclusive use services (per license) | Fee amount [1] | Address |
|---|---|---|
| 1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR, Part 90) | | |
| (a) New, Renew/Mod (FCC 601 & 159) | $40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159). | 40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 601 & 159) | 40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000 |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159). | 40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| 220 MHz Nationwide | | |
| (a) New, Renew/Mod (FCC 601 & 159) | 40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159). | 40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 601 & 159) | 40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159). | 40.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| 2. Microwave (47 CFR Pt. 101) (Private) | | |
| (a) New, Renew/Mod (FCC 601 & 159) | 25.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159). | 25.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 601 & 159) | 25.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159). | 25.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| 3. 218–219 MHz Service | | |
| (a) New, Renew/Mod (FCC 601 & 159) | 65.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159). | 65.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 601 & 159) | 65.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159). | 65.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| 4. Shared Use Services— | | |
| Land Mobile (Frequencies Below 470 MHz—except 220 MHz) | | |
| (a) New, Renew/Mod (FCC 601 & 159) | 20.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159). | 20.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 601 & 159) | 20.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159). | 20.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| General Mobile Radio Service | | |
| (a) New, Renew/Mod (FCC 605 & 159) | 5.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159). | 5.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 605 & 159) | 5.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 605 & 159). | 5.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| Rural Radio (Part 22) | | |

| Exclusive use services (per license) | Fee amount [1] | Address |
|---|---|---|
| (a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159). | 20.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159). | 20.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| Marine Coast | | |
| (a) New Renewal/Mod (FCC 601 & 159) | 50.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159). | 50.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 601 & 159) | 50.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159). | 50.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| Aviation Ground | | |
| (a) New, Renewal/Mod (FCC 601 & 159) | 15.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159). | 15.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 601 & 159) | 15.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Only) (FCC 601 & 159). | 15.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| Marine Ship | | |
| (a) New, Renewal/Mod (FCC 605 & 159) | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159). | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 605 & 159) | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 605 & 159). | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| Aviation Aircraft | | |
| (a) New, Renew/Mod (FCC 605 & 159) | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159). | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (c) Renewal Only (FCC 605 & 159) | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (d) Renewal Only (Electronic Filing) (FCC 605 & 159). | 10.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| 5. Amateur Vanity Call Signs | | |
| (a) Initial or Renew (FCC 605 & 159) | 1.42 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| (b) Initial or Renew (Electronic Filing) (FCC 605 & 159). | 1.42 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| 6. CMRS Cellular/Mobile Services (per unit) | | |
| (FCC 159) | [2].17 | FCC, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 7. CMRS Messaging Services (Per unit) | | |
| (FCC 159) | [3].08 | FCC, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 8. Broadband Radio Service (formerly MMDS and MDS) | 310 | FCC, , P.O. Box 979084, St. Louis, MO 63197–9000. |
| 9. Local Multipoint Distribution Service | 310 | FCC, P.O. Box 979084, St. Louis, MO 63197–9000. |

[1] Note that ''small fees'' are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 5- or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also apply as detailed in section 1.1102 of this chapter.

[2] These are standard fees that are to be paid in accordance with 1.1157(b) of this chapter.

[3] These are standard fees that are to be paid in accordance with 1.1157(b) of this chapter.

[76 FR 49360, Aug. 10, 2011]

## § 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

| Radio [AM and FM] (47 CFR, Part 73) | Fee amount | Address |
|---|---|---|
| 1. AM Class A: | | |
| <= 25,000 population | $700 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 25,001–75,000 population | 1,400 | |
| 75,001–150,000 population | 2,100 | |
| 150,001–500,000 population | 3,150 | |
| 500,001–1,200,000 population | 4,550 | |
| 1,200,001–3,000,000 population | 7,000 | |
| > 3,000,000 population | 8,400 | |
| 2. AM Class B: | | |
| <= 25,000 population | 575 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 25,001–75,000 population | 1,150 | |
| 75,001–150,000 population | 1,450 | |
| 150,001–500,000 population | 2,450 | |
| 500,001–1,200,000 population | 3,750 | |
| 1,200,001–3,000,000 population | 5,750 | |
| > 3,000,000 population | 6,900 | |
| 3. AM Class C: | | |

| Radio [AM and FM] (47 CFR, Part 73) | Fee amount | Address |
|---|---|---|
| <= 25,000 population | 525 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 25,001–75,000 population | 800 | |
| 75,001–150,000 population | 1,050 | |
| 150,001–500,000 population | 1,575 | |
| 500,001–1,200,000 population | 2,625 | |
| 1,200,001–3,000,000 population | 3,950 | |
| > 3,000,000 population | 5,000 | |
| 4. AM Class D: | | |
| <= 25,000 population | 600 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 25,001–75,000 population | 900 | |
| 75,001–150,000 population | 1,500 | |
| 150,001–500,000 population | 1,800 | |
| 500,001–1,200,000 population | 3,000 | |
| 1,200,001–3,000,000 population | 4,800 | |
| > 3,000,000 population | 6,000 | |
| 5. AM Construction Permit | 490 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 6. FM Classes A, B1 and C3: | | |
| <= 25,000 population | 675 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 25,001–75,000 population | 1,350 | |
| 75,001–150,000 population | 1,850 | |
| 150,001–500,000 population | 2,875 | |
| 500,001–1,200,000 population | 4,550 | |
| 1,200,001–3,000,000 population | 7,425 | |
| > 3,000,000 population | 9,450 | |
| 7. FM Classes B, C, C0, C1 and C2: | | |
| <= 25,000 population | 850 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 25,001–75,000 population | 1,500 | |
| 75,001–150,000 population | 2,750 | |
| 150,001–500,000 population | 3,600 | |
| 500,001–1,200,000 population | 5,300 | |
| 1,200,001–3,000,000 population | 8,500 | |
| > 3,000,000 population | 11,050 | |
| 8. FM Construction Permits | 675 | FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000. |
| TV (47 CFR, Part 73) VHF Commercial: | | |
| 1. Markets 1 thru 10 | 84,625 | FCC, TV Branch, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 2. Markets 11 thru 25 | 68,175 | |
| 3. Markets 26 thru 50 | 40,475 | |
| 4. Markets 51 thru 100 | 22,750 | |
| 5. Remaining Markets | 6,100 | |
| 6. Construction Permits | 6,100 | |
| UHF Commercial: | | |
| 1. Markets 1 thru 10 | 34,650 | FCC, UHF Commercial, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 2. Markets 11 thru 25 | 32,950 | |
| 3. Markets 26 thru 50 | 20,950 | |
| 4. Markets 51 thru 100 | 12,325 | |
| 5. Remaining Markets | 3,275 | |
| 6. Construction Permits | 3,275 | |
| Satellite UHF/VHF Commercial: | | |
| 1. All Markets | 1,250 | FCC Satellite TV, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 2. Construction Permits | 670 | |
| Low Power TV, Class A TV, TV/FM Translator, & TV/FM Booster (47 CFR Part 74). | 395 | FCC, Low Power, P.O. Box 979084, St. Louis, MO 63197–9000. |
| Broadcast Auxiliary | 10 | FCC, Auxiliary, P.O. Box 979084, St. Louis, MO 63197–9000. |

[76 FR 49361, Aug. 10, 2011]

## § 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

| | Fee amount | Address |
|---|---|---|
| Radio Facilities: | | |
| 1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159). | $25.00 | FCC, P.O. Box 979097, St. Louis, MO 63197–9000. |
| Carriers: | | |
| 1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499–A). | .00375 | FCC, Carriers, P.O. Box 979084, St. Louis, MO 63197–9000. |

[76 FR 49362, Aug. 10, 2011]

### § 1.1155 Schedule of regulatory fees and filing locations for cable television services.

| | Fee amount | Address |
|---|---|---|
| 1. Cable Television Relay Service | $370 | FCC, Cable, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 2. Cable TV System (per subscriber) | .93 | |

[76 FR 49363, Aug. 10, 2011]

### § 1.1156 Schedule of regulatory fees and filing locations for international services.

(a) The following schedule applies for the listed services:

| Fee category | Fee amount | Address |
|---|---|---|
| Space Stations (Geostationary Orbit) | $131,375 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |
| Space Stations (Non-Geostationary Orbit) | 141,750 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |
| Earth Stations: Transmit/Receive & Transmit only (per authorization or registration). | 245 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |

(b)(1) *International Terrestrial and Satellite*. Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. ''Active circuits'' for these purposes include backup and redundant circuits. In addition, whether circuits are used specifically for voice or data is not relevant in determining that they are active circuits.

(2) The fee amount, per active 64 KB circuit or equivalent will be determined for each fiscal year. Payment, if mailed, shall be sent to: FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

| International terrestrial and satellite (capacity as of December 31, 2010) | Fee amount | Address |
|---|---|---|
| Terrestrial Common Carrier<br>Satellite Common Carrier<br>Satellite Non-Common Carrier | $0.35 per 64 KB Circuit. | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |

(c) *Submarine cable:* Regulatory fees for submarine cable systems will be paid annually, per cable landing license, for all submarine cable systems operating as of December 31 of the prior year. The fee amount will be determined by the Commission for each fiscal year. Payment, if mailed, shall be sent to: FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

| Submarine cable systems (capacity as of Dec. 31, 2010) | Fee amount | Address |
|---|---|---|
| < 2.5 Gbps | $12,825 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 2.5 Gbps or greater, but less than 5 Gbps | 25,650 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |

| Submarine cable systems (capacity as of Dec. 31, 2010) | Fee amount | Address |
|---|---|---|
| 5 Gbps or greater, but less than 10 Gbps | 51,300 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 10 Gbps or greater, but less than 20 Gbps | 102,625 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |
| 20 Gbps or greater | 205,225 | FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000. |

[76 FR 49363, Aug. 10, 2011]

### § 1.1157 Payment of charges for regulatory fees.

Payment of a regulatory fee, required under §§ 1.1152 through 1.1156, shall be filed in the following manner:

(a)(1) The amount of the regulatory fee payment that is due with any application for authorization shall be the multiple of the number of years in the entire term of the requested license or other authorization multiplied by the annual fee payment required in the Schedule of Regulatory Fees, effective at the time the application is filed. Except as set forth in § 1.1160, advance payments shall be final and shall not be readjusted during the term of the license or authorization, notwithstanding any subsequent increase or decrease in the annual amount of a fee required under the Schedule of Regulatory Fees.

(2) Failure to file the appropriate regulatory fee due with an application for authorization will result in the return of the accompanying application, including an application for which the Commission has assigned a specific filing deadline.

(b)(1) Payments of standard regulatory fees applicable to certain wireless radio, mass media, common carrier, cable and international services shall be filed in full on an annual basis at a time announced by the Commission or the Managing Director, pursuant to delegated authority, and published in the FEDERAL REGISTER.

(2) Large regulatory fees, as annually defined by the Commission, may be submitted in installment payments or in a single payment on a date certain as announced by the Commission or the Managing Director, pursuant to delegated authority, and published in the FEDERAL REGISTER.

(c) Standard regulatory fee payments, as well as any installment payment, must be filed with a FCC Form 159, FCC Remittance Advice, and a FCC Form 159C, Remittance Advice Continuation Sheet, if additional space is needed. Failure to submit a copy of FCC Form 159 with a standard regulatory fee payment, or an installment payment, will result in the return of the submission and a 25 percent penalty if the payment is resubmitted after the date the Commission establishes for the payment of standard regulatory fees and for any installment payment.

(1) Any late filed regulatory fee payment will be subject to the penalties set forth in section 1.1164.

(2) If one or more installment payments are untimely submitted or not submitted at all, the eligibility of the subject regulatee to submit installment payments may be cancelled.

(d) Any Commercial Mobile Radio Service (CMRS) licensee subject to payment of an annual regulatory fee shall retain for a period of two (2) years from the date on which the regulatory fee is paid, those business records which were used to calculate the amount of the regulatory fee.

[60 FR 34031, June 29, 1995, as amended at 62 FR 59825, Nov. 5, 1997; 67 FR 46306, July 12, 2002]

### § 1.1158 Form of payment for regulatory fees.

Any regulatory fee payment must be submitted in the form of a check, bank draft or money order denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission or by Visa, Mastercard, American Express or Discover credit cards only. The Commission discourages applicants from submitting cash payments and will not be responsible for cash sent through the mail. Personal or corporate checks dated more than six months prior to

their submission to the Commission's lockbox bank and postdated checks will not be accepted and will be returned as deficient.

(a) Upon authorization from the Commission following a written request, electronic fund transfer (EFT) payment of a regulatory fee may be made as follows:

(1)(i) The payor may instruct its bank to make payment of the regulatory fee directly to the Commission's lockbox bank, or

(ii) The payor may authorize the Commission to direct its lockbox bank to withdraw funds directly from the payor's bank account.

(2) No EFT payment of a regulatory fee will be accepted unless the payor has obtained the written authorization of the Commission to submit regulatory fees electronically. Procedures for electronic payment of regulatory fees will be announced by Public Notice. It is the responsibility of the payor to insure that any electronic payment is made in the manner required by the Commission. Failure to comply with the Commission's procedures for electronic fee payment will result in the return of the fee payment, and a penalty fee of 25 percent if the subsequent refiling of the fee payment is late. Failure to comply will also subject the payor to the penalties set forth in § 1.1164.

(b) Multiple payment instruments for a single regulatory fee are not permitted, except that the Commission will accept multiple money orders in payment of any fee where the fee exceeds the maximum amount for a money order established by the issuing entity and the use of multiple money orders is the only practicable means available for payment.

(c) Payment of multiple standard regulatory fees (including an installment payment) due on the same date, may be made with a single payment instrument and cover mass media, common carrier, international, and cable service fee payments. Each regulatee is solely responsible for accurately accounting for and listing each license or authorization and the number of subscribers, access lines, or other relevant units on the accompanying FCC Form 159 and, if needed, FCC Form 159C and for making full payment for every regulatory fee listed on the accompanying form. Any omission or payment deficiency of a regulatory fee will result in a 25 percent penalty of the amount due and unpaid.

(d) Any regulatory fee payment (including a regulatory fee payment submitted with an application in the wireless radio service) made by credit card or money order must be submitted with a completed FCC Form 159. Failure to accurately enter the credit card number and date of expiration and the payor's signature in the appropriate blocks on FCC Form 159 will result in rejection of the credit card payment.

[60 FR 34031, June 29, 1995, as amended at 67 FR 46306, July 12, 2002]

### § 1.1159 Filing locations and receipts for regulatory fees.

(a) Regulatory fee payments must be directed to the location and address set forth in §§ 1.1152 through 1.1156 for the specific category of fee involved. Any regulatory fee required to be submitted with an application must be filed as a part of the application package accompanying the application. The Commission will not take responsibility for matching fees, forms and applications submitted at different times or locations.

(b) Petitions for reconsideration or applications for review of fee decisions submitted with a standard regulatory fee payment pursuant to §§ 1.1152 through 1.1156 of the rules are to be filed with the Commission's lockbox bank in the manner set forth in §§ 1.1152 through 1.1156 for payment of the fee subject to the petition for reconsideration or the application for review. Petitions for reconsideration and applications for review that are submitted with no accompanying payment should be filed with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554.

(c) Any request for exemption from a regulatory fee shall be filed with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554, except that requests for exemption accompanied by a tentative fee payment shall be filed at the lockbox set forth for the

appropriate service in §§1.1152 through 1.1156.

(d) The Commission will furnish a receipt for a regulatory fee payment only upon request. In order to obtain a receipt for a regulatory fee payment, the package must include an extra copy of the Form FCC 159 or, if a Form 159 is not required with the payment, a copy of the first page of the application or other filing submitted with the regulatory fee payment, submitted expressly for the purpose of serving as a receipt for the regulatory fee payment and application fee payment, if required. The document should be clearly marked ''copy'' and should be the top document in the package. The copy will be date stamped immediately and provided to the bearer of the submission, if hand delivered. For submissions by mail, the receipt copy will be provided through return mail if the filer has attached to the receipt copy a stamped self-addressed envelope of sufficient size to contain the receipt document.

(e) The Managing Director may issue annually, at his discretion, a Public Notice setting forth the names of all commercial regulatees that have paid a regulatory fee and shall publish the Public Notice in the FEDERAL REGISTER.

[60 FR 34032, June 29, 1995, as amended at 62 FR 59825, Nov. 5, 1997]

### § 1.1160 Refunds of regulatory fees.

(a) Regulatory fees will be refunded, upon request, only in the following instances:

(1) When no regulatory fee is required or an excessive fee has been paid. In the case of an overpayment, the refund amount will be based on the applicants', permittees', or licensees' entire submission. All refunds will be issued to the payor named in the appropriate block of the FCC Form 159. Payments in excess of a regulatory fee will be refunded only if the overpayment is $10.00 or more.

(2) In the case of advance payment of regulatory fees, subject to §1.1152, a refund will be issued based on unexpired full years:

(i) When the Commission adopts new rules that nullify a license or other authorization, or a new law or treaty renders a license or other authorization useless;

(ii) When a licensee in the wireless radio service surrenders the license or other authorization subject to a fee payment to the Commission; or

(iii) When the Commission declines to grant an application submitted with a regulatory fee payment.

(3) When a waiver is granted in accordance with §1.1166.

(b) No pro-rata refund of an annual fee will be issued.

(c) No refunds will be issued based on unexpired partial years.

(d) No refunds will be processed without a written request from the applicant, permittee, licensee or agent.

[60 FR 34032, June 29, 1995, as amended at 67 FR 46307, July 12, 2002]

### § 1.1161 Conditional license grants and delegated authorizations.

(a) Grant of any application or an instrument of authorization or other filing for which a regulatory fee is required to accompany the application or filing, will be conditioned upon final payment of the current or delinquent regulatory fees. Final payment shall mean receipt by the U.S. Treasury of funds cleared by the financial institution on which the check, bank draft, money order, credit card (Visa, MasterCard, American Express, or Discover), wire or electronic payment is drawn.

(1) If, prior to a grant of an instrument of authorization, the Commission is notified that final payment of the regulatory fee has not been made, the application or filing:

(i) Will be dismissed and returned;

(ii) Shall lose its place in the processing line; and

(iii) Will not be treated as timely filed if resubmitted after the relevant filing deadline.

(2) If, subsequent to a grant of an instrument of authorization or other filing, the Commission is notified that final payment has not been made, the Commission will:

(i) Automatically rescind that instrument of authorization for failure to meet the condition imposed by this subsection;

(ii) Notify the grantee of this action; and

(iii) Treat as late filed any application resubmitted after the original deadline for filing the application.

(3) Upon receipt of a notification of rescission of the authorization, the grantee will immediately cease operations initiated pursuant to the authorization.

(b) In those instances where the Commission has granted a request for deferred payment of a regulatory fee, further processing of the application or filing or the grant of authority shall be conditioned upon final payment of the regulatory fee and any required penalties for late payment prescribed by the deferral decision. Failure to comply with the terms of the deferral decision shall result in the automatic dismissal of the submission or rescission of the Commission authorization. Further, the Commission shall:

(1) Notify the grantee that the authorization has been rescinded. Upon such notification, the grantee will immediately cease operations initiated pursuant to the authorization; and

(2) Treat as late filed any application resubmitted after the original deadline for filing the application.

(c)(1) Where an applicant is found to be delinquent in the payment of regulatory fees, the Commission will make a written request for the fee, together with any penalties that may be rendered under this subpart. Such request shall inform the regulatee that failure to pay may result in the Commission withholding action on any application or request filed by the applicant. The staff shall also inform the regulatee of the procedures for seeking Commission review of the staff's determination.

(2) If, after final determination that the fee is due or that the applicant is delinquent in the payment of fees and payment is not made in a timely manner, the staff will withhold action on the application or filing until payment or other satisfactory arrangement is made. If payment or satisfactory arrangement is not made within 30 days, the application will be dismissed.

[60 FR 34032, June 29, 1995, as amended at 69 FR 27848, May 17, 2004]

**§ 1.1162 General exemptions from regulatory fees.**

No regulatory fee established in §§ 1.1152 through 1.1156, unless otherwise qualified herein, shall be required for: (a) Applicants, permittees or licensees in the Amateur Radio Service, *except that* any person requesting a vanity call-sign shall be subject to the payment of a regulatory fee, as prescribed in § 1.1152.

(b) Applicants, permittees, or licensees who qualify as government entities. For purposes of this exemption, a government entity is defined as any state, possession, city, county, town, village, municipal corporation, or similar political organization or subpart thereof controlled by publicly elected or duly appointed public officials exercising sovereign direction and control over their respective communities or programs.

(c) Applicants and permittees who qualify as nonprofit entities. For purposes of this exemption, a nonprofit entity is defined as: an organization duly qualified as a nonprofit, tax exempt entity under section 501 of the Internal Revenue Code, 26 U.S.C. 501; or an entity with current certification as a nonprofit corporation or other nonprofit entity by state or other governmental authority.

(1) Any permittee, licensee or other entity subject to a regulatory fee and claiming an exemption from a regulatory fee based upon its status as a nonprofit entity, as described above, shall file with the Secretary of the Commission (Attn: Managing Director) written documentation establishing the basis for its exemption within 60 days of its coming under the regulatory jurisdiction of the Commission or at the time its fee payment would otherwise be due, whichever is sooner, or at such other time as required by the Managing Director. Acceptable documentation may include Internal Revenue Service determination letters, state or government certifications or other documentation that non-profit status has been approved by a state or other governmental authority. Applicants, permittees and licensees are required to file documentation of their nonprofit status only once, except upon request of the Managing Director.

(2) Within sixty (60) days of a change in nonprofit status, a licensee or permittee previously claiming a 501(C) exemption is required to file with the Secretary of the Commission (Attn: Managing Director) written notice of such change in its nonprofit status or ownership. Additionally, for-profit purchasers or assignees of a license, station or facility previously licensed or operated by a non-profit entity not subject to regulatory fees must notify the Secretary of the Commission (Attn: Managing Director) of such purchase or reassignment within 60 days of the effective date of the purchase or assignment.

(d) Applicants, permittees or licensees in the Special Emergency Radio and Public Safety Radio services.

(e) Applicants, permittees or licensees of noncommercial educational (NCE) broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees operating in accordance with § 73.503 of this chapter.

(f) Applicants, permittees, or licensees qualifying under paragraph (e) of this section requesting Commission authorization in any other mass media radio service (except the international broadcast (HF) service), wireless radio service, common carrier radio service, or international radio service requiring payment of a regulatory fee, if the service is used in conjunction with their NCE broadcast station on an NCE basis.

(g) Other applicants, permittees or licensees providing, or proposing to provide, a NCE or instructional service, but not qualifying under paragraph (e) of this section, may be exempt from regulatory fees, or be entitled to a refund, in the following circumstances:

(1) The applicant, permittee or licensee is an organization that, like the Public Broadcasting Service or National Public Radio, receives funding directly or indirectly through the Public Broadcasting Fund, 47 U.S.C. 396(k), distributed by the Corporation for Public Broadcasting, where the authorization requested will be used in conjunction with the organization on an NCE basis;

(2) An applicant, permittee or licensee of a translator or low power television station operating or proposing to operate an NCE service who, after grant, provides proof that it has received funding for the construction of the station through the National Telecommunications and Information Administration (NTIA) or other showings as required by the Commission; or

(3) An applicant, permittee, or licensee provided a fee refund under § 1.1160 and operating as an NCE station, is exempt from fees for broadcast auxiliary stations (subparts D, E, F, and G of part 74 of this chapter) or stations in the wireless radio, common carrier, or international services where such authorization is to be used in conjunction with the NCE translator or low power station.

(h) An applicant, permittee or licensee that is the licensee in the Educational Broadband Service (EBS) (formerly, Instructional Television Fixed Service (ITFS)) (parts 27 and 74, e.g., §§ 27.1200, *et seq.*, and 74.832(b), of this chapter) is exempt from regulatory fees where the authorization requested will be used by the applicant in conjunction with the provision of the EBS.

(i) Applications filed in the wireless radio service for the sole purpose of modifying an existing authorization (or a pending application for authorization). However, if the applicant also requests a renewal or reinstatement of its license or other authorization for which the submission of a regulatory fee is required, the appropriate regulatory fee for such additional request must accompany the application.

[60 FR 34033, June 29, 1995, as amended at 60 FR 34904, July 5, 1995; 62 FR 59825, Nov. 5, 1997; 71 FR 43872, Aug. 2, 2006]

### § 1.1163 Adjustments to regulatory fees.

(a) For Fiscal Year 1995, the amounts assessed for regulatory fees are set forth in §§ 1.1152 through 1.1156.

(b) For Fiscal year 1996 and thereafter, the Schedule of Regulatory Fees, contained in §§ 1.1152 through 1.1156, may be adjusted annually by the Commission pursuant to section 9 of the Communications Act. 47 U.S.C. 159. Adjustments to the fees established for any category of regulatory fee payment shall include projected cost increases or decreases and an estimate of

the volume of licensees or units upon which the regulatory fee is calculated.

(c) The fees assessed shall:

(1) Be derived by determining the full-time equivalent number of employees performing enforcement activities, policy and rulemaking activities, user information services, and international activities within the Wireline Competition Bureau, Media Bureau, International Bureau and other offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities, including such factors as service coverage area, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest;

(2) Be established at amounts that will result in collection, during each fiscal year, of an amount that can reasonably be expected to equal the amount appropriated for such fiscal year for the performance of the activities described in paragraph (c)(1) of this section.

(d) The Commission shall by rule amend the Schedule of Regulatory Fees by proportionate increases or decreases that reflect, in accordance with paragraph (c)(2) of this section, changes in the amount appropriated for the performance of the activities described in paragraph (c)(1) of this section, for such fiscal year. Such proportionate increases or decreases shall be adjusted to reflect unexpected increases or decreases in the number of licensees or units subject to payment of such fees and result in collection of an aggregate amount of fees that will approximately equal the amount appropriated for the subject regulatory activities.

(e) The Commission shall, by rule, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of paragraph (c)(1) of this section. In making such amendments, the Commission shall add, delete or reclassify services in the Schedule to reflect additional deletions or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law.

(f) In making adjustments to regulatory fees, the Commission will round such fees to the nearest $5.00 in the case of fees under $1,000.00, or to the nearest $25.00 in the case of fees of $1,000.00 or more.

[60 FR 34033, June 29, 1995, as amended at 67 FR 13224, Mar. 21, 2002]

### § 1.1164 Penalties for late or insufficient regulatory fee payments.

Any late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee of installment payment which was not paid in a timely manner. A timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or by the Managing Director. A payment will also be considered late filed if the payment instrument (check, money order, bank draft or credit card) is uncollectible.

(a) The Commission may, in its discretion, following one or more late filed installment payments, require a regulatee to pay the entire balance of its regulatory fee by a date certain, in addition to assessing a 25 percent penalty.

(b) In cases were a fee payment fails due to error by the payor's bank, as evidenced by an affidavit of an officer of the bank, the date of the original submission will be considered the date of filing.

(c) If a regulatory fee is not paid in a timely manner, the regulatee will be notified of its deficiency. This notice will automatically assess a 25 percent penalty, subject the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be subject to rescission.

(d)(1) Where a regulatee's new, renewal or reinstatement application is required to be filed with a regulatory fee (as is the case with wireless radio services), the application will be dismissed if the regulatory fee is not included with the application package. In the case of a renewal or reinstatement application, the application may not be refiled unless the appropriate regulatory fee plus the 25 percent penalty

charge accompanies the refiled application.

(2) If the application that must be accompanied by a regulatory fee is a mutually exclusive application with a filing deadline, or any other application that must be filed by a date certain, the application will be dismissed if not accompanied by the proper regulatory fee and will be treated as late filed if resubmitted after the original date for filing application.

(e) Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment. The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment.

(f) In instances where the Commission may revoke an existing instrument of authorization for failure to file a regulatory fee, the Commission will provide prior notice to the regulatee of such action and shall allow the licensee no less than 60 days to either pay the fee or show cause why the payment assessed is inapplicable or should otherwise be waived or deferred.

(1) An adjudicatory hearing will not be designated unless the response by the regulatee to the Order to Show Cause presents a substantial and material question of fact.

(2) Disposition of the proceeding shall be based upon written evidence only and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the respondent regulatee.

(3) Unless the regulatee substantially prevails in the hearing, the Commission may assess costs for the conduct of the proceeding against the respondent regulatee. *See* 47 U.S.C. 402(b)(5).

(4) Any regulatee failing to submit a regulatory fee, following notice to the regulatee of failure to submit the required fee, is subject to collection of the fee, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to section 3720A of the Internal Revenue Code, 31 U.S.C. 3717, and to the provisions of the Debt Collection Act, 31 U.S.C. 3717. *See* 47 CFR 1.1901 through 1.1952. The debt collection processes described above may proceed concurrently with any other sanction in this paragraph.

(5) An application or filing by a regulatee that is delinquent in its debt to the Commission is also subject to dismissal under 47 CFR 1.1910.

[60 FR 34034, June 29, 1995, as amended at 69 FR 27848, May 17, 2004; 76 FR 24393, May 2, 2011; 76 FR 49364, Aug. 10, 2011]

### § 1.1165 Payment by cashier's check for regulatory fees.

Payment by cashier's check may be required when a person or organization makes payment, on one or more occasions, with a payment instrument on which the Commission does not receive final payment and such error is not excused by bank error.

[60 FR 34034, June 29, 1995]

### § 1.1166 Waivers, reductions and deferrals of regulatory fees.

The fees established by sections 1.1152 through 1.1156 may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. Requests for waivers, reductions or deferrals of regulatory fees for entire categories of payors will not be considered.

(a) Requests for waivers, reductions or deferrals will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission.

(1) If the request for waiver, reduction or deferral is accompanied by a fee payment, the request must be submitted to the Commission's lockbox bank at the address for the appropriate service set forth in §§ 1.1152 through 1.1156 of this subpart.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

(b) Deferrals of fees, if granted, will be for a designated period of time not to exceed six months.

(c) Petitions for waiver of a regulatory fee must be accompanied by the required fee and FCC Form 159. Submitted fees will be returned if a waiver is granted. Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.

(d) Petitions for reduction of a fee must be accompanied by the full fee payment and Form 159. Petitions for reduction accompanied by a fee payment must be addressed to the Federal Communications Commission, Attention: Petitions, Post Office Box 979084, St. Louis, Missouri, 63197–9000. Petitions for reduction that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.

(e) Petitions for waiver of a fee based on financial hardship, including bankruptcy, will not be granted, even if otherwise consistent with Commission policy, to the extent that the total regulatory and application fees for which waiver is sought exceeds $500,000 in any fiscal year, including regulatory fees due in any fiscal year, but paid prior to the due date. In computing this amount, the amounts owed by an entity and its subsidiaries and other affiliated entities will be aggregated. In cases where the claim of financial hardship is not based on bankruptcy, waiver, partial waiver, or deferral of fees above the $500,000 cap may be considered on a case-by-case basis.

[60 FR 34034, June 29, 1995, as amended at 65 FR 78989, Dec. 18, 2000; 66 FR 36206, July 11, 2001; 68 FR 48469, Aug. 13, 2003; 73 FR 9029, Feb. 19, 2008; 76 FR 49364, Aug. 10, 2011]

### § 1.1167 Error claims related to regulatory fees.

(a) Challenges to determinations or an insufficient regulatory fee payment or delinquent fees should be made in writing. A challenge to a determination that a party is delinquent in paying a standard regulatory fee must be accompanied by suitable proof that the fee had been paid or waived (deferred from payment during the period in question), or by the required regulatory payment and any assessed penalty payment (see § 1.1164(c) of this subpart). Challenges submitted with a fee payment must be submitted to address stated on the invoice or billing statement. Challenges not accompanied by a fee payment should be filed with the Commission's Secretary and clearly marked to the attention of the Managing Director or emailed to *ARINQUIRIES@fcc.gov*.

(b) The filing of a petition for reconsideration or an application for review of a fee determination will not relieve licensees from the requirement that full and proper payment of the underlying fee payment be submitted, as required by the Commission's action, or delegated action, on a request for waiver, reduction or deferment. Petitions for reconsideration and applications for review submitted with a fee payment must be submitted to the same location as the original fee payment. Petitions for reconsideration and applications for review not accompanied by a fee payment should be filed with the Commission's Secretary and clearly marked to the attention of the Managing Director.

(1) Failure to submit the fee by the date required will result in the assessment of a 25 percent penalty.

(2) If the fee payment should fail while the Commission is considering the matter, the petition for reconsideration or application for review will be dismissed.

[60 FR 34035, June 29, 1995, as amended at 69 FR 27848, May 17, 2004]

### § 1.1181 Authority to prescribe and collect fees for competitive bidding-related services and products.

Authority to prescribe, impose, and collect fees for expenses incurred by the government is governed by the Independent Offices Appropriation Act of 1952, as amended, 31 U.S.C. 9701, which authorizes agencies to prescribe regulations that establish charges for the provision of government services and products. Under this authority, the Federal Communications Commission may prescribe and collect fees for competitive bidding-related services and products as specified in § 1.1182.

[60 FR 38280, July 26, 1995]

**§ 1.1182 Schedule of fees for products and services provided by the Commission in connection with competitive bidding procedures.**

| Product or service | Fee amount | Payment procedure |
|---|---|---|
| On-line remote access 900 Number Telephone Service). | 2.30 per minute | Charges included on customer's long distance telephone bill. |
| Remote Bidding Software | $175.00 per package | Payment to auction contractor by credit card or check. (Public Notice will specify exact payment procedures.) |
| Bidder Information Package | First package free; $16.00 per additional package (including postage) to same person or entity. | Payment to auction contractor by credit card or check. (Public Notice will specify exact payment procedures.) |

[60 FR 38280, July 26, 1995]

## Subpart H—Ex Parte Communications

SOURCE: 52 FR 21052, June 4, 1987, unless otherwise noted.

GENERAL

**§ 1.1200 Introduction.**

(a) *Purpose*. To ensure the fairness and integrity of its decision-making, the Commission has prescribed rules to regulate *ex parte* presentations in Commission proceedings. These rules specify ''exempt'' proceedings, in which *ex parte* presentations may be made freely (§ 1.1204(b)), ''permit-but-disclose'' proceedings, in which *ex parte* presentations to Commission decision-making personnel are permissible but subject to certain disclosure requirements (§ 1.1206), and ''restricted'' proceedings in which *ex parte* presentations to and from Commission decision-making personnel are generally prohibited (§ 1.1208). In all proceedings, a certain period (''the Sunshine Agenda period'') is designated in which all presentations to Commission decision-making personnel are prohibited (§ 1.1203). The limitations on *ex parte* presentations described in this section are subject to certain general exceptions set forth in § 1.1204(a). Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice. Joint Boards may modify the *ex parte* rules in proceedings before them.

(b) Inquiries concerning the propriety of *ex parte* presentations should be directed to the Office of General Counsel.

[62 FR 15853, Apr. 3, 1997]

**§ 1.1202 Definitions.**

For the purposes of this subpart, the following definitions apply:

(a) *Presentation*. A communication directed to the merits or outcome of a proceeding, including any attachments to a written communication or documents shown in connection with an oral presentation directed to the merits or outcome of a proceeding. Excluded from this term are communications which are inadvertently or casually made, inquiries concerning compliance with procedural requirements if the procedural matter is not an area of controversy in the proceeding, statements made by decisionmakers that are limited to providing publicly available information about pending proceedings, and inquiries relating solely to the status of a proceeding, including inquiries as to the approximate time that action in a proceeding may be taken. However, a status inquiry which states or implies a view as to the merits or outcome of the proceeding or a preference for a particular party, which states why timing is important to a particular party or indicates a view as to the date by which a proceeding should be resolved, or which otherwise is intended to address the merits or outcome or to influence the timing of a proceeding is a presentation.

NOTE TO PARAGRAPH (a): A communication expressing concern about administrative delay or expressing concern that a proceeding be resolved expeditiously will be treated as a permissible status inquiry so long as no reason is given as to why the proceeding should be expedited other than the need to resolve administrative delay, no view is expressed as to the merits or outcome of the proceeding, and no view is expressed as to a date by which the proceeding

should be resolved. A presentation by a party in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay (and responsive presentations by other parties) may be made on an ex parte basis subject to the provisions of § 1.1204(a)(11).

(b) *Ex parte presentation*. Any presentation which:

(1) If written, is not served on the parties to the proceeding; or

(2) If oral, is made without advance notice to the parties and without opportunity for them to be present.

NOTE TO PARAGRAPH (b): Written communications include electronic submissions transmitted in the form of texts, such as by Internet electronic mail.

(c) *Decision-making personnel*. Any member, officer, or employee of the Commission, or, in the case of a Joint Board, its members or their staffs, who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding. Any person who has been made a party to a proceeding or who otherwise has been excluded from the decisional process shall not be treated as a decision-maker with respect to that proceeding. Thus, any person designated as part of a separate trial staff shall not be considered a decision-making person in the designated proceeding. Unseparated Bureau or Office staff shall be considered decision-making personnel with respect to decisions, rules, and orders in which their Bureau or Office participates in enacting, preparing, or reviewing.

(d) *Party*. Unless otherwise ordered by the Commission, the following persons are parties:

(1) In a proceeding not designated for hearing, any person who files an application, waiver request, petition, motion, request for a declaratory ruling, or other filing seeking affirmative relief (including a Freedom of Information Act request), and any person (other than an individual viewer or listener filing comments regarding a pending broadcast application or members of Congress or their staffs or branches of the federal government or their staffs) filing a written submission referencing and regarding such pending filing which is served on the filer, or, in the case of an application, any person filing a mutually exclusive application;

NOTE 1 TO PARAGRAPH (d)(1): Persons who file mutually exclusive applications for services that the Commission has announced will be subject to competitive bidding or lotteries shall not be deemed parties with respect to each others' applications merely because their applications are mutually exclusive. Therefore, such applicants may make presentations to the Commission about their own applications provided that no one has become a party with respect to their application by other means, e.g., by filing a petition or other opposition against the applicant or an associated waiver request, if the petition or opposition has been served on the applicant.

(2) Any person who files a complaint or request to revoke a license or other authorization or for an order to show cause which shows that the complainant has served it on the subject of the complaint or which is a formal complaint under 47 U.S.C. 208 and § 1.721 of this chapter or 47 U.S.C. 255 and either §§ 6.21 or 7.21 of this chapter, and the person who is the subject of such a complaint or request that shows service or is a formal complaint under 47 U.S.C. 208 and § 1.721 of this chapter or 47 U.S.C. 255 and either §§ 6.21 or 7.21 of this chapter;

(3) The subject of an order to show cause, hearing designation order, notice of apparent liability, or similar notice or order, or petition for such notice or order;

(4) In a proceeding designated for hearing, any person who has been given formal party status; and

(5) In an informal rulemaking proceeding conducted under section 553 of the Administrative Procedure Act (other than a proceeding for the allotment of a broadcast channel) or a proceeding before a Joint Board or before the Commission to consider the recommendation of a Joint Board, members of the general public after the issuance of a notice of proposed rulemaking or other order as provided under § 1.1206(a) (1) or (2).

NOTE 2 TO PARAGRAPH (d): To be deemed a party, a person must make the relevant filing with the Secretary, the relevant Bureau or Office, or the Commission as a whole.

Written submissions made only to the Chairman or individual Commissioners will not confer party status.

NOTE 3 TO PARAGRAPH (d): The fact that a person is deemed a party for purposes of this subpart does not constitute a determination that such person has satisfied any other legal or procedural requirements, such as the operative requirements for petitions to deny or requirements as to timeliness. Nor does it constitute a determination that such person has any other procedural rights, such as the right to intervene in hearing proceedings. The Commission or the staff may also determine in particular instances that persons who qualify as ''parties'' under §1.1202(d) should nevertheless not be deemed parties for purposes of this subpart.

NOTE 4 TO PARAGRAPH (d): Individual listeners or viewers submitting comments regarding a pending broadcast application pursuant to §1.1204(a)(8) will not become parties simply by service of the comments. The Media Bureau may, in its discretion, make such a commenter a party, if doing so would be conducive to the Commission's consideration of the application or would otherwise be appropriate.

NOTE 5 TO PARAGRAPH (d): A member of Congress or his or her staff, or other agencies or branches of the federal government or their staffs will not become a party by service of a written submission regarding a pending proceeding that has not been designated for hearing unless the submission affirmatively seeks and warrants grant of party status.

(e) *Matter designated for hearing*. Any matter that has been designated for hearing before an administrative law judge or which is otherwise designated for hearing in accordance with procedures in 5 U.S.C. 554.

[62 FR 15854, Apr. 3, 1997, as amended at 64 FR 68947, Dec. 9, 1999; 64 FR 72571, Dec. 28, 1999; 65 FR 56261, Sept. 18, 2000; 67 FR 13224, Mar. 21, 2002; 76 FR 24381, May 2, 2011]

SUNSHINE PERIOD PROHIBITION

### §1.1203 Sunshine period prohibition.

(a) With respect to any Commission proceeding, all presentations to decisionmakers concerning matters listed on a Sunshine Agenda, whether ex parte or not, are prohibited during the period prescribed in paragraph (b) of this section unless:

(1) The presentation is exempt under §1.1204(a);

(2) The presentation relates to settlement negotiations and otherwise complies with any *ex parte* restrictions in this subpart;

(3) The presentation occurs in the course of a widely attended speech or panel discussion and concerns a Commission action in an exempt or a permit-but-disclose proceeding that has been adopted (not including private presentations made on the site of a widely attended speech or panel discussion); or

(4) The presentation is made by a member of Congress or his or her staff, or by other agencies or branches of the Federal government or their staffs in a proceeding exempt under §1.1204 or subject to permit-but-disclose requirements under §1.1206. Except as otherwise provided in §1.1204(a)(6), if the presentation is of substantial significance and clearly intended to affect the ultimate decision, and is made in a permit-but-disclose proceeding, the presentation (or, if oral, a summary of the presentation) must be placed in the record of the proceeding by Commission staff or by the presenter in accordance with the procedures set forth in §1.1206(b).

(b) The prohibition set forth in paragraph (a) of this section begins on the day (including business days and holidays) after the release of a public notice that a matter has been placed on the Sunshine Agenda until the Commission:

(1) Releases the text of a decision or order relating to the matter;

(2) Issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or

(3) Issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first.

(c) The prohibition set forth in paragraph (a) of this section shall not apply to the filing of a written *ex parte* presentation or a memorandum summarizing an oral *ex parte* presentation made on the day before the Sunshine period begins, or a permitted reply thereto.

[62 FR 15855, Apr. 3, 1997, as amended at 64 FR 68947, Dec. 9, 1999; 76 FR 24381, May 2, 2011]

GENERAL EXEMPTIONS

### § 1.1204 Exempt ex parte presentations and proceedings.

(a) *Exempt ex parte presentations.* The following types of presentations are exempt from the prohibitions in restricted proceedings (§ 1.1208), the disclosure requirements in permit-but-disclose proceedings (§ 1.1206), and the prohibitions during the Sunshine Agenda period prohibition (§ 1.1203):

(1) The presentation is authorized by statute or by the Commission's rules to be made without service, see, e.g., § 1.333(d), or involves the filing of required forms;

(2) The presentation is made by or to the General Counsel and his or her staff and concerns judicial review of a matter that has been decided by the Commission;

(3) The presentation directly relates to an emergency in which the safety of life is endangered or substantial loss of property is threatened, provided that, if not otherwise submitted for the record, Commission staff promptly places the presentation or a summary of the presentation in the record and discloses it to other parties as appropriate.

(4) The presentation involves a military or foreign affairs function of the United States or classified security information;

(5) The presentation is to or from an agency or branch of the Federal Government or its staff and involves a matter over which that agency or branch and the Commission share jurisdiction provided that, any new factual information obtained through such a presentation that is relied on by the Commission in its decision-making process will, if not otherwise submitted for the record, be disclosed by the Commission no later than at the time of the release of the Commission's decision;

(6) The presentation is to or from the United States Department of Justice or Federal Trade Commission and involves a communications matter in a proceeding which has not been designated for hearing and in which the relevant agency is not a party or commenter (in an informal rulemaking or Joint board proceeding) *provided that,* any new factual information obtained through such a presentation that is relied on by the Commission in its decision-making process will be disclosed by the Commission no later than at the time of the release of the Commission's decision;

NOTE 1 TO PARAGRAPH (a): Under paragraphs (a)(5) and (a)(6) of this section, information will be relied on and disclosure will be made only after advance coordination with the agency involved in order to ensure that the agency involved retains control over the timing and extent of any disclosure that may have an impact on that agency's jurisdictional responsibilities. If the agency involved does not wish such information to be disclosed, the Commission will not disclose it and will disregard it in its decision-making process, unless it fits within another exemption not requiring disclosure (e.g., foreign affairs). The fact that an agency's views are disclosed under paragraphs (a)(5) and (a)(6) does not preclude further discussions pursuant to, and in accordance with, the exemption.

(7) The presentation is between Commission staff and an advisory coordinating committee member with respect to the coordination of frequency assignments to stations in the private land mobile services or fixed services as authorized by 47 U.S.C. 332;

(8) The presentation is a written presentation made by a listener or viewer of a broadcast station who is not a party under § 1.1202(d)(1), and the presentation relates to a pending application that has not been designated for hearing for a new or modified broadcast station or license, for renewal of a broadcast station license or for assignment or transfer of control of a broadcast permit or license;

(9) The presentation is made pursuant to an express or implied promise of confidentiality to protect an individual from the possibility of reprisal, or there is a reasonable expectation that disclosure would endanger the life or physical safety of an individual;

(10) The presentation is requested by (or made with the advance approval of) the Commission or staff for the clarification or adduction of evidence, or for resolution of issues, including possible settlement, subject to the following limitations:

(i) This exemption does not apply to restricted proceedings designated for hearing;

(ii) In restricted proceedings not designated for hearing, any new written information elicited from such request or a summary of any new oral information elicited from such request shall promptly be served by the person making the presentation on the other parties to the proceeding. Information relating to how a proceeding should or could be settled, as opposed to new information regarding the merits, shall not be deemed to be new information for purposes of this section. The Commission or its staff may waive the service requirement if service would be too burdensome because the parties are numerous or because the materials relating to such presentation are voluminous. If the service requirement is waived, copies of the presentation or summary shall be placed in the record of the proceeding and the Commission or its staff shall issue a public notice which states that copies of the presentation or summary are available for inspection. The Commission or its staff may determine that service or public notice would interfere with the effective conduct of an investigation and dispense with the service and public notice requirements;

(iii) If the presentation is made in a proceeding subject to permit-but-disclose requirements, disclosure of any new written information elicited from such request or a summary of any new oral information elicited from such request must be made in accordance with the requirements of §1.1206(b), provided, however, that the Commission or its staff may determine that disclosure would interfere with the effective conduct of an investigation and dispense with the disclosure requirement. As in paragraph (a)(10)(ii) of this section, information relating to how a proceeding should or could be settled, as opposed to new information regarding the merits, shall not be deemed to be new information for purposes of this section;

NOTE 2 TO PARAGRAPH (a): If the Commission or its staff dispenses with the service or notice requirement to avoid interference with an investigation, a determination will be made in the discretion of the Commission or its staff as to when and how disclosure should be made if necessary. *See Amendment of Subpart H, Part I*, 2 FCC Rcd 6053, 6054 ¶¶ 10–14 (1987).

(iv) If the presentation is made in a proceeding subject to the Sunshine period prohibition, disclosure must be made in accordance with the requirements of §1.1206(b) or by other adequate means of notice that the Commission deems appropriate;

(v) In situations where new information regarding the merits is disclosed during settlement discussions, and the Commission or staff intends that the product of the settlement discussions will be disclosed to the other parties or the public for comment before any action is taken, the Commission or staff in its discretion may defer disclosure of such new information until comment is sought on the settlement proposal or the settlement discussions are terminated.

(11) The presentation is an oral presentation in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay. A detailed summary of the presentation shall promptly be filed in the record and served by the person making the presentation on the other parties to the proceeding, who may respond in support or opposition to the request for expedition, including by oral *ex parte* presentation, subject to the same service requirement.

(12) The presentation is between Commission staff and:

(i) The administrator of the interstate telecommunications relay services fund relating to administration of the telecommunications relay services fund pursuant to 47 U.S.C. 225;

(ii) The North American Numbering Plan Administrator or the North American Numbering Plan Billing and Collection Agent relating to the administration of the North American Numbering Plan pursuant to 47 U.S.C. 251(e);

(iii) The Universal Service Administrative Company relating to the administration of universal service support mechanisms pursuant to 47 U.S.C. 254; or

(iv) The Number Portability Administrator relating to the administration of local number portability pursuant to 47 U.S.C. 251(b)(2) and (e), provided that the relevant administrator has not filed comments or otherwise participated as a party in the proceeding;

(v) The TRS Numbering Administrator relating to the administration of the TRS numbering directory pursuant to 47 U.S.C. 225 and 47 U.S.C. 251(e); or

(vi) The Pooling Administrator relating to the administration of thousands-block number pooling pursuant to 47 U.S.C. 251(e).

(b) *Exempt proceedings*. Unless otherwise provided by the Commission or the staff pursuant to §1.1200(a), *ex parte* presentations to or from Commission decision-making personnel are permissible and need not be disclosed with respect to the following proceedings, which are referred to as ''exempt'' proceedings:

(1) A notice of inquiry proceeding;

(2) A petition for rulemaking, except for a petition requesting the allotment of a broadcast channel (see also §1.1206(a)(1)), or other request that the Commission modify its rules, issue a policy statement or issue an interpretive rule, or establish a Joint Board;

(3) A tariff proceeding (including directly associated waiver requests or requests for special permission) prior to it being set for investigation (see also §1.1206(a)(4));

(4) A proceeding relating to prescription of common carrier depreciation rates under section 220(b) of the Communications Act prior to release of a public notice of specific proposed depreciation rates (see also §1.1206(a)(9));

(5) An informal complaint proceeding under 47 U.S.C. 208 and §1.717 of this chapter or 47 U.S.C. 255 and either §§6.17 or 7.17 of this chapter; and

(6) A complaint against a cable operator regarding its rates that is not filed on the standard complaint form required by §76.951 of this chapter (FCC Form 329).

NOTES 1–3 TO PARAGRAPH (b): [Reserved]

NOTE 4 TO PARAGRAPH (b): In the case of petitions for rulemaking that seek Commission preemption of state or local regulatory authority, the petitioner must serve the original petition on any state or local government, the actions of which are specifically cited as a basis for requesting preemption. Service should be made on those bodies within the state or local governments that are legally authorized to accept service of legal documents in a civil context. Such pleadings that are not served will be dismissed without consideration as a defective pleading and treated as a violation of the *ex parte* rules unless the Commission determines that the matter should be entertained by making it part of the record under §1.1212(d) and the parties are so informed.

[62 FR 15855, Apr. 3, 1997, as amended at 64 FR 63251, Nov. 19, 1999; 64 FR 68948, Dec. 9, 1999; 76 FR 24381, May 2, 2011]

NON-RESTRICTED PROCEEDINGS

### § 1.1206 Permit-but-disclose proceedings.

(a) Unless otherwise provided by the Commission or the staff pursuant to §1.1200(a), until the proceeding is no longer subject to administrative reconsideration or review or to judicial review, *ex parte* presentations (other than *ex parte* presentations exempt under §1.1204(a)) to or from Commission decision-making personnel are permissible in the following proceedings, which are referred to as permit-but-disclose proceedings, provided that *ex parte* presentations to Commission decision-making personnel are disclosed pursuant to paragraph (b) of this section:

NOTE 1 TO PARAGRAPH (a): In the case of petitions for declaratory ruling that seek Commission preemption of state or local regulatory authority and petitions for relief under 47 U.S.C. 332(c)(7)(B)(v), the petitioner must serve the original petition on any state or local government, the actions of which are specifically cited as a basis for requesting preemption. Service should be made on those bodies within the state or local governments that are legally authorized to accept service of legal documents in a civil context. Such pleadings that are not served will be dismissed without consideration as a defective pleading and treated as a violation of the ex parte rules unless the Commission determines that the matter should be entertained by making it part of the record under §1.1212(d) and the parties are so informed.

(1) An informal rulemaking proceeding conducted under section 553 of the Administrative Procedure Act other than a proceeding for the allotment of a broadcast channel, upon release of a Notice of Proposed Rulemaking (see also §1.1204(b)(2));

(2) A proceeding involving a rule change, policy statement or interpretive rule adopted without a Notice of Proposed Rule Making upon release of the order adopting the rule change, policy statement or interpretive rule;

(3) A declaratory ruling proceeding;

(4) A tariff proceeding which has been set for investigation under section 204 or 205 of the Communications Act (including directly associated waiver requests or requests for special permission) (see also § 1.1204(b)(4));

(5) Unless designated for hearing, a proceeding under section 214(a) of the Communications Act that does not also involve applications under Title III of the Communications Act (see also § 1.1208);

(6) Unless designated for hearing, a proceeding involving an application for a Cable Landing Act license that does not also involve applications under Title III of the Communications Act (see also § 1.1208);

(7) A proceeding involving a request for information filed pursuant to the Freedom of Information Act;

NOTE 2 TO PARAGRAPH (a): Where the requested information is the subject of a request for confidentiality, the person filing the request for confidentiality shall be deemed a party.

(8) A proceeding before a Joint Board or a proceeding before the Commission involving a recommendation from a Joint Board;

(9) A proceeding conducted pursuant to section 220(b) of the Communications Act for prescription of common carrier depreciation rates upon release of a public notice of specific proposed depreciation rates (see also § 1.1204(b)(4));

(10) A proceeding to prescribe a rate of return for common carriers under section 205 of the Communications Act; and

(11) A cable rate complaint proceeding pursuant to section 623(c) of the Communications Act where the complaint is filed on FCC Form 329.

(12) A modification request filed pursuant to § 64.1001 of this chapter; and

(13) Petitions for Commission preemption of authority to review interconnection agreements under § 252(e)(5) of the Communications Act and petitions for preemption under § 253 of the Communications Act.

NOTE 3 TO PARAGRAPH (a): In a permit-but-disclose proceeding involving only one ''party,'' as defined in § 1.1202(d) of this section, the party and the Commission may freely make presentations to each other and need not comply with the disclosure requirements of paragraph (b) of this section.

(b) The following disclosure requirements apply to *ex parte* presentations in permit but disclose proceedings:

(1) *Oral presentations.* A person who makes an oral *ex parte* presentation subject to this section shall submit to the Commission's Secretary a memorandum that lists all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and summarizes all data presented and arguments made during the oral *ex parte* presentation. Memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. If the oral *ex parte* presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum.

NOTE TO PARAGRAPH (b)(1): Where, for example, presentations occur in the form of discussion at a widely attended meeting, preparation of a memorandum as specified in the rule might be cumbersome. Under these circumstances, the rule may be satisfied by submitting a transcript or recording of the discussion as an alternative to a memorandum. Likewise, Commission staff in its discretion may file an *ex parte* summary of a multiparty meeting as an alternative to having each participant file a summary.

(2) *Written and oral presentations.* A written *ex parte* presentation and a memorandum summarizing an oral *ex parte* presentation (and cover letter, if any) shall clearly identify the proceeding to which it relates, including the docket number, if any, and must be

labeled as an *ex parte* presentation. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and, accordingly, must be filed consistent with the provisions of this section. Consistent with the requirements of §1.49 paragraphs (a) and (f), additional copies of all written *ex parte* presentations and notices of oral *ex parte* presentations, and any replies thereto, shall be mailed, e-mailed or transmitted by facsimile to the Commissioners or Commission employees who attended or otherwise participated in the presentation.

(i) In proceedings governed by §1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, shall, when feasible, be filed through the electronic comment filing system available for that proceeding, and shall be filed in a native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). If electronic filing would present an undue hardship, the person filing must request an exemption from the electronic filing requirement, stating clearly the nature of the hardship, and submitting an original and one copy of the written *ex parte* presentation or memorandum summarizing an oral *ex parte* presentation to the Secretary, with a copy by mail or by electronic mail to the Commissioners or Commission employees who attended or otherwise participated in the presentation.

(ii) *Confidential Information*. In cases where a filer believes that one or more of the documents or portions thereof to be filed should be withheld from public inspection, the filer should file electronically a request that the information not be routinely made available for public inspection pursuant to §0.459 of this chapter. Accompanying any such request, the filer shall include in paper form a copy of the document(s) containing the confidential information, and also shall file electronically a copy of the same document(s) with the confidential information redacted. The redacted document shall be machine-readable whenever technically possible. Where the document to be filed electronically contains metadata that is confidential or protected from disclosure by a legal privilege (including, for example, the attorney-client privilege), the filer may remove such metadata from the document before filing it electronically.

(iii) *Filing dates outside the Sunshine period*. Except as otherwise provided in paragraphs (b)(2)(iv) and (v) of this section, all written *ex parte* presentations and all summaries of oral *ex parte* presentations must be filed no later than two business days after the presentation. As set forth in §1.4(e)(2), a ''business day'' shall not include a holiday (as defined in §1.4(e)(1)). In addition, for purposes of computing time limits under the rules governing *ex parte* presentations, a ''business day'' shall include the full calendar day (*i.e.*, from 12:00 a.m. Eastern Time until 11:59:59 p.m. Eastern Time).

*Example:* On Tuesday a party makes an *ex parte* presentation in a permit-but-disclose proceeding to a Commissioner. The second business day following the *ex parte* presentation is the following Thursday (absent an intervening holiday). The presenting party must file its *ex parte* notice before the end of the day (11:59:59 p.m.) on Thursday. Similarly, if an *ex parte* presentation is made on Friday, the second business day ordinarily would be the following Tuesday, and the *ex parte* notice must be filed no later than 11:59:59 p.m. on that Tuesday.

(iv) *Filing dates for presentations made on the day that the Sunshine notice is released*. For presentations made on the day the Sunshine notice is released, any written *ex parte* presentation or memorandum summarizing an oral *ex parte* presentation required pursuant to §1.1206 or §1.1208 must be submitted no later than the end of the next business day. Written replies, if any, shall be filed no later than two business days following the presentation, and shall be limited in scope to the specific issues and information presented in the *ex parte* filing to which they respond.

*Example:* On Tuesday, a party makes an *ex parte* presentation in a permit-but-disclose proceeding to a Commissioner. That same day, the Commission's Secretary releases the Sunshine Agenda for the next Commission meeting and that proceeding appears on the Agenda. The Sunshine period begins as of Wednesday, and therefore the presenting party must file its *ex parte* notice by the end of the day (11:59:59 p.m.) on Wednesday. A

reply would be due by the end of the day (11:59:59 p.m.) on Thursday.

(v) *Filing dates during the Sunshine Period.* If an *ex parte* presentation is made pursuant to an exception to the Sunshine period prohibition, the written *ex parte* presentation or memorandum summarizing an oral *ex parte* presentation required under this paragraph shall be submitted by the end of the same business day on which the *ex parte* presentation was made. The memorandum shall identify plainly on the first page the specific exemption in § 1.1203(a) on which the presenter relies, and shall also state the date and time at which any oral *ex parte* presentation was made. Written replies to permissible *ex parte* presentations made pursuant to an exception to the Sunshine period prohibition, if any, shall be filed no later than the next business day following the presentation, and shall be limited in scope to the specific issues and information presented in the *ex parte* filing to which they respond.

*Example:* On Tuesday, the Commission's Secretary releases the Sunshine Agenda for the next Commission meeting, which triggers the beginning of the Sunshine period on Wednesday. On Thursday, a party makes an *ex parte* presentation to a Commissioner on a proceeding that appears on the Sunshine Agenda. That party must file an *ex parte* notice by the end of the day (11:59:59 p.m.) on Thursday. A reply would be due by the end of the day (11:59:59 p.m.) on Friday.

(vi) If a notice of an oral *ex parte* presentation is incomplete or inaccurate, staff may request the filer to correct any inaccuracies or missing information. Failure by the filer to file a corrected memorandum in a timely fashion as set forth in paragraph (b) of this section, or any other evidence of substantial or repeated violations of the rules on *ex parte* contacts, should be reported to the General Counsel.

(3) Notwithstanding paragraphs (b)(1) and (2) of this section, permit-but-disclose proceedings involving presentations made by members of Congress or their staffs or by an agency or branch of the Federal Government or its staff shall be treated as *ex parte* presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The Commission staff shall prepare written summaries of any such oral presentations and place them in the record in accordance with paragraph (b) of this section and also place any written presentations in the record in accordance with that paragraph.

(4) *Notice of ex parte presentations.* The Commission's Secretary shall issue a public notice listing any written *ex parte* presentations or written summaries of oral *ex parte* presentations received by his or her office relating to any permit-but-disclose proceeding. Such public notices generally should be released at least twice per week.

NOTE TO PARAGRAPH (b): Interested persons should be aware that some *ex parte* filings, for example, those not filed in accordance with the requirements of this paragraph (b), might not be placed on the referenced public notice. All *ex parte* presentations and memoranda filed under this section will be available for public inspection in the public file or record of the proceeding, and parties wishing to ensure awareness of all filings should review the public file or record.

[62 FR 15856, Apr. 3, 1997, as amended at 63 FR 24126, May 1, 1998; 64 FR 68948, Dec. 9, 1999; 66 FR 3501, Jan. 16, 2001; 76 FR 24382, May 2, 2011]

RESTRICTED PROCEEDINGS

### § 1.1208 Restricted proceedings.

Unless otherwise provided by the Commission or its staff pursuant to § 1.1200(a) *ex parte* presentations (other than *ex parte* presentations exempt under § 1.1204(a)) to or from Commission decision-making personnel are prohibited in all proceedings not listed as exempt in § 1.1204(b) or permit-but-disclose in § 1.1206(a) until the proceeding is no longer subject to administrative reconsideration or review or judicial review. Proceedings in which *ex parte* presentations are prohibited, referred to as ''restricted'' proceedings, include, but are not limited to, all proceedings that have been designated for hearing, proceedings involving amendments to the broadcast table of allotments, applications for authority under Title III of the Communications Act, and all waiver proceedings (except for those directly associated with tariff filings). A party making a written or oral presentation in a restricted proceeding, on a non-*ex parte* basis, must file a copy of the presentation or, for

an oral presentation, a summary of the presentation in the record of the proceeding using procedures consistent with those specified in § 1.1206.

NOTE 1 TO § 1.1208: In a restricted proceeding involving only one ''party,'' as defined in § 1.1202(d), the party and the Commission may freely make presentations to each other because there is no other party to be served or with a right to have an opportunity to be present. See § 1.1202(b). Therefore, to determine whether presentations are permissible in a restricted proceeding without service or notice and an opportunity for other parties to be present the definition of a ''party'' should be consulted.

*Examples:* After the filing of an uncontested application or waiver request, the applicant or other filer would be the sole party to the proceeding. The filer would have no other party to serve with or give notice of any presentations to the Commission, and such presentations would therefore not be ''ex parte presentations'' as defined by § 1.1202(b) and would not be prohibited. On the other hand, in the example given, because the filer is a party, a third person who wished to make a presentation to the Commission concerning the application or waiver request would have to serve or notice the filer. Further, once the proceeding involved additional ''parties'' as defined by § 1.1202(d) (e.g., an opponent of the filer who served the opposition on the filer), the filer and other parties would have to serve or notice all other parties.

NOTE 2 TO § 1.1208: Consistent with § 1.1200(a), the Commission or its staff may determine that a restricted proceeding not designated for hearing involves primarily issues of broadly applicable policy rather than the rights and responsibilities of specific parties and specify that the proceeding will be conducted in accordance with the provisions of § 1.1206 governing permit-but-disclose proceedings.

[62 FR 15857, Apr. 3, 1997, as amended at 64 FR 68948, Dec. 9, 1999; 76 FR 24383, May 2, 2011]

PROHIBITION ON SOLICITATION OF PRESENTATIONS

### § 1.1210 Prohibition on solicitation of presentations.

No person shall solicit or encourage others to make any improper presentation under the provisions of this section.

[64 FR 68949, Dec. 9, 1999]

PROCEDURES FOR HANDLING OF PROHIBITED EX PARTE PRESENTATIONS

### § 1.1212 Procedures for handling of prohibited ex parte presentations.

(a) Commission personnel who believe that an oral presentation which is being made to them or is about to be made to them is prohibited shall promptly advise the person initiating the presentation that it is prohibited and shall terminate the discussion.

(b) Commission personnel who receive oral *ex parte* presentations which they believe are prohibited shall forward to the Office of General Counsel a statement containing the following information:

(1) The name of the proceeding;

(2) The name and address of the person making the presentation and that person's relationship (if any) to the parties to the proceeding;

(3) The date and time of the presentation, its duration, and the circumstances under which it was made;

(4) A full summary of the substance of the presentation;

(5) Whether the person making the presentation persisted in doing so after being advised that the presentation was prohibited; and

(6) The date and time that the statement was prepared.

(c) Commission personnel who receive written *ex parte* presentations which they believe are prohibited shall forward them to the Office of General Counsel. If the circumstances in which the presentation was made are not apparent from the presentation itself, a statement describing those circumstances shall be submitted to the Office of General Counsel with the presentation.

(d) Prohibited written *ex parte* presentations and all documentation relating to prohibited written and oral *ex parte* presentations shall be placed in a public file which shall be associated with but not made part of the record of the proceeding to which the presentations pertain. Such materials may be considered in determining the merits of a restricted proceeding only if they are made part of the record and the parties are so informed.

(e) If the General Counsel determines that an *ex parte* presentation or presentation during the Sunshine period is prohibited by this subpart, he or she shall notify the parties to the proceeding that a prohibited presentation has occurred and shall serve on the parties copies of the presentation (if written) and any statements describing the circumstances of the presentation. Service by the General Counsel shall not be deemed to cure any violation of the rules against prohibited *ex parte* presentations.

(f) If the General Counsel determines that service on the parties would be unduly burdensome because the parties to the proceeding are numerous, he or she may issue a public notice in lieu of service. The public notice shall state that a prohibited presentation has been made and may also state that the presentation and related materials are available for public inspection.

(g) The General Counsel shall forward a copy of any statement describing the circumstances in which the prohibited *ex parte* presentation was made to the person who made the presentation. Within ten days thereafter, the person who made the presentation may file with the General Counsel a sworn declaration regarding the presentation and the circumstances in which it was made. The General Counsel may serve copies of the sworn declaration on the parties to the proceeding.

(h) Where a restricted proceeding precipitates a substantial amount of correspondence from the general public, the procedures in paragraphs (c) through (g) of this section will not be followed with respect to such correspondence. The correspondence will be placed in a public file and be made available for public inspection.

[62 FR 15857, Apr. 3, 1997]

### § 1.1214 Disclosure of information concerning violations of this subpart.

Any party to a proceeding or any Commission employee who has substantial reason to believe that any violation of this subpart has been solicited, attempted, or committed shall promptly advise the Office of General Counsel in writing of all the facts and circumstances which are known to him or her.

[62 FR 15858, Apr. 3, 1997]

SANCTIONS

### § 1.1216 Sanctions.

(a) *Parties.* Upon notice and hearing, any party to a proceeding who directly or indirectly violates or causes the violation of any provision of this subpart, or who fails to report the facts and circumstances concerning any such violation as required by this subpart, may be subject to sanctions as provided in paragraph (d) of this section, or disqualified from further participation in that proceeding. In proceedings other than a rulemaking, a party who has violated or caused the violation of any provision of this subpart may be required to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected. In any proceeding, such alternative or additional sanctions as may be appropriate may also be imposed.

(b) *Commission personnel.* Commission personnel who violate provisions of this subpart may be subject to appropriate disciplinary or other remedial action as provided in part 19 of this chapter.

(c) *Other persons.* Such sanctions as may be appropriate under the circumstances shall be imposed upon other persons who violate the provisions of this subpart.

(d) *Penalties.* A party who has violated or caused the violation of any provision of this subpart may be subject to admonishment, monetary forfeiture, or to having his or her claim or interest in the proceeding dismissed, denied, disregarded, or otherwise adversely affected. In any proceeding, such alternative or additional sanctions as may be appropriate also may be imposed. Upon referral from the General Counsel following a finding of an *ex parte* violation pursuant to § 0.251(g) of this chapter, the Enforcement Bureau shall have delegated authority to impose sanctions in such matters pursuant to § 0.111(a)(15) of this chapter.

[62 FR 15858, Apr. 3, 1997, as amended at 76 FR 24383, May 2, 2011]

## Subpart I—Procedures Implementing the National Environmental Policy Act of 1969

SOURCE: 51 FR 15000, Apr. 22, 1986, unless otherwise noted.

### § 1.1301 Basis and purpose.

The provisions of this subpart implement Subchapter I of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321–4335.

### § 1.1302 Cross-reference; Regulations of the Council on Environmental Quality.

A further explanation regarding implementation of the National Environmental Policy Act is provided by the regulations issued by the Council on Environmental Quality, 40 CFR 1500–1508.28.

### § 1.1303 Scope.

The provisions of this subpart shall apply to all Commission actions that may or will have a significant impact on the quality of the human environment. To the extent that other provisions of the Commission's rules and regulations are inconsistent with the subpart, the provisions of this subpart shall govern.

[55 FR 20396, May 16, 1990]

### § 1.1304 Information and assistance.

For general information and assistance concerning the provisions of this subpart, the Office of General Counsel may be contacted, (202) 632–6990. For more specific information, the Bureau responsible for processing a specific application should be contacted.

### § 1.1305 Actions which normally will have a significant impact upon the environment, for which Environmental Impact Statements must be prepared.

Any Commission action deemed to have a significant effect upon the quality of the human environment requires the preparation of a Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) (collectively referred to as EISs) (*see* §§1.1314, 1.1315 and 1.1317). The Commission has reviewed representative actions and has found no common pattern which would enable it to specify actions that will thus automatically require EISs.

NOTE: Our current application forms refer applicants to §1.1305 to determine if their proposals are such that the submission of environmental information is required (*see* §1.1311). Until the application forms are revised to reflect our new environmental rules, applicants should refer to §1.1307. Section 1.1307 now delineates those actions for which applicants must submit environmental information.

### § 1.1306 Actions which are categorically excluded from environmental processing.

(a) Except as provided in §1.1307 (c) and (d), Commission actions not covered by §1.1307 (a) and (b) are deemed individually and cumulatively to have no significant effect on the quality of the human environment and are categorically excluded from environmental processing.

(b) Specifically, any Commission action with respect to any new application, or minor or major modifications of existing or authorized facilities or equipment, will be categorically excluded, provided such proposals do not:

(1) Involve a site location specified under §1.1307(a) (1)–(7), or

(2) Involve high intensity lighting under §1.1307(a)(8).

(3) Result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in §1.1307(b).

NOTE 1: The provisions of §1.1307(a) of this part requiring the preparation of EAs do not encompass the mounting of antenna(s) on an existing building or antenna tower unless §1.1307(a)(4) of this part is applicable. Such antennas are subject to §1.1307(b) of this part and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in §1.1307(b) of this part. The provisions of §1.1307 (a) and (b) of this part do not encompass the installation of aerial wire or cable over existing aerial corridors of prior or permitted use or the underground installation of wire or cable along existing underground corridors of prior or permitted use, established by the applicant or others. The use of existing buildings, towers or corridors is an environmentally desirable alternative to the construction of new facilities and is encouraged. The provisions of §1.1307(a) and (b) of this part do not

encompass the construction of new submarine cable systems.

NOTE 2: The specific height of an antenna tower or supporting structure, as well as the specific diameter of a satellite earth station, in and of itself, will not be deemed sufficient to warrant environmental processing, *see* §§1.1307 and 1.1308.

NOTE 3: The construction of an antenna tower or supporting structure in an established ''antenna farm'': (i.e., an area in which similar antenna towers are clustered, whether or not such area has been officially designated as an antenna farm), will be categorically excluded unless *one or more of the antennas to be mounted on the tower or structure are subject to the provisions of §1.1307(b) and the additional radiofrequency radiation from the antenna(s) on the new tower or structure* would cause human exposure in excess of the applicable health and safety *guidelines* cited in §1.1307(b).

[51 FR 15000, Apr. 22, 1986, as amended at 51 FR 18889, May 23, 1986; 53 FR 28393, July 28, 1988; 56 FR 13414, Apr. 2, 1991; 64 FR 19061, Apr. 19, 1999]

### §1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

(a) Commission actions with respect to the following types of facilities may significantly affect the environment and thus require the preparation of EAs by the applicant (see §§1.1308 and 1.1311) and may require further Commission environmental processing (*see* §§1.1314, 1.1315 and 1.1317):

(1) Facilities that are to be located in an officially designated wilderness area.

(2) Facilities that are to be located in an officially designated wildlife preserve.

(3) Facilities that: (i) May affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973.

NOTE: The list of endangered and threatened species is contained in 50 CFR 17.11, 17.22, 222.23(a) and 227.4. The list of designated critical habitats is contained in 50 CFR 17.95, 17.96 and part 226. To ascertain the status of proposed species and habitats, inquiries may be directed to the Regional Director of the Fish and Wildlife Service, Department of the Interior.

(4) Facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places. (See 16 U.S.C. 470w(5); 36 CFR part 60 and 800.) To ascertain whether a proposed action may affect properties that are listed or eligible for listing in the National Register of Historic Places, an applicant shall follow the procedures set forth in the rules of the Advisory Council on Historic Preservation, 36 CFR part 800, as modified and supplemented by the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, Appendix B to Part 1 of this Chapter, and the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, Appendix C to Part 1 of this Chapter.

(5) Facilities that may affect Indian religious sites.

(6) Facilities to be located in a flood Plain (*See* Executive Order 11988.)

(7) Facilities whose construction will involve significant change in surface features (e.g., wetland fill, deforestation or water diversion). (In the case of wetlands on Federal property, *see* Executive Order 11990.)

(8) Antenna towers and/or supporting structures that are to be equipped with high intensity white lights which are to be located in residential neighborhoods, as defined by the applicable zoning law.

(b) In addition to the actions listed in paragraph (a) of this section, Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations or modifications in existing facilities, require the preparation of an Environmental Assessment (EA) if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation in excess of the limits in §§1.1310 and 2.1093 of this chapter. Applications to the Commission for construction permits, licenses to transmit or renewals thereof, equipment authorizations or

modifications in existing facilities must contain a statement confirming compliance with the limits unless the facility, operation, or transmitter is categorically excluded, as discussed below. Technical information showing the basis for this statement must be submitted to the Commission upon request. Such compliance statements may be omitted from license applications for transceivers subject to the certification requirement in §25.129 of this chapter.

(1) The appropriate exposure limits in §§1.1310 and 2.1093 of this chapter are generally applicable to all facilities, operations and transmitters regulated by the Commission. However, a determination of compliance with the exposure limits in §1.1310 or §2.1093 of this chapter (routine environmental evaluation), and preparation of an EA if the limits are exceeded, is necessary only for facilities, operations and transmitters that fall into the categories listed in table 1, or those specified in paragraph (b)(2) of this section. All other facilities, operations and transmitters are categorically excluded from making such studies or preparing an EA, except as indicated in paragraphs (c) and (d) of this section. For purposes of table 1, *building-mounted antennas* means antennas mounted in or on a building structure that is occupied as a workplace or residence. The term *power* in column 2 of table 1 refers to total operating power of the transmitting operation in question in terms of effective radiated power (ERP), equivalent isotropically radiated power (EIRP), or peak envelope power (PEP), as defined in §2.1 of this chapter. For the case of the Cellular Radiotelephone Service, subpart H of part 22 of this chapter; the Personal Communications Service, part 24 of this chapter and the Specialized Mobile Radio Service, part 90 of this chapter, the phrase *total power of all channels* in column 2 of table 1 means the sum of the ERP or EIRP of all co-located simultaneously operating transmitters owned and operated by a single licensee. When applying the criteria of table 1, radiation in all directions should be considered. For the case of transmitting facilities using sectorized transmitting antennas, applicants and licensees should apply the criteria to all transmitting channels in a given sector, noting that for a highly directional antenna there is relatively little contribution to ERP or EIRP summation for other directions.

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

| Service (title 47 CFR rule part) | Evaluation required if: |
|---|---|
| Experimental Radio Services (part 5) | Power > 100 W ERP (164 W EIRP). |
| Paging and Radiotelephone Service (subpart E of part 22). | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and power > 1000 W ERP (1640 W EIRP). |
| | Building-mounted antennas: power > 1000 W ERP (1640 W EIRP). |
| Cellular Radiotelephone Service (subpart H of part 22) | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and total power of all channels > 1000 W ERP (1640 W EIRP). |
| | Building-mounted antennas: total power of all channels > 1000 W ERP (1640 W EIRP). |
| Personal Communications Services (part 24) | (1) Narrowband PCS (subpart D): |
| | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and total power of all channels > 1000 W ERP (1640 W EIRP). |
| | Building-mounted antennas: total power of all channels > 1000 W ERP (1640 W EIRP). |
| | (2) Broadband PCS (subpart E): |
| | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and total power of all channels > 2000 W ERP (3280 W EIRP). |
| | Building-mounted antennas: total power of all channels > 2000 W ERP (3280 W EIRP). |
| Satellite Communications Services (part 25) | All included. |
| | In addition, for NGSO subscriber equipment, licensees are required to attach a label to subscriber transceiver antennas that: |
| | (1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and |

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION—Continued

| Service (title 47 CFR rule part) | Evaluation required if: |
|---|---|
| | (2) references the applicable FCC-adopted limits for radiofrequency exposure specified in § 1.1310 of this chapter. |
| Miscellaneous Wireless Communications Services (part 27 except subpart M). | (1) For the 1390–1392 MHz, 1392–1395 MHz, 1432–1435 MHz, 1670–1675 MHz, and 2385–2390 MHz bands:<br>Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and total power of all channels > 2000 W ERP (3280 W EIRP).<br>Building-mounted antennas: total power of all channels > 2000 W ERP (3280 W EIRP).<br>(2) For the 698–746 MHz, 746–764 MHz, 776–794 MHz, 2305–2320 MHz, and 2345–2360 MHz bands:<br>Total power of all channels > 1000 W ERP (1640 W EIRP). |
| Broadband Radio Service and Educational Broadband Service (subpart M of part 27). | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and power > 1640 W EIRP.<br>Building-mounted antennas: power > 1640 W EIRP.<br>BRS and EBS licensees are required to attach a label to subscriber transceiver or transverter antennas that:<br>(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and<br>(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in § 1.1310. |
| Radio Broadcast Services (part 73) | All included. |
| Experimental Radio, Auxiliary, Special Broadcast and Other Program Distributional Services (part 74). | Subparts A, G, L: power > 100 W ERP. |
| Stations in the Maritime Services (part 80) | Ship earth stations only. |
| Private Land Mobile Radio Services Paging Operations (subpart P of part 90). | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and power > 1000 W ERP (1640 W EIRP).<br>Building-mounted antennas: power > 1000 W ERP (1640 W EIRP). |
| Private Land Mobile Radio Services Specialized Mobile Radio (subpart S of part 90). | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and total power of all channels > 1000 W ERP (1640 W EIRP).<br>Building-mounted antennas: Total power of all channels > 1000 W ERP (1640 W EIRP). |
| Amateur Radio Service (part 97) | Transmitter output power > levels specified in § 97.13(c)(1) of this chapter. |
| Local Multipoint Distribution Service (subpart L of part 101) and 24 GHz (subpart G of part 101). | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and power > 1640 W EIRP.<br>Building-mounted antennas: power > 1640 W EIRP.<br>LMDS and 24 GHz Service licensees are required to attach a label to subscriber transceiver antennas that:<br>(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and<br>(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in § 1.1310. |
| 70/80/90 GHz Bands (subpart Q of part 101) | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and power > 1640 W EIRP.<br>Building-mounted antennas: power > 1640 W EIRP.<br>Licensees are required to attach a label to transceiver antennas that:<br>(1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and<br>(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in § 1.1310. |

(2) Mobile and portable transmitting devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services (PCS), the Satellite Communications Services, the Wireless Communications Service, the Maritime Services (ship earth stations only), the Specialized Mobile Radio Service, and the 3650MHz Wireless Broadband Service authorized under Subpart H of parts 22, 24, 25, 27, 80, and 90 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 2.1091 and 2.1093 of this chapter. Unlicensed PCS, unlicensed NII and millimeter wave devices are also subject to

routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§15.253(f), 15.255(g), 15.319(i), and 15.407(f) of this chapter. Portable transmitting equipment for use in the Wireless Medical Telemetry Service (WMTS) is subject to routine environment evaluation as specified in §§2.1093 and 5.1125 of this chapter. Equipment authorized for use in the Medical Device Radiocommunication Service (MedRadio) as a medical implant or body-worn transmitter (as defined in Appendix 1 to Subpart E of part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in §2.1093 of this chapter by finite difference time domain computational modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that specific absorption rate measurement data be submitted. All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

(3) In general, when the guidelines specified in §1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter or field strength levels that, when squared, exceed 5% of the square of the electric or magnetic field strength limit applicable to their particular transmitter. Owners of transmitter sites are expected to allow applicants and licensees to take reasonable steps to comply with the requirements contained in §1.1307(b) and, where feasible, should encourage co-location of transmitters and common solutions for controlling access to areas where the RF exposure limits contained in §1.1310 might be exceeded.

(i) Applicants for proposed (not otherwise excluded) transmitters, facilities or modifications that would cause non-compliance with the limits specified in §1.1310 at an accessible area previously in compliance must submit an EA if emissions from the applicant's transmitter or facility would result, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter or facility.

(ii) Renewal applicants whose (not otherwise excluded) transmitters or facilities contribute to the field strength or power density at an accessible area not in compliance with the limits specified in §1.1310 must submit an EA if emissions from the applicant's transmitter or facility results, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter of facility.

(4) *Transition Provisions.* Applications filed with the Commission prior to October 15, 1997 (or January 1, 1998, for the Amateur Radio Service only), for construction permits, licenses to transmit or renewals thereof, modifications in existing facilities or other authorizations or renewals thereof require the preparation of an Environmental Assessment if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation that are in excess of the requirements contained in paragraphs (b)(4)(i) through (b)(4)(iii) of this section. In accordance with §1.1312, if no new application or Commission action is required for a licensee to construct a new facility or physically modify an existing facility, e.g., geographic area licensees, and construction begins on or after October 15, 1997, the licensee will be required to prepare an Environmental Assessment if construction or modification of the

facility would not comply with the provisions of paragraph (b)(1) of this section. These transition provisions do not apply to applications for equipment authorization or use for mobile, portable and unlicensed devices as specified in paragraph (b)(2) of this section.

(i) For facilities and operations licensed or authorized under parts 5, 21 (subpart K), 25, 73, 74 (subparts A, G, I, and L), and 80 of this chapter, the ''Radio Frequency Protection Guides'' recommended in ''American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz'', (ANSI C95.1–1982), issued by the American National Standards Institute (ANSI) and copyright 1982 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York shall apply. With respect to subpart K of part 21 and subpart I of part 74 of this chapter, these requirements apply only to multipoint distribution service and instructional television fixed service stations transmitting with an equivalent isotropically radiated power (EIRP) in excess of 200 watts. With respect to subpart L of part 74 of this chapter, these requirements apply only to FM booster and translator stations transmitting with an effective radiated power (ERP) in excess of 100 watts. With respect to part 80 of this chapter, these requirements apply only to ship earth stations.

(ii) For facilities and operations licensed or authorized under part 24 of this chapter, licensees and manufacturers are required to ensure that their facilities and equipment comply with IEEE C95.1–1991 (ANSI/IEEE C95.1–1992), ''Safety Levels With Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz.'' Measurement methods are specified in IEEE C95.3–1991, ''Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields—RF and Microwave.'' Copies of these standards are available from IEEE Standards Board, 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855–1331. Telephone: 1–800–678–4333. The limits for both ''controlled'' and ''uncontrolled'' environments, as defined by IEEE C95.1–1991, will apply to all PCS base and mobile stations, as appropriate.

(iii) Applications for all other types of facilities and operations are categorically excluded from routine RF radiation evaluation except as provided in paragraphs (c) and (d) of this section.

(5) *Existing transmitting facilities, devices and operations:* All existing transmitting facilities, operations and devices regulated by the Commission must be in compliance with the requirements of paragraphs (b)(1) through (b)(3) of this section by September 1, 2000, or, if not in compliance, file an Environmental Assessment as specified in § 1.1311.

(c) If an interested person alleges that a particular action, otherwise categorically excluded, will have a significant environmental effect, the person shall submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. (*See* § 1.1313). The Bureau shall review the petition and consider the environmental concerns that have been raised. If the Bureau determines that the action may have a significant environmental impact, the Bureau will require the applicant to prepare an EA (*see* §§ 1.1308 and 1.1311), which will serve as the basis for the determination to proceed with or terminate environmental processing.

(d) If the Bureau responsible for processing a particular action, otherwise categorically excluded, determines that the proposal may have a significant environmental impact, the Bureau, on its own motion, shall require the applicant to submit an EA. The Bureau will review and consider the EA as in paragraph (c) of this section.

(e) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations contained

in this chapter concerning the environmental effects of such emissions. For purposes of this paragraph:

(1) The term *personal wireless service* means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(2) The term *personal wireless service facilities* means facilities for the provision of personal wireless services;

(3) The term *unlicensed wireless services* means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services; and

(4) The term *direct-to-home satellite services* means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

[51 FR 15000, Apr. 22, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1.1307, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

### § 1.1308 Consideration of environmental assessments (EAs); findings of no significant impact.

(a) Applicants shall prepare EAs for actions that may have a significant environmental impact (*see* §1.1307). An EA is described in detail in §1.1311 of this part of the Commission rules.

(b) The EA is a document which shall explain the environmental consequences of the proposal and set forth sufficient analysis for the Bureau or the Commission to reach a determination that the proposal will or will not have a significant environmental effect. To assist in making that determination, the Bureau or the Commission may request further information from the applicant, interested persons, and agencies and authorities which have jurisdiction by law or which have relevant expertise.

NOTE: With respect to actions specified under §1.1307 (a)(3) and (a)(4), the Commission shall solicit and consider the comments of the Department of Interior, and the State Historic Preservation Officer and the Advisory Council on Historic Preservation, respectively, in accordance with their established procedures. *See* Interagency Cooperation—Endangered Species Act of 1973, as amended, 50 CFR part 402; Protection of Historic and Cultural Properties, 36 CFR part 800. In addition, when an action interferes with or adversely affects an American Indian tribe's religious site, the Commission shall solicit the views of that American Indian tribe. *See* §1.1307(a)(5).

(c) If the Bureau or the Commission determines, based on an independent review of the EA and any applicable mandatory consultation requirements imposed upon Federal agencies (*see* note above), that the proposal will have a significant environmental impact upon the quality of the human environment, it will so inform the applicant. The applicant will then have an opportunity to amend its application so as to reduce, minimize, or eliminate environmental problems. *See* §1.1309. If the environmental problem is not eliminated, the Bureau will publish in the FEDERAL REGISTER a Notice of Intent (*see* §1.1314) that EISs will be prepared (*see* §§1.1315 and 1.1317), or

(d) If the Bureau or Commission determines, based on an independent review of the EA, and any mandatory consultation requirements imposed upon Federal agencies (*see* the note to paragraph (b) of this section), that the proposal would not have a significant impact, it will make a finding of no significant impact. Thereafter, the application will be processed without further documentation of environmental effect. Pursuant to CEQ regulations, *see* 40 CFR 1501.4 and 1501.6, the applicant must provide the community notice of the Commission's finding of no significant impact.

[51 FR 15000, Apr. 22, 1986; 51 FR 18889, May 23, 1986, as amended at 53 FR 28394, July 28, 1988]

### § 1.1309 Application amendments.

Applicants are permitted to amend their applications to reduce, minimize or eliminate potential environmental problems. As a routine matter, an applicant will be permitted to amend its application within thirty (30) days after the Commission or the Bureau informs the applicant that the proposal

will have a significant impact upon the quality of the human environment (*see* § 1.1308(c)). The period of thirty (30) days may be extended upon a showing of good cause.

### § 1.1310 Radiofrequency radiation exposure limits.

The criteria listed in table 1 shall be used to evaluate the environmental impact of human exposure to radiofrequency (RF) radiation as specified in § 1.1307(b), except in the case of portable devices which shall be evaluated according to the provisions of § 2.1093 of this chapter. Further information on evaluating compliance with these limits can be found in the FCC's OST/OET Bulletin Number 65, ''Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation.''

NOTE TO INTRODUCTORY PARAGRAPH: These limits are generally based on recommended exposure guidelines published by the National Council on Radiation Protection and Measurements (NCRP) in ''Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields,'' NCRP Report No. 86, Sections 17.4.1, 17.4.1.1, 17.4.2 and 17.4.3. Copyright NCRP, 1986, Bethesda, Maryland 20814. In the frequency range from 100 MHz to 1500 MHz, exposure limits for field strength and power density are also generally based on guidelines recommended by the American National Standards Institute (ANSI) in Section 4.1 of ''IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz,'' ANSI/IEEE C95.1–1992, Copyright 1992 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York 10017.

TABLE 1—LIMITS FOR MAXIMUM PERMISSIBLE EXPOSURE (MPE)

| Frequency range (MHz) | Electric field strength (V/m) | Magnetic field strength (A/m) | Power density (mW/cm$^2$) | Averaging time (minutes) |
|---|---|---|---|---|
| **(A) Limits for Occupational/Controlled Exposures** | | | | |
| 0.3–3.0 | 614 | 1.63 | *(100) | 6 |
| 3.0–30 | 1842/f | 4.89/f | *(900/f$^2$) | 6 |
| 30–300 | 61.4 | 0.163 | 1.0 | 6 |
| 300–1500 | | | f/300 | 6 |
| 1500–100,000 | | | 5 | 6 |
| **(B) Limits for General Population/Uncontrolled Exposure** | | | | |
| 0.3–1.34 | 614 | 1.63 | *(100) | 30 |
| 1.34–30 | 824/f | 2.19/f | *(180/f$^2$) | 30 |
| 30–300 | 27.5 | 0.073 | 0.2 | 30 |
| 300–1500 | | | f/1500 | 30 |
| 1500–100,000 | | | 1.0 | 30 |

f = frequency in MHz
* = Plane-wave equivalent power density

NOTE 1 TO TABLE 1: Occupational/controlled limits apply in situations in which persons are exposed as a consequence of their employment provided those persons are fully aware of the potential for exposure and can exercise control over their exposure. Limits for occupational/controlled exposure also apply in situations when an individual is transient through a location where occupational/controlled limits apply provided he or she is made aware of the potential for exposure.

NOTE 2 TO TABLE 1: General population/uncontrolled exposures apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or can not exercise control over their exposure.

[61 FR 41016, Aug. 7, 1996]

### § 1.1311 Environmental information to be included in the environmental assessment (EA).

(a) The applicant shall submit an EA with each application that is subject to environmental processing (*see* § 1.1307). The EA shall contain the following information:

(1) For antenna towers and satellite earth stations, a description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.

(2) A statement as to the zoning classification of the site, and communications with, or proceedings before and

determinations (if any) made by zoning, planning, environmental or other local, state or Federal authorities on matters relating to environmental effect.

(3) A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.

(4) A discussion of environmental and other considerations which led to the selection of the particular site and, if relevant, the particular facility; the nature and extent of any unavoidable adverse environmental effects, and any alternative sites or facilities which have been or might reasonably be considered.

(5) Any other information that may be requested by the Bureau or Commission.

(6) If endangered or threatened species or their critical habitats may be affected, the applicant's analysis must utilize the best scientific and commercial data available, *see* 50 CFR 402.14(c).

(b) The information submitted in the EA shall be factual (not argumentative or conclusory) and concise with sufficient detail to explain the environmental consequences and to enable the Commission or Bureau, after an independent review of the EA, to reach a determination concerning the proposal's environmental impact, if any. The EA shall deal specifically with any feature of the site which has special environmental significance (e.g., wilderness areas, wildlife preserves, natural migration paths for birds and other wildlife, and sites of historic, architectural, or archeological value). In the case of historically significant sites, it shall specify the effect of the facilities on any district, site, building, structure or object listed, or eligible for listing, in the National Register of Historic Places. It shall also detail any substantial change in the character of the land utilized (e.g., deforestation, water diversion, wetland fill, or other extensive change of surface features). In the case of wilderness areas, wildlife preserves, or other like areas, the statement shall discuss the effect of any continuing pattern of human intrusion into the area (e.g., necessitated by the operation and maintenance of the facilities).

(c) The EA shall also be accompanied with evidence of site approval which has been obtained from local or Federal land use authorities.

(d) To the extent that such information is submitted in another part of the application, it need not be duplicated in the EA, but adequate cross-reference to such information shall be supplied.

(e) An EA need not be submitted to the Commission if another agency of the Federal Government has assumed responsibility for determining whether of the facilities in question will have a significant effect on the quality of the human environment and, if it will, for invoking the environmental impact statement process.

[51 FR 15000, Apr. 22, 1986, as amended at 51 FR 18889, May 23, 1986; 53 FR 28394, July 28, 1988]

### § 1.1312 Facilities for which no preconstruction authorization is required.

(a) In the case of facilities for which no Commission authorization prior to construction is required by the Commission's rules and regulations the licensee or applicant shall initially ascertain whether the proposed facility may have a significant environmental impact as defined in § 1.1307 of this part or is categorically excluded from environmental processing under § 1.1306 of this part.

(b) If a facility covered by paragraph (a) of this section may have a significant environmental impact, the information required by § 1.1311 of this part shall be submitted by the licensee or applicant and ruled on by the Commission, and environmental processing (if invoked) shall be completed, see § 1.1308 of this part, prior to the initiation of construction of the facility.

(c) If a facility covered by paragraph (a) of this section is categorically excluded from environmental processing, the licensee or applicant may proceed with construction and operation of the facility in accordance with the applicable licensing rules and procedures.

(d) If, following the initiation of construction under this section, the licensee or applicant discovers that the

proposed facility may have a significant environmental effect, it shall immediately cease construction which may have that effect, and submit the information required by § 1.1311 of this part. The Commission shall rule on that submission and complete further environmental processing (if invoked), see § 1.1308 of this part, before such construction is resumed.

(e) Paragraphs (a) through (d) of this section shall not apply to the construction of mobile stations.

[55 FR 20396, May 16, 1990, as amended at 56 FR 13414, Apr. 2, 1991]

### § 1.1313 Objections.

(a) In the case of an application to which section 309(b) of the Communications Act applies, objections based on environmental considerations shall be filed as petitions to deny.

(b) Informal objections which are based on environmental considerations must be filed prior to grant of the construction permit, or prior to authorization for facilities that do not require construction permits, or pursuant to the applicable rules governing services subject to lotteries.

### § 1.1314 Environmental impact statements (EISs).

(a) Draft Environmental Impact Statements (DEISs) (§ 1.1315) and Final Environmental Impact Statements (FEISs) (referred to collectively as EISs) (§ 1.1317) shall be prepared by the Bureau responsible for processing the proposal when the Commission's or the Bureau's analysis of the EA (§ 1.1308) indicates that the proposal will have a significant effect upon the environment and the matter has not been resolved by an amendment.

(b) As soon as practically feasible, the Bureau will publish in the FEDERAL REGISTER a Notice of Intent to prepare EISs. The Notice shall briefly identify the proposal, concisely describe the environmental issues and concerns presented by the subject application, and generally invite participation from affected or involved agencies, authorities and other interested persons.

(c) The EISs shall not address nonenvironmental considerations. To safeguard against repetitive and unnecessarily lengthy documents, the Statements, where feasible, shall incorporate by reference material set forth in previous documents, with only a brief summary of its content. In preparing the EISs, the Bureau will identify and address the significant environmental issues and eliminate the insignificant issues from analysis.

(d) To assist in the preparation of the EISs, the Bureau may request further information from the applicant, interested persons and agencies and authorities, which have jurisdiction by law or which have relevant expertise. The Bureau may direct that technical studies be made by the applicant and that the applicant obtain expert opinion concerning the potential environmental problems and costs associated with the proposed action, as well as comparative analyses of alternatives. The Bureau may also consult experts in an effort to identify measures that could be taken to minimize the adverse effects and alternatives to the proposed facilities that are not, or are less, objectionable. The Bureau may also direct that objections be raised with appropriate local, state or Federal land use agencies or authorities (if their views have not been previously sought).

(e) The Bureau responsible for processing the particular application and, thus, preparing the EISs shall draft supplements to Statements where significant new circumstances occur or information arises relevant to environmental concerns and bearing upon the application.

(f) The Application, the EA, the DEIS, and the FEIS and all related documents, including the comments filed by the public and any agency, shall be part of the administrative record and will be routinely available for public inspection.

(g) If EISs are to be prepared, the applicant must provide the community with notice of the availability of environmental documents and the scheduling of any Commission hearings in that action.

(h) The timing of agency action with respect to applications subject to EISs is set forth in 40 CFR 1506.10. No decision shall be made until ninety (90) days after the Notice of Availability of

the Draft Environmental Impact Statement is published in the Federal Register, and thirty (30) days after the Notice of Availability of the Final Environmental Impact Statement is published in the FEDERAL REGISTER, which time period may run concurrently, *See* 40 CFR 1506.10(c); *see also* §§ 1.1315(b) and 1.1317(b).

(i) Guidance concerning preparation of the Draft and Final Environmental Statements is set out in 40 CFR part 1502.

[51 FR 15000, Apr. 22, 1986, as amended at 53 FR 28394, July 28, 1988]

### § 1.1315 The Draft Environmental Impact Statement (DEIS); Comments.

(a) The DEIS shall include:

(1) A concise description of the proposal, the nature of the area affected, its uses, and any specific feature of the area that has special environmental significance;

(2) An analysis of the proposal, and reasonable alternatives exploring the important consequent advantages and/or disadvantages of the action and indicating the direct and indirect effects and their significance in terms of the short and long-term uses of the human environment.

(b) When a DEIS and supplements, if any, are prepared, the Commission shall send five copies of the Statement, or a summary, to the Office of Federal Activities, Environmental Protection Agency. Additional copies, or summaries, will be sent to the appropriate regional office of the Environmental Protection Agency. Public Notice of the availability of the DEIS will be published in the FEDERAL REGISTER by the Environmental Protection Agency.

(c) When copies or summaries of the DEIS are sent to the Environmental Protection Agency, the copies or summaries will be mailed with a request for comment to Federal agencies having jurisdiction by law or special expertise, to the Council on Environmental Quality, to the applicant, to individuals, groups and state and local agencies known to have an interest in the environmental consequences of a grant, and to any other person who has requested a copy.

(d) Any person or agency may comment on the DEIS and the environmental effect of the proposal described therein within 45 days after notice of the availability of the statement is published in the FEDERAL REGISTER. A copy of those comments shall be mailed to the applicant by the person who files them pursuant to 47 CFR 1.47. An original and one copy shall be filed with the Commission. If a person submitting comments is especially qualified in any way to comment on the environmental impact of the facilities, a statement of his or her qualifications shall be set out in the comments. In addition, comments submitted by an agency shall identify the person(s) who prepared them.

(e) The applicant may file reply comments within 15 days after the time for filing comments has expired. Reply comments shall be filed with the Commission in the same manner as comments, and shall be served by the applicant on persons or agencies which filed comments.

(f) The preparation of a DEIS and the request for comments shall not open the application to attack on other grounds.

### § 1.1317 The Final Environmental Impact Statement (FEIS).

(a) After receipt of comments and reply comments, the Bureau will prepare a FEIS, which shall include a summary of the comments, and a response to the comments, and an analysis of the proposal in terms of its environmental consequences, and any reasonable alternatives, and recommendations, if any, and shall cite the Commission's internal appeal procedures (*See* 47 CFR 1.101–1.120).

(b) The FEIS and any supplements will be distributed and published in the same manner as specified in § 1.1315. Copies of the comments and reply comments, or summaries thereof where the record is voluminous, shall be attached to the FEIS.

### § 1.1319 Consideration of the environmental impact statements.

(a) If the action is subject to a hearing:

(1) In rendering his initial decision, the Administrative Law Judge shall utilize the FEIS in considering the environmental issues, together with all

other non-environmental issues. In a comparative context, the respective parties shall be afforded the opportunity to comment on the FEIS, and the Administrative Law Judge's decision shall contain an evaluation of the respective applications based on environmental and non-environmental public interest factors.

(2) Upon review of an initial decision, the Commission will consider and assess all aspects of the FEIS and will render its decision, giving due consideration to the environmental and non-environmental issues.

(b) In all non-hearing matters, the Commission, as part of its decision-making process, will review the FEIS, along with other relevant issues, to ensure that the environmental effects are specifically assessed and given comprehensive consideration.

[51 FR 15000, Apr. 22, 1986, as amended at 62 FR 4171, Jan. 29, 1997]

## Subpart J—Pole Attachment Complaint Procedures

SOURCE: 43 FR 36094, Aug. 15, 1978, unless otherwise noted.

### § 1.1401 Purpose.

The rules and regulations contained in subpart J of this part provide complaint and enforcement procedures to ensure that telecommunications carriers and cable system operators have nondiscriminatory access to utility poles, ducts, conduits, and rights-of-way on rates, terms, and conditions that are just and reasonable. They also provide complaint and enforcement procedures for incumbent local exchange carriers (as defined in 47 U.S.C. 251(h)) to ensure that the rates, terms, and conditions of their access to pole attachments are just and reasonable.

[76 FR 26638, May 9, 2011]

### § 1.1402 Definitions.

(a) The term *utility* means any person that is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person that is cooperatively organized, or any person owned by the Federal Government or any State.

(b) The term *pole attachment* means any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility.

(c) With respect to poles, the term *usable space* means the space on a utility pole above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment, and which includes space occupied by the utility. With respect to conduit, the term *usable space* means capacity within a conduit system which is available, or which could, with reasonable effort and expense, be made available, for the purpose of installing wires, cable and associated equipment for telecommunications or cable services, and which includes capacity occupied by the utility.

(d) The term *complaint* means a filing by a cable television system operator, a cable television system association, a utility, an association of utilities, a telecommunications carrier, or an association of telecommunications carriers alleging that it has been denied access to a utility pole, duct, conduit, or right-of-way in violation of this subpart and/or that a rate, term, or condition for a pole attachment is not just and reasonable. It also means a filing by an incumbent local exchange carrier (as defined in 47 U.S.C. 251(h)) or an association of incumbent local exchange carriers alleging that a rate, term, or condition for a pole attachment is not just and reasonable.

(e) The term *complainant* means a cable television system operator, a cable television system association, a utility, an association of utilities, a telecommunications carrier, an association of telecommunications carriers, an incumbent local exchange carrier (as defined in 47 U.S.C. 251(h)) or an association of incumbent local exchange carriers who files a complaint.

(f) The term *respondent* means a cable television system operator, a utility, or a telecommunications carrier against whom a complaint is filed.

(g) The term *State* means any State, territory, or possession of the United

States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.

(h) For purposes of this subpart, the term *telecommunications carrier* means any provider of telecommunications services, except that the term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226) or incumbent local exchange carriers (as defined in 47 U.S.C. 251(h)).

(i) The term *conduit* means a structure containing one or more ducts, usually placed in the ground, in which cables or wires may be installed.

(j) The term *conduit* system means a collection of one or more conduits together with their supporting infrastructure.

(k) The term *duct* means a single enclosed raceway for conductors, cable and/or wire.

(l) With respect to poles, the term *unusable space* means the space on a utility pole below the usable space, including the amount required to set the depth of the pole.

(m) The term *attaching entity* includes cable system operators, telecommunications carriers, incumbent and other local exchange carriers, utilities, governmental entities and other entities with a physical attachment to the pole, duct, conduit or right of way. It does not include governmental entities with only seasonal attachments to the pole.

(n) The term *inner-duct* means a ductlike raceway smaller than a duct that is inserted into a duct so that the duct may carry multiple wires or cables.

[43 FR 36094, Aug. 15, 1978, as amended at 52 FR 31770, Aug. 24, 1987; 61 FR 43024, Aug. 20, 1996; 61 FR 45618, Aug. 29, 1996; 63 FR 12024, Mar. 12, 1998; 65 FR 31281, May 17, 2000; 66 FR 34580, June 29, 2001; 76 FR 26638, May 9, 2011]

### § 1.1403 Duty to provide access; modifications; notice of removal, increase or modification; petition for temporary stay; and cable operator notice.

(a) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it. Notwithstanding this obligation, a utility may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity or for reasons of safety, reliability and generally applicable engineering purposes.

(b) Requests for access to a utility's poles, ducts, conduits or rights-of-way by a telecommunications carrier or cable operator must be in writing. If access is not granted within 45 days of the request for access, the utility must confirm the denial in writing by the 45th day. The utility's denial of access shall be specific, shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability or engineering standards.

(c) A utility shall provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to:

(1) Removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term or condition of the cable television system operator's of telecommunications carrier's pole attachment agreement;

(2) Any increase in pole attachment rates; or

(3) Any modification of facilities other than routine maintenance or modification in response to emergencies.

(d) A cable television system operator or telecommunications carrier may file a ''Petition for Temporary Stay'' of the action contained in a notice received pursuant to paragraph (c) of this section within 15 days of receipt of such notice. Such submission shall not be considered unless it includes, in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service or telecommunication service, a copy of the notice, and certification of service as required by § 1.1404(b). The named respondent may file an answer within 7 days of the date the Petition for Temporary Stay was filed. No further filings under this section will be considered unless requested or authorized by the Commission and no extensions of

time will be granted unless justified pursuant to § 1.46.5.

(e) Cable operators must notify pole owners upon offering telecommunications services.

[61 FR 45618, Aug. 29, 1996, as amended at 63 FR 12025, Mar. 12, 1998]

EFFECTIVE DATE NOTE: At 63 FR 12025, Mar. 12, 1998, § 1.1403 was amended by revising the heading and adding new paragraph (e). The added text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.1404 Complaint.

(a) The complaint shall contain the name and address of the complainant, name and address of the respondent, and shall contain a verification (in the form in § 1.721(b)), signed by the complainant or officer thereof if complainant is a corporation, showing complainant's direct interest in the matter complained of. Counsel for the complainant may sign the complaint. Complainants may join together to file a joint complaint. Complaints filed by associations shall specifically identify each utility, cable television system operator, or telecommunications carrier who is a party to the complaint and shall be accompanied by a document from each identified member certifying that the complaint is being filed on its behalf.

(b) The complaint shall be accompanied by a certification of service on the named respondent, and each of the Federal, State, and local governmental agencies that regulate any aspect of the services provided by the complainant or respondent.

(c) In a case where it is claimed that a rate, term, or condition is unjust or unreasonable, the complaint shall contain a statement that the State has not certified to the Commission that it regulates the rates, terms and conditions for pole attachments. The complaint shall include a statement that the utility is not owned by any railroad, any person who is cooperatively organized or any person owned by the Federal Government or any State.

(d) The complaint shall be accompanied by a copy of the pole attachment agreement, if any, between the cable system operator or telecommunications carrier and the utility. If there is no present pole attachment agreement, the complaint shall contain:

(1) A statement that the utility uses or controls poles, ducts, or conduits used or designated, in whole or in part, for wire communication; and

(2) A statement that the cable television system operator or telecommunications carrier currently has attachments on the poles, ducts, conduits, or rights-of-way.

(e) The complaint shall state with specificity the pole attachment rate, term or condition which is claimed to be unjust or unreasonable.

(f) In any case, where it is claimed that a term or condition is unjust or unreasonable, the claim shall specify all information and argument relied upon to justify said claim.

(g) For attachments to poles, where it is claimed that either a rate is unjust or unreasonable, or a term or condition is unjust or unreasonable and examination of such term or condition requires review of the associated rate, the complaint shall provide data and information in support of said claim.

(1) The data and information shall include, where applicable:

(i) The gross investment by the utility for pole lines;

(ii) The investment in crossarms and other items which do not reflect the cost of owning and maintaining poles, if available;

(iii) The depreciation reserve from the gross pole line investment;

(iv) The depreciation reserve from the investment in crossarms and other items which do not reflect the cost of owning and maintaining poles, if available;

(v) The total number of poles:

(A) Owned; and

(B) Controlled or used by the utility. If any of these poles are jointly owned, the complaint shall specify the number of such jointly owned poles and the percentage of each joint pole or the number of equivalent poles owned by the subject utility;

(vi) The total number of poles which are the subject of the complaint;

(vii) The number of poles included in paragraph (g)(1)(vi) of this section that are controlled or used by the utility

through lease between the utility and other owner(s), and the annual amounts paid by the utility for such rental;

(viii) The number of poles included in paragraph (g)(1)(vi) of this section that are owned by the utility and that are leased to other users by the utility, and the annual amounts paid to the utility for such rental;

(ix) The annual carrying charges attributable to the cost of owning a pole. The utility shall submit these charges separately for each of the following categories: Depreciation, rate of return, taxes, maintenance, and administrative. These charges may be expressed as a percentage of the net pole investment. With its pleading, the utility shall file a copy of the latest decision of the state regulatory body or state court that determines the treatment of accumulated deferred taxes if it is at issue in the proceeding and shall note the section that specifically determines the treatment and amount of accumulated deferred taxes.

(x) The rate of return authorized for the utility for intrastate service. With its pleading, the utility shall file a copy of the latest decision of the state regulatory body or state court which establishes this authorized rate of return if the rate of return is at issue in the proceeding and shall note the section which specifically establishes this authorized rate and whether the decision is subject to further proceedings before the state regulatory body or a court. In the absence of a state authorized rate of return, the rate of return set by the Commission for local exchange carriers shall be used as a default rate of return;

(xi) The average amount of usable space per pole for those poles used for pole attachments (13.5 feet may be in lieu of actual measurement, but may be rebutted);

(xii) The average amount of unusable space per pole for those poles used for pole attachments (a 24 foot presumption may be used in lieu of actual measurement, but the presumption may be rebutted); and

(xiii) Reimbursements received from CATV operators and telecommunications carriers for non-recurring costs.

(2) Data and information should be based upon historical or original cost methodology, insofar as possible. Data should be derived from ARMIS, FERC 1, or other reports filed with state or federal regulatory agencies (identify source). Calculations made in connection with these figures should be provided to the complainant. The complainant shall also specify any other information and argument relied upon to attempt to establish that a rate, term, or condition is not just and reasonable.

(h) With respect to attachments within a duct or conduit system, where it is claimed that either a rate is unjust or unreasonable, or a term or condition is unjust or unreasonable and examination of such term or condition requires review of the associated rate, the complaint shall provide data and information in support of said claim.

(1) The data and information shall include, where applicable:

(i) The gross investment by the utility for conduit;

(ii) The accumulated depreciation from the gross conduit investment;

(iii) The system duct length or system conduit length and the method used to determine it;

(iv) The length of the conduit subject to the complaint;

(v) The number of ducts in the conduit subject to the complaint;

(vi) The number of inner-ducts in the duct occupied, if any. If there are no inner-ducts, the attachment is presumed to occupy one-half duct.

(vii) The annual carrying charges attributable to the cost of owning conduit. These charges may be expressed as a percentage of the net linear cost of a conduit. With its pleading, the utility shall file a copy of the latest decision of the state regulatory body or state court which determines the treatment of accumulated deferred taxes if it is at issue in the proceeding and shall note the section which specifically determines the treatment and amount of accumulated deferred taxes.

(viii) The rate of return authorized for the utility for intrastate service. With its pleading, the utility shall file a copy of the latest decision of the state regulatory body or state court which establishes this authorized rate

of return if the rate of return is at issue in the proceeding and shall note the section which specifically establishes this authorized rate and whether the decision is subject to further proceedings before the state regulatory body or a court. In the absence of a state authorized rate of return, the rate of return set by the Commission for local exchange carriers shall be used as a default rate of return; and

(ix) Reimbursements received by utilities from CATV operators and telecommunications carriers for non-recurring costs.

(2) Data and information should be based upon historical or original cost methodology, insofar as possible. Data should be derived from ARMIS, FERC 1, or other reports filed with state or federal regulatory agencies (identify source). Calculations made in connection with these figures should be provided to the complainant. The complainant shall also specify any other information and argument relied upon to attempt to establish that a rate, term, or condition is not just and reasonable.

(i) With respect to rights-of-way, where it is claimed that either a rate is unjust or unreasonable, or a term or condition is unjust or unreasonable and examination of such term or condition requires review of the associated rate, the complaint shall provide data and information in support of said claim. The data and information shall include, where applicable, equivalent information as specified in paragraph (g) of this section.

(j) If any of the information and data required in paragraphs (g), (h) and (i) of this section is not provided to the cable television operator or telecommunications carrier by the utility upon reasonable request, the cable television operator or telecommunications carrier shall include a statement indicating the steps taken to obtain the information from the utility, including the dates of all requests. No complaint filed by a cable television operator or telecommunications carrier shall be dismissed where the utility has failed to provide the information required under paragraphs (g), (h) or (i) of this section, as applicable, after such reasonable request. A utility must supply a cable television operator or telecommunications carrier the information required in paragraph (g), (h) or (i) of this section, as applicable, along with the supporting pages from its ARMIS, FERC Form 1, or other report to a regulatory body, within 30 days of the request by the cable television operator or telecommunications carrier. The cable television operator or telecommunications carrier, in turn, shall submit these pages with its complaint. If the utility did not supply these pages to the cable television operator or telecommunications carrier in response to the information request, the utility shall supply this information in its response to the complaint.

(k) The complaint shall include a certification that the complainant has, in good faith, engaged or attempted to engage in executive-level discussions with the respondent to resolve the pole attachment dispute. Executive-level discussions are discussions among representatives of the parties who have sufficient authority to make binding decisions on behalf of the company they represent regarding the subject matter of the discussions. Such certification shall include a statement that, prior to the filing of the complaint, the complainant mailed a certified letter to the respondent outlining the allegations that form the basis of the complaint it anticipated filing with the Commission, inviting a response within a reasonable period of time, and offering to hold executive-level discussions regarding the dispute. A refusal by a respondent to engage in the discussions contemplated by this rule shall constitute an unreasonable practice under section 224 of the Act.

(l) Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(m) In a case where a cable television system operator or telecommunications carrier as defined in 47 U.S.C. 224(a)(5) claims that it has been denied access to a pole, duct, conduit or right-of-way despite a request made pursuant to section 47 U.S.C. 224(f), the complaint shall include the data and information necessary to support the claim, including:

(1) The reasons given for the denial of access to the utility's poles, ducts, conduits, or rights-of-way;

(2) The basis for the complainant's claim that the denial of access is unlawful;

(3) The remedy sought by the complainant;

(4) A copy of the written request to the utility for access to its poles, ducts, conduits, or rights-of-way; and

(5) A copy of the utility's response to the written request including all information given by the utility to support its denial of access. A complaint alleging unlawful denial of access will not be dismissed if the complainant is unable to obtain a utility's written response, or if the utility denies the complainant any other information needed to establish a prima facie case.

[43 FR 36094, Aug. 15, 1978, as amended at 44 FR 31649, June 1, 1979; 45 FR 17014, Mar. 17, 1980; 52 FR 31770, Aug. 24, 1987; 61 FR 43025, Aug. 20, 1996; 61 FR 45619, Aug. 29, 1996; 63 FR 12025, Mar. 12, 1998; 65 FR 31282, May 17, 2000; 65 FR 34820, May 31, 2000; 76 FR 26638, May 9, 2011]

EFFECTIVE DATE NOTE 1: At 63 FR 12025, Mar. 12, 1998, § 1.1404 was amended by redesignating paragraphs (g)(12) and (h) through (k) as (g)(13) and (k) through (n) and adding new paragraphs (g)(12) and (h) through (j). The added text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

EFFECTIVE DATE NOTE 2: At 65 FR 31282, May 17, 2000, § 1.1404 was amended by removing paragraph (k), redesignating paragraphs (l), (m), and (n) as (k), (l), and (m), respectively, and revising paragraphs (g), (h), and the third sentence of paragraph (j). The revised text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.1405 File numbers.

Each complaint which appears to be essentially complete under § 1.1404 will be accepted and assigned a file number. Such assignment is for administrative purposes only and does not necessarily mean that the complaint has been found to be in full compliance with other sections in this subpart. Petitions for temporary stay will also be assigned a file number upon receipt.

[44 FR 31650, June 1, 1979]

### § 1.1406 Dismissal of complaints.

(a) The complaint shall be dismissed for lack of jurisdiction in any case where a suitable certificate has been filed by a State pursuant to § 1.1414 of this subpart. Such certificate shall be conclusive proof of lack of jurisdiction of this Commission. A complaint against a utility shall also be dismissed if the utility does not use or control poles, ducts, or conduits used or designated, in whole or in part, for wire communication or if the utility does not meet the criteria of § 1.1402(a) of this subpart.

(b) If the complaint does not contain substantially all the information required under § 1.1404 the Commission may dismiss the complaint or may require the complainant to file additional information. The complaint shall not be dismissed if the information is not available from public records or from the respondent utility after reasonable request.

(c) Failure by the complainant to respond to official correspondence or a request for additional information will be cause for dismissal.

(d) Dismissal under provisions of paragraph (b) of this section above will be with prejudice if the complaint has been dismissed previously. Such a complaint may be refiled no earlier than six months from the date it was so dismissed.

[43 FR 36094, Aug. 15, 1978, as amended at 44 FR 31650, June 1, 1979]

### § 1.1407 Response and reply.

(a) Respondent shall have 30 days from the date the complaint was filed within which to file a response. Complainant shall have 20 days from the date the response was filed within which to file a reply. Extensions of time to file are not contemplated unless justification is shown pursuant to § 1.46. Except as otherwise provided in § 1.1403, no other filings and no motions other than for extension of time will be considered unless authorized by the Commission. The response should set forth justification for the rate, term,

or condition alleged in the complaint not to be just and reasonable. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts and exhibits shall be verified by the person who prepares them. The response, reply, and other pleadings may be signed by counsel.

(b) The response shall be served on the complainant and all parties listed in complainant's certificate of service.

(c) The reply shall be served on the respondent and all parties listed in respondent's certificate of service.

(d) Failure to respond may be deemed an admission of the material factual allegations contained in the complaint.

[44 FR 31650, June 1, 1979]

### § 1.1408 Number of copies and form of pleadings.

(a) An original and three copies of the complaint, response, and reply shall be filed with the Commission.

(b) All papers filed in the complaint proceeding must be drawn in conformity with the requirements of §§ 1.49, 1.50 and 1.52.

### § 1.1409 Commission consideration of the complaint.

(a) In its consideration of the complaint, response, and reply, the Commission may take notice of any information contained in publicly available filings made by the parties and may accept, subject to rebuttal, studies that have been conducted. The Commission may also request that one or more of the parties make additional filings or provide additional information. Where one of the parties has failed to provide information required to be provided by these rules or requested by the Commission, or where costs, values or amounts are disputed, the Commission may estimate such costs, values or amounts it considers reasonable, or may decide adversely to a party who has failed to supply requested information which is readily available to it, or both.

(b) The complainant shall have the burden of establishing a *prima facie* case that the rate, term, or condition is not just and reasonable or that the denial of access violates 47 U.S.C. § 224(f). If, however, a utility argues that the proposed rate is lower than its incremental costs, the utility has the burden of establishing that such rate is below the statutory minimum just and reasonable rate. In a case involving a denial of access, the utility shall have the burden of proving that the denial was lawful, once a *prima facie* case is established by the complainant.

(c) The Commission shall determine whether the rate, term or condition complained of is just and reasonable. For the purposes of this paragraph, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

(d) The Commission shall deny the complaint if it determines that the complainant has not established a *prima facie* case, or that the rate, term or condition is just and reasonable, or that the denial of access was lawful.

(e) When parties fail to resolve a dispute regarding charges for pole attachments and the Commission's complaint procedures under Section 1.1404 are invoked, the Commission will apply the following formulas for determining a maximum just and reasonable rate:

(1) The following formula shall apply to attachments to poles by cable operators providing cable services. This formula shall also apply to attachments to poles by any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) or cable operator providing telecommunications services until February 8, 2001:

$$\text{Maximum Rate} = \text{Space Factor} \times \text{Net Cost of a Bare Pole} \times \text{Carrying Charge Rate}$$

$$\text{Where Space Factor} = \frac{\text{Space Occupied by Attachment}}{\text{Total Usable Space}}$$

(2) With respect to attachments to poles by any telecommunications carrier or cable operator providing telecommunications services, the maximum just and reasonable rate shall be the higher of the rate yielded by paragraphs (e)(2)(i) or (e)(2)(ii) of this section.

(i) The following formula applies to the extent that it yields a rate higher than that yielded by the applicable formula in paragraph 1.1409(e)(2)(ii) of this section:

Rate = Space Factor × Cost
Where Cost
in Urbanized Service Areas = 0.66 × (Net Cost of a Bare Pole × Carrying Charge Rate)
in Non-Urbanized Service Areas = 0.44 × (Net Cost of a Bare Pole × Carrying Charge Rate).

$$\text{Where Space Factor} = \left[\frac{\left(\text{Space Occupied}\right) + \left(\frac{2}{3} \times \frac{\text{Unusable Space}}{\text{No. of Attaching Entities}}\right)}{\text{Pole Height}}\right]$$

(ii) The following formula applies to the extent that it yields a rate higher than that yielded by the applicable formula in paragraph 1.1409(e)(2)(i) of this section:

$$\text{Rate} = \text{Space Factor} \times \text{Net Cost of a Bare Pole} \times \left[\text{Maintenance and Administrative Carrying Charge Rate}\right]$$

$$\text{Where Space Factor} = \left[\frac{\left(\text{Space Occupied}\right) + \left(\frac{2}{3} \times \frac{\text{Unusable Space}}{\text{No. of Attaching Entities}}\right)}{\text{Pole Height}}\right]$$

(3) The following formula shall apply to attachments to conduit by cable operators and telecommunications carriers:

$$\text{Maximum Rate per Linear ft./m.} = \underbrace{\left[\frac{1}{\text{Number of Ducts}} \times \frac{1\ \text{Duct}}{\text{No. of Inner Ducts}}\right]}_{\text{(Percentage of Conduit Capacity)}} \times \underbrace{\left[\text{No. of Ducts} \times \frac{\text{Net Conduit Investment}}{\text{System Duct Length (ft./m.)}}\right]}_{\text{(Net Linear Cost of a Conduit)}} \times \text{Carrying Charge Rate}$$

simplified as:

$$\text{Maximum Rate Per Linear ft./m.} = \frac{1\ \text{Duct}}{\text{No. of Inner Ducts}} \times \frac{\text{Net Conduit Investment}}{\text{System Duct Length (ft./m.)}} \times \text{Carrying Charge Rate}$$

If no inner-duct is installed the fraction, ''1 Duct divided by the No. of Inner-Ducts'' is presumed to be ½.

(f) Paragraph (e)(2) of this section shall become effective February 8, 2001 (i.e., five years after the effective date of the Telecommunications Act of 1996). Any increase in the rates for pole attachments that results from the adoption of such regulations shall be phased in over a period of five years beginning on the effective date of such regulations in equal annual increments. The five-year phase-in is to apply to rate increases only. Rate reductions are to be implemented immediately. The determination of any rate increase shall be based on data currently available at the time of the calculation of the rate increase.

[43 FR 36094, Aug. 15, 1978, as amended at 52 FR 31770, Aug. 24, 1987; 61 FR 43025, Aug. 20, 1996; 61 FR 45619, Aug. 29, 1996; 63 FR 12025, Mar. 12, 1998; 65 FR 31282, May 17, 2000; 66 FR 34580, June 29, 2001; 76 FR 26639, May 9, 2011]

### § 1.1410 Remedies.

If the Commission determines that the rate, term, or condition complained of is not just and reasonable, it may prescribe a just and reasonable rate, term, or condition and may:

(a) If the Commission determines that the rate, term, or condition complained of is not just and reasonable, it may prescribe a just and reasonable rate, term, or condition and may:

(1) Terminate the unjust and/or unreasonable rate, term, or condition;

(2) Substitute in the pole attachment agreement the just and reasonable rate, term, or condition established by the Commission;

(3) Order a refund, or payment, if appropriate. The refund or payment will normally be the difference between the amount paid under the unjust and/or unreasonable rate, term, or condition and the amount that would have been paid under the rate, term, or condition established by the Commission, plus interest, consistent with the applicable statute of limitations; and

(b) If the Commission determines that access to a pole, duct, conduit, or right-of-way has been unlawfully denied or delayed, it may order that access be permitted within a specified time frame and in accordance with specified rates, terms, and conditions.

(c) Order a refund, or payment, if appropriate. The refund or payment will normally be the difference between the amount paid under the unjust and/or unreasonable rate, term, or condition and the amount that would have been paid under the rate, term, or condition established by the Commission from the date that the complaint, as acceptable, was filed, plus interest.

[44 FR 31650, June 1, 1979, as amended at 76 FR 26639, May 9, 2011]

### § 1.1411 Meetings and hearings.

The Commission may decide each complaint upon the filings and information before it, may require one or more informal meetings with the parties to clarify the issues or to consider settlement of the dispute, or may, in its discretion, order evidentiary procedures upon any issues it finds to have been raised by the filings.

### § 1.1412 Enforcement.

If the respondent fails to obey any order imposed under this subpart, the Commission on its own motion or by motion of the complainant may order the respondent to show cause why it should not cease and desist from violating the Commission's order.

### § 1.1413 Forfeiture.

(a) If any person willfully fails to obey any order imposed under this subpart, or any Commission rule, or

(b) If any person shall in any written response to Commission correspondence or inquiry or in any application, pleading, report, or any other written statement submitted to the Commission pursuant to this subpart make any misrepresentation bearing on any matter within the jurisdiction of the Commission, the Commission may, in addition to any other remedies, including criminal penalties under section 1001 of Title 18 of the United States Code, impose a forfeiture pursuant to section 503(b) of the Communications Act, 47 U.S.C. 503(b).

### § 1.1414 State certification.

(a) If the Commission does not receive certification from a state that:

(1) It regulates rates, terms and conditions for pole attachments;

(2) In so regulating such rates, terms and conditions, the state has the authority to consider and does consider the interests of the subscribers of cable television services as well as the interests of the consumers of the utility services; and,

(3) It has issued and made effective rules and regulations implementing the state's regulatory authority over pole attachments (including a specific methodology for such regulation which has been made publicly available in the state), it will be rebuttably presumed that the state is not regulating pole attachments.

(b) Upon receipt of such certification, the Commission shall give public notice. In addition, the Commission shall compile and publish from time to time, a listing of states which have provided certification.

(c) Upon receipt of such certification, the Commission shall forward any pending case thereby affected to the state regulatory authority, shall so notify the parties involved and shall give public notice thereof.

(d) Certification shall be by order of the state regulatory body or by a person having lawful delegated authority under provisions of state law to submit such certification. Said person shall provide in writing a statement that he or she has such authority and shall cite the law, regulation or other instrument conferring such authority.

(e) Notwithstanding any such certification, jurisdiction will revert to this Commission with respect to any individual matter, unless the state takes final action on a complaint regarding such matter:

(1) Within 180 days after the complaint is filed with the state, or

(2) Within the applicable periods prescribed for such final action in such rules and regulations of the state, if the prescribed period does not extend beyond 360 days after the filing of such complaint.

[43 FR 36094, Aug. 15, 1978, as amended at 44 FR 31650, June 1, 1979; 50 FR 18659, May 5, 1985]

### § 1.1415 Other orders.

The Commission may issue such other orders and so conduct its proceedings as will best conduce to the proper dispatch of business and the ends of justice.

### § 1.1416 Imputation of rates; modification costs.

(a) A utility that engages in the provision of telecommunications services or cable services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable under this section.

(b) The costs of modifying a facility shall be borne by all parties that obtain access to the facility as a result of the modification and by all parties that directly benefit from the modification. Each party described in the preceding sentence shall share proportionately in the cost of the modification. A party with a preexisting attachment to the modified facility shall

be deemed to directly benefit from a modification if, after receiving notification of such modification as provided in subpart J of this part, it adds to or modifies its attachment. Notwithstanding the foregoing, a party with a preexisting attachment to a pole, conduit, duct or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment if such rearrangement or replacement is necessitated solely as a result of an additional attachment or the modification of an existing attachment sought by another party. If a party makes an attachment to the facility after the completion of the modification, such party shall share proportionately in the cost of the modification if such modification rendered possible the added attachment.

[61 FR 43025, Aug. 20, 1996; 61 FR 45619, Aug. 29, 1996]

### § 1.1417 Allocation of Unusable Space Costs.

(a) With respect to the formula referenced in § 1.1409(e)(2), a utility shall apportion the cost of providing unusable space on a pole so that such apportionment equals two-thirds of the costs of providing unusable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities.

(b) All attaching entities attached to the pole shall be counted for purposes of apportioning the cost of unusable space.

(c) Utilities may use the following rebuttable presumptive averages when calculating the number of attaching entities with respect to the formula referenced in § 1.1409(e)(2). For non-urbanized service areas (under 50,000 population), a presumptive average number of attaching entities of three (3). For urbanized service areas (50,000 or higher population), a presumptive average number of attaching entities of five (5). If any part of the utility's service area within the state has a designation of urbanized (50,000 or higher population) by the Bureau of Census, United States Department of Commerce, then all of that service area shall be designated as urbanized for purposes of determining the presumptive average number of attaching entities.

(d) A utility may establish its own presumptive average number of attaching entities for its urbanized and non-urbanized service area as follows:

(1) Each utility shall, upon request, provide all attaching entities and all entities seeking access the methodology and information upon which the utilities presumptive average number of attachers is based.

(2) Each utility is required to exercise good faith in establishing and updating its presumptive average number of attachers.

(3) The presumptive average number of attachers may be challenged by an attaching entity by submitting information demonstrating why the utility's presumptive average is incorrect. The attaching entity should also submit what it believes should be the presumptive average and the methodology used. Where a complete inspection is impractical, a statistically sound survey may be submitted.

(4) Upon successful challenge of the existing presumptive average number of attachers, the resulting data determined shall be used by the utility as the presumptive number of attachers within the rate formula.

[63 FR 12026, Mar. 12, 1998, as amended at 66 FR 34581, June 29, 2001]

EFFECTIVE DATE NOTE: At 63 FR 12026, Mar. 12, 1998, § 1.1417 was added. The section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.1418 Use of presumptions in calculating the space factor.

With respect to the formulas referenced in § 1.1409(e)(1) and § 1.1409(e)(2), the space occupied by an attachment is presumed to be one (1) foot. The amount of usable space is presumed to be 13.5 feet. The amount of unusable space is presumed to be 24 feet. The pole height is presumed to be 37.5 feet. These presumptions may be rebutted by either party.

[66 FR 34581, June 29, 2001]

### § 1.1420 Timeline for access to utility poles.

(a) The term ''attachment'' means any attachment by a cable television

system or provider of telecommunications service to a pole owned or controlled by a utility.

(b) All time limits in this subsection are to be calculated according to §1.4.

(c) *Survey*. A utility shall respond as described in §1.1403(b) to a cable operator or telecommunications carrier within 45 days of receipt of a complete application to attach facilities to its utility poles (or within 60 days, in the case of larger orders as described in paragraph (g) of this section). This response may be a notification that the utility has completed a survey of poles for which access has been requested. A complete application is an application that provides the utility with the information necessary under its procedures to begin to survey the poles.

(d) *Estimate*. Where a request for access is not denied, a utility shall present to a cable operator or telecommunications carrier an estimate of charges to perform all necessary make-ready work within 14 days of providing the response required by §1.1420(c), or in the case where a prospective attacher's contractor has performed a survey, within 14 days of receipt by the utility of such survey.

(1) A utility may withdraw an outstanding estimate of charges to perform make-ready work beginning 14 days after the estimate is presented.

(2) A cable operator or telecommunications carrier may accept a valid estimate and make payment anytime after receipt of an estimate but before the estimate is withdrawn.

(e) *Make-ready*. Upon receipt of payment specified in paragraph (d)(2) of this section, a utility shall notify immediately and in writing all known entities with existing attachments that may be affected by the make-ready.

(1) For attachments in the communications space, the notice shall:

(i) Specify where and what make-ready will be performed.

(ii) Set a date for completion of make-ready that is no later than 60 days after notification is sent (or 105 days in the case of larger orders, as described in paragraph (g) of this section).

(iii) State that any entity with an existing attachment may modify the attachment consistent with the specified make-ready before the date set for completion.

(iv) State that the utility may assert its right to 15 additional days to complete make-ready.

(v) State that if make-ready is not completed by the completion date set by the utility (or, if the utility has asserted its 15-day right of control, 15 days later), the cable operator or telecommunications carrier requesting access may complete the specified make-ready.

(vi) State the name, telephone number, and e-mail address of a person to contact for more information about the make-ready procedure.

(2) For wireless attachments above the communications space, the notice shall:

(i) Specify where and what make-ready will be performed.

(ii) Set a date for completion of make-ready that is no later than 90 days after notification is sent (or 135 days in the case of larger orders, as described in paragraph (g) of this section).

(iii) State that any entity with an existing attachment may modify the attachment consistent with the specified make-ready before the date set for completion.

(iv) State that the utility may assert its right to 15 additional days to complete make-ready.

(v) State the name, telephone number, and e-mail address of a person to contact for more information about the make-ready procedure.

(f) For wireless attachments above the communications space, a utility shall ensure that make-ready is completed by the date set by the utility in paragraph (e)(2)(ii) of this section (or, if the utility has asserted its 15-day right of control, 15 days later).

(g) For the purposes of compliance with the time periods in this section:

(1) A utility shall apply the timeline described in paragraphs (c) through (e) of this section to all requests for pole attachment up to the lesser of 300 poles or 0.5 percent of the utility's poles in a state.

(2) A utility may add 15 days to the survey period described in paragraph (c) of this section to larger orders up to

the lesser of 3000 poles or 5 percent of the utility's poles in a state.

(3) A utility may add 45 days to the make-ready periods described in paragraph (e) of this section to larger orders up to the lesser of 3000 poles or 5 percent of the utility's poles in a state.

(4) A utility shall negotiate in good faith the timing of all requests for pole attachment larger than the lesser of 3000 poles or 5 percent of the utility's poles in a state.

(5) A utility may treat multiple requests from a single cable operator or telecommunications carrier as one request when the requests are filed within 30 days of one another.

(h) A utility may deviate from the time limits specified in this section:

(1) Before offering an estimate of charges if the parties have no agreement specifying the rates, terms, and conditions of attachment.

(2) During performance of make-ready for good and sufficient cause that renders it infeasible for the utility to complete the make-ready work within the prescribed time frame. A utility that so deviates shall immediately notify, in writing, the cable operator or telecommunications carrier requesting attachment and other affected entities with existing attachments, and shall include the reason for and date and duration of the deviation. The utility shall deviate from the time limits specified in this section for a period no longer than necessary and shall resume make-ready performance without discrimination when it returns to routine operations.

(i) If a utility fails to respond as specified in paragraph (c) of this section, a cable operator or telecommunications carrier requesting attachment in the communications space may, as specified in § 1.1422, hire a contractor to complete a survey. If make-ready is not complete by the date specified in paragraph (e)(1)(ii) of this section, a cable operator or telecommunications carrier requesting attachment in the communications space may hire a contractor to complete the make-ready:

(1) Immediately, if the utility has failed to assert its right to perform remaining make-ready work by notifying the requesting attacher that it will do so; or

(2) After 15 days if the utility has asserted its right to perform make-ready by the date specified in paragraph (e)(1)(ii) of this section and has failed to complete make-ready.

[76 FR 26640, May 9, 2011]

### § 1.1422 Contractors for survey and make-ready.

(a) A utility shall make available and keep up-to-date a reasonably sufficient list of contractors it authorizes to perform surveys and make-ready in the communications space on its utility poles in cases where the utility has failed to meet deadlines specified in § 1.1420.

(b) If a cable operator or telecommunications carrier hires a contractor for purposes specified in § 1.1420, it shall choose from among a utility's list of authorized contractors.

(c) A cable operator or telecommunications carrier that hires a contractor for survey or make-ready work shall provide a utility with a reasonable opportunity for a utility representative to accompany and consult with the authorized contractor and the cable operator or telecommunications carrier.

(d) The consulting representative of an electric utility may make final determinations, on a nondiscriminatory basis, where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

[76 FR 26640, May 9, 2011]

### § 1.1424 Complaints by incumbent local exchange carriers.

Complaints by an incumbent local exchange carrier (as defined in 47 U.S.C. 251(h)) or an association of incumbent local exchange carriers alleging that a rate, term, or condition for a pole attachment is not just and reasonable shall follow the same complaint procedures specified for other pole attachment complaints in this part, as relevant. In complaint proceedings where an incumbent local exchange carrier (or an association of incumbent local exchange carriers) claims that it is similarly situated to an attacher that is a telecommunications carrier (as defined in 47 U.S.C. 251(a)(5)) or a cable television system

for purposes of obtaining comparable rates, terms or conditions, the incumbent local exchange carrier shall bear the burden of demonstrating that it is similarly situated by reference to any relevant evidence, including pole attachment agreements. If a respondent declines or refuses to provide a complainant with access to agreements or other information upon reasonable request, the complainant may seek to obtain such access through discovery. Confidential information contained in any documents produced may be subject to the terms of an appropriate protective order.

[76 FR 26641, May 9, 2011]

## Subpart K—Implementation of the Equal Access to Justice Act (EAJA) in Agency Proceedings

AUTHORITY: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

SOURCE: 47 FR 3786, Jan. 27, 1982, unless otherwise noted.

GENERAL PROVISIONS

### § 1.1501 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called *the EAJA* in this subpart), provides for the award of attorney's fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called *adversary adjudications*) before the Commission. An eligible party may receive an award when it prevails over the Commission, unless the Commission's position in the proceeding was substantially justified or special circumstances make an award unjust, or when the demand of the Commission is substantially in excess of the decision in the adversary adjudication and is unreasonable when compared with such decision, under the facts and circumstances of the case, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Commission will use to make them.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39898, July 31, 1996]

### § 1.1502 When the EAJA applies.

The EAJA applies to any adversary adjudication pending or commenced before the Commission on or after August 5, 1985. The provisions of § 1.1505(b) apply to any adversary adjudications commenced on or after March 29, 1996.

[61 FR 39898, July 31, 1996]

### § 1.1503 Proceedings covered.

(a) The EAJA applies to adversary adjudications conducted by the Commission. These are adjudications under 5 U.S.C. 554 in which the position of the Commission or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding. Any proceeding in which this Agency may fix a lawful present or future rate is not covered by the EAJA. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise ''adversary adjudications''.

(b) The Commission may designate a proceeding as an adversary adjudication for purposes of the EAJA by so stating in an order initiating the proceeding or designating the matter for hearing. The Commission's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the EAJA; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by the EAJA and matters specifically excluded from coverage, any awards made will include only fees and expenses related to covered issues.

[47 FR 3786, Jan. 27, 1982, as amended at 52 FR 11653, Apr. 10, 1987]

### § 1.1504 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the EAJA, the applicant must be a party, as defined in 5 U.S.C. 551(3), to

the adversary adjudication for which it seeks an award. The applicant must show that it meets all conditions of eligibility set out in this paragraph and in paragraph (b) of this section.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $2 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable association as defined in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees;

(5) Any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than $7 million and not more than 500 employees;

(6) For purposes of §1.1505(b), a small entity as defined in 5 U.S.C. 601.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an ''individual'' rather than a ''sole owner of an unincorporated business'' if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The number of employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the Administrative Law Judge determines that such treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, the Administrative Law Judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

[47 FR 3786, Jan. 27, 1982, as amended at 52 FR 11653, Apr. 10, 1987; 61 FR 39898, July 31, 1996]

### § 1.1505 Standards for awards.

(a) A prevailing party may receive an award for fees and expenses incurred in connection either with an adversary adjudication, or with a significant and discrete substantive portion of an adversary adjudication in which the party has prevailed over the position of the Commission.

(1) The position of the Commission includes, in addition to the position taken by the Commission in the adversary adjudication, the action or failure to act by the agency upon which the adversary adjudication is based.

(2) An award will be reduced or denied if the Commission's position was substantially justified in law and fact, if special circumstances make an award unjust, or if the prevailing party unduly or unreasonably protracted the adversary adjudication.

(b) If, in an adversary adjudication arising from a Commission action to enforce a party's compliance with a statutory or regulatory requirement, the demand of the Commission is substantially in excess of the decision in the adversary adjudication and is unreasonable when compared with that decision, under the facts and circumstances of the case, the party shall be awarded the fees and other expenses

related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. The ''demand'' of the Commission means the express demand which led to the adversary adjudication, but it does not include a recitation by the Commission of the maximum statutory penalty in the administrative complaint, or elsewhere when accompanied by an express demand for a lesser amount.

(c) The burden of proof that an award should not be made is on the appropriate Bureau (see §1.21) whose representative shall be called ''Bureau counsel'' in this subpart K.

[61 FR 39899, July 31, 1996]

### § 1.1506 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00, or for adversary adjudications commenced on or after March 29, 1996, $125.00, per hour. No award to compensate an expert witness may exceed the highest rate at which the Commission pays expert witnesses. However, an award may also include the reasonable expenses of the attorney; agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges its clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the Administrative Law Judge shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the service provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(e) Fees may be awarded only for work performed after designation of a proceeding or after issuance of a show cause order.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39899, July 31, 1996]

### § 1.1507 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Commission may adopt regulations providing that attorney fees may be awarded at a rate higher than $125.00 per hour in some or all of the types of proceedings covered by this part. The Commission will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act.

(b) Any person may file with the Commission a petition for rulemaking to increase the maximum rate for attorney fees, in accordance with subpart C of this chapter. The petition should identify the rate the petitioner believes this agency should establish and the types of proceedings in which the rate should be used. It should also explain fully the reasons why the higher rate is warranted. This agency will respond to the petition by initiating a rulemaking proceeding, denying the petition, or taking other appropriate action.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39899, July 31, 1996]

### § 1.1508 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Commission and takes a position that is not substantially justified, the

award or an appropriate portion of the award shall be made against that agency. Counsel for that agency shall be treated as Bureau counsel for the purpose of this subpart.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39899, July 31, 1996]

INFORMATION REQUIRED FROM APPLICANTS

### § 1.1511 Contents of application.

(a) An application for an award of fees and expenses under EAJA shall dentify the applicant and the proceeding for which an award is sought. Unless the applicant is an individual, the application shall state the number of employees of the applicant and describe briefly the type and purpose of its organization or business. The application shall also:

(1) Show that the applicant has prevailed and identify the position of an agency or agencies in the proceeding that the applicant alleges was not substantially justified; or

(2) Show that the demand by the agency or agencies in the proceeding was substantially in excess of, and was unreasonable when compared with, the decision in the proceeding.

(b) The application shall also include a declaration that the applicant is a small entity as defined in 5 U.S.C. 601 or a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates). However, an applicant may omit the statement concerning its net worth if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

[47 FR 3786, Jan. 27, 1982, as amended at 52 FR 11653, Apr. 10, 1987; 61 FR 39899, July 31, 1996]

### § 1.1512 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 1.1504(f) of this part) at the time the proceeding was designated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this subpart. The Administrative Law Judge may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the Administrative Law Judge in a sealed enevelope labeled ''Confidential Financial Information'', accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosue of the information would adversely affect the

applicant, and why disclosure is not required in the public interest. The material in question shall be served on Bureau counsel, but need not be served on any other party to the proceeding. If the Administrative Law Judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act, §§ 0.441 through 0.466 of this chapter.

### § 1.1513 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The Administrative Law Judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39899, July 31, 1996]

### § 1.1514 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, or when the demand of the Commission is substantially in excess of the decision in the proceeding, but in no case later than 30 days after the Commission's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, *final disposition* means the later of

(1) The date on which an initial decision or other recommended disposition of the merits of the proceeding by an Administrative Law Judge becomes administratively final;

(2) Issuance of an order disposing of any petitions for reconsideration of the Commission's order in the proceeding;

(3) If no petition for reconsideration is filed, the last date on which such petition could have been filed;

(4) Issuance of a final order by the Commission or any other final resolution of a proceeding, such as settlement or voluntary dismissal, which is not subject to a petition for reconsideration, or to a petition for judicial review; or

(5) Completion of judicial action on the underlying controversy and any subsequent Commission action pursuant to judicial mandate.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39899, July 31, 1996]

## PROCEDURES FOR CONSIDERING APPLICATIONS

### § 1.1521 Filing and service of documents.

Any application for an award or other pleading relating to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 1.1512(b) for confidential financial information.

### § 1.1522 Answer to application.

(a) Within 30 days after service of an application Bureau counsel may file an answer to the application. Unless Bureau counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award request.

(b) If Bureau counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time

for filing an answer for an additional 30 days, and further extensions may be granted by the Administrative Law Judge upon request by Bureau counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of Bureau counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, Bureau counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 1.1526.

**§ 1.1523 Reply.**

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 1.1526.

**§ 1.1524 Comments by other parties.**

Any party to a proceeding other than the applicant and Bureau counsel may file comments on an application within 30 days after it is served or an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the Administrative Law Judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39899, July 31, 1996]

**§ 1.1525 Settlement.**

The applicant and Bureau counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and Bureau counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement. If the Administrative Law Judge approves the proposed settlement, it shall be forwarded to the Commission for final approval.

**§ 1.1526 Further proceedings.**

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or Bureau counsel, or on his or her own initiative, the Administrative Law Judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or, as to issues other than excessive demand or substantial justification, an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible. Whether or not the position of the agency embodied an excessive demand or was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.

(b) A request that the Administrative Law Judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

[47 FR 3786, Jan. 27, 1982, as amended at 52 FR 11653, Apr. 10, 1987; 61 FR 39899, July 31, 1996]

**§ 1.1527 Decision.**

The Administrative Law Judge shall issue an initial decision on the application as soon as possible after completion of proceedings on the application. The decision shall include written findings and conclusions regarding the applicant's eligibility and whether the applicant was a prevailing party or whether the demand by the agency or agencies in the proceeding was substantially in excess of, and was unreasonable when compared with, the decision in the adversary adjudication, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the Commission's position substantially justified, whether the applicant unduly protracted the

proceedings, committed a willful violation of law, or otherwise acted in bad faith, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

[61 FR 39900, July 31, 1996]

### § 1.1528 Commission review.

Either the applicant or Bureau counsel may seek Commission review of the initial decision on the application, or the Commission may decide to review the decision on its own initiative, in accordance with §§ 1.276 through 1.282 of this chapter. Except as provided in § 1.1525, if neither the applicant nor Bureau counsel seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the Commission 50 days after it is issued. Whether to review a decision is a matter within the discretion of the Commission. If review is taken, the Commission will issue a final decision on the application or remand the application to the Administrative Law Judge for further proceedings.

[47 FR 3786, Jan. 27, 1982, as amended at 61 FR 39900, July 31, 1996]

### § 1.1529 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

### § 1.1530 Payment of award.

An applicant seeking payment of an award from the Commission shall submit to the General Counsel a copy of the Commission's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts, or a copy of the court's order directing payment. The Commission will pay the amount awarded to the applicant unless judicial review of the award or the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

## Subpart L—Random Selection Procedures for Mass Media Services

AUTHORITY: 47 U.S.C. 309(i).

SOURCE: 48 FR 27202, June 13, 1983, unless otherwise noted.

GENERAL PROCEDURES

### § 1.1601 Scope.

The provisions of this subpart, and the provisions referenced herein, shall apply to applications for initial licenses or construction permits or for major changes in the facilities of authorized stations in the following services:

(a)–(b) [Reserved]

[48 FR 27202, June 13, 1983, as amended at 63 FR 48622, Sept. 11, 1998]

### § 1.1602 Designation for random selection.

Applications in the services specified in § 1.1601 shall be tendered, accepted or dismissed, filed, publicly noted and subject to random selection and hearing in accordance with any relevant rules. Competing applications for an initial license or construction permit shall be designated for random selection and hearing in accordance with the procedures set forth in §§ 1.1603 through 1.1623 and § 73.3572 of this chapter.

### § 1.1603 Conduct of random selection.

The random selection probabilities will be calculated in accordance with the formula set out in rules §§ 1.1621 through 1.1623.

[48 FR 27202, June 13, 1983, as amended at 48 FR 43330, Sept. 23, 1983]

### § 1.1604 Post-selection hearings.

(a) Following the random selection, the Commission shall announce the ''tentative selectee'' and, where permitted by § 73.3584 invite Petitions to Deny its application.

(b) If, after such hearing as may be necessary, the Commission determines that the ''tentative selectee'' has met the requirements of § 73.3591(a) it will make the appropriate grant. If the Commission is unable to make such a

determination, it shall order that another random selection be conducted from among the remaining mutually exclusive applicants, in accordance with the provisions of this subpart.

(c) If, on the basis of the papers before it, the Commission determines that a substantial and material question of fact exists, it shall designate that question for hearing. Hearings may be conducted by the Commission or, in the case of a matter which requires oral testimony for its resolution, an Administrative Law Judge.

[48 FR 27202, June 13, 1983, as amended at 63 FR 48622, Sept. 11, 1998]

### § 1.1621 Definitions.

(a) *Medium of mass communications* means:

(1) A daily newspaper;

(2) A cable television system; and

(3) A license or construction permit for

(i) A television station, including low power TV or TV translator,

(ii) A standard (AM) radio station,

(iii) An FM radio station,

(iv) A direct broadcast satellite transponder under the editorial control of the licensee, and

(v) A Multipoint Distribution Service station.

(b) *Minority group* means:

(1) Blacks,

(2) Hispanics

(3) American Indians,

(4) Alaska Natives,

(5) Asians, and

(6) Pacific Islanders.

(c) *Owner* means the applicant and any individual, partnership, trust, unincorporated association, or corporation which:

(1) If the applicant is a proprietorship, is the proprietor,

(2) If the applicant is a partnership, holds any partnership interest,

(3) If the applicant is a trust, is the beneficiary thereof,

(4) If the applicant is an unincorporated association or non-stock corporation, is a member, or, in the case of a nonmembership association or corporation, a director,

(5) If the applicant is a stock corporation, is the beneficial owner of voting shares.

NOTE 1: For purposes of applying the diversity preference to such entities only the other ownership interests of those with a 1% or more beneficial interest in the entity will be cognizable.

NOTE 2: For the purposes of this section, a daily newspaper is one which is published four or more days per week, which is in the English language, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

NOTE 3: For the purposes of applying the diversity preference, the ownership interests of the spouse of an applicant's principal will not presumptively be attributed to the applicant.

[48 FR 27202, June 13, 1983, as amended at 50 FR 5992, Feb. 13, 1985]

### § 1.1622 Preferences.

(a) Any applicant desiring a perference in the random selection shall so indicate as part of its application. Such an applicant shall list any owner who owns all or part of a medium of mass communications or who is a member of a minority group, together with a precise identification of the ownership interest held in such medium of mass communications or name of the minority group, respectively. Such an applicant shall also state whether more than 50% of the ownership interests in it are held by members of minority groups and the number of media of mass communications more than 50% of whose ownership interests are held by the applicant and/or its owners.

(b) Preference factors as incorporated in the percentage calculations in § 1.1623, shall be granted as follows:

(1) Applicants, more than 50% of whose ownership interests are held by members of minority groups—2:1.

(2) Applicants whose owners in the aggregate hold more than 50% of the ownership interests in no other media of mass communications—2:1.

(3) Applicants whose owners in the aggregate hold more than 50% of the ownership interest in one, two or three other media of mass communications—1.5:1.

(c) Applicants may receive preferences pursuant to § 1.1622(b)(1) and either § 1.1622 (b)(2) or (b)(3).

(d) Preferences will be determined on the basis of ownership interests as of the date of release of the latest Public

Notice announcing the acceptance of the last-filed mutually exclusive application.

(e) No preferences pursuant to § 1.1622 (b)(2) or (b)(3) shall be granted to any LPTV or MDS applicant whose owners, when aggregated, have an ownership interest of more than 50 percent in the following media of mass communications, if the service areas of those media as described herein wholly encompass or are encompassed by the protected predicted contour, computed in accordance with § 74.707(a), of the low power TV or TV translator station for which the license or permit is sought, or computed in accordance with § 21.902(d), of the MDS station for which the license or permit is sought.

(1) AM broadcast station—predicted or measured 2 mV/m groundwave contour, computed in accordance with § 73.183 or § 73.186;

(2) FM broadcast station—predicted 1 mV/m contour, computed in accordance with § 73.313;

(3) TV broadcast station—Grade A contour, computed in accordance with § 73.684;

(4) Low power TV or TV translator station—protected predicted contour, computed in accordance with § 74.707(a);

(5) Cable television system franchise area, nor will the diversity preference be available to applicants whose proposed transmitter site is located within the franchise area of a cable system in which its owners, in the aggregate, have an ownership interest of more than 50 percent.

(6) Daily newspaper community of publication, nor will the diversity preference be available to applicants whose proposed transmitter site is located within the community of publication of a daily newspaper in which its owners, in the aggregate, have an ownership interest of more than 50 percent.

(7) Multipoint Distribution Service—station service area, computed in accordance with § 21.902(d).

[48 FR 27202, June 13, 1983, as amended at 50 FR 5992, Feb. 13, 1985; 50 FR 11161, Mar. 20, 1985]

### § 1.1623 Probability calculation.

(a) All calculations shall be computed to no less than three significant digits. Probabilities will be truncated to the number of significant digits used in a particular lottery.

(b) Divide the total number of applicants into 1.00 to determine pre-preference probabilities.

(c) Multiply each applicant's pre-preference probability by the applicable preference from § 1.1622 (b)(2) or (b)(3).

(d) Divide each applicant's probability pursuant to paragraph (c) of this section by the sum of such probabilities to determine intermediate probabilities.

(e) Add the intermediate probabilities of all applicants who received a preference pursuant to § 1.1622 (b)(2) or (b)(3).

(f)(1) If the sum pursuant to paragraph (e) of this section is .40 or greater, proceed to paragraph (g) of this section.

(2) If the sum pursuant to paragraph (e) of this section is less than .40, then multiply each such intermediate probability by the ratio of .40 to such sum. Divide .60 by the number of applicants who did not receive a preference pursuant to § 1.1622 (b)(2) or (b)(3) to determine their new intermediate probabilities.

(g) Multiply each applicant's probability pursuant to paragraph (f) of this section by the applicable preference ratio from § 1.1622(b)(1).

(h) Divide each applicant's probability pursuant to paragraph (g) of this section by the sum of such probabilities to determine the final selection percentage.

## Subpart M—Cable Operations and Licensing System (COALS)

SOURCE: 68 FR 27001, May 19, 2003, unless otherwise noted.

### § 1.1701 Purpose.

To provide electronic filing of applications, notifications, registration statements, reports, and related documents in the Multichannel Video and Cable Television Services and the Cable Television Relay Services.

### § 1.1702 Scope.

This subpart applies to filings required by §§ 76.403, 76.1610, 76.1801,

76.1803, & 76.1804, and 78.11 through 78.36 of this chapter.

**§ 1.1703 Definitions.**

For purposes of this subpart, the following definitions apply:

(a) *Application*. A request on Form 327 for a station license as defined in Section 3(b) of the Communications Act, completed in accordance with § 78.15 and signed in accordance with § 78.16 of this chapter, or a similar request to amend a pending application or to modify or renew an authorization. The term also encompasses requests to assign rights granted by the authorization or to transfer control of entities holding authorizations.

(b) *Authorization*. A written instrument issued by the FCC conveying authority to operate, for a specified period, a station in the Cable Television Relay Service. In addition, this term includes authority conveyed by operation of rule upon filing notification of aeronautical frequency usage by MVPDs or registration statements by cable operators.

(c) *Cable Operations And Licensing System (COALS)*. The consolidated database, application filing system, and processing system for Multichannel Video and Cable Television Services (MVCTS) and the Cable Television Relay Service (CARS). COALS supports electronic filing of all applications, notifications, registrations, reports, and related documents by applicants and licensees in the MVCTS and CARS, and provides public access to licensing information.

(d) *Cable Television Relay Service (CARS)*. All services authorized under part 78 of this title.

(e) *Filings*. Any application, notification, registration statement, or report in plain text or, when as prescribed, on FCC Forms 320, 321, 322, 324, 325, or 327, whether filed in paper form or electronically.

(f) *Multichannel Video and Cable Television Services (MVCTS)*. All services authorized or operated in accordance with part 76 of this title.

(g) *Receipt date*. The date an electronic or paper application is received at the appropriate location at the Commission or the lock box bank. Major amendments to pending applications as defined in § 78.109 of this chapter, will result in the assignment of a new receipt date.

(h) *Signed*. For manually filed applications only, an original hand-written signature. For electronically filed applications only, an electronic signature. An electronic signature shall consist of the name of the applicant transmitted electronically via COALS and entered on the filing as a signature.

**§ 1.1704 Station files.**

Applications, notifications, correspondence, electronic filings and other material, and copies of authorizations, comprising technical, legal, and administrative data relating to each system in the Multichannel Video and Cable Television Services (MVCTS) and the Cable Television Relay Service (CARS) are maintained by the Commission in COALS and the Public Reference Room. These files constitute the official records for these stations and supersede any other records, database or lists from the Commission or other sources.

**§ 1.1705 Forms; electronic and manual filing.**

(a) *Application forms*. Operators in the Multichannel Video and Cable Television Services (MVCTS) and applicants and licensees the Cable Television Relay Service (CARS) shall use the following forms and associated schedules:

(1) *FCC Form 320, Basic Signal Leakage Performance Report*. FCC Form 320 is used by MVPDs to report compliance with the basic signal leakage performance criteria.

(2) *FCC Form 321, Aeronautical Frequency Notification*. FCC Form 321 is used by MVPDs to notify the Commission prior to operating channels in the aeronautical frequency bands.

(3) *FCC Form 322, Cable Community Registration*. FCC Form 322 is used by cable system operators to commence operation for each community unit.

(4) *FCC Form 324, Operator, Address, and Operational Information Changes*. FCC Form 324 is used by cable operators to notify the Commission of changes in administrative data about the operator and operational status changes.

(5) *FCC Form 325, Cable Television System Report.* FCC Form 325 is used by cable operators to report general information and signal and frequency distribution data.

(6) *FCC Form 327, Application for Cable Television Relay Service Station License.* FCC Form 327 and associated schedules is used to apply for initial authorizations, modifications to existing authorizations, amendments to pending applications, and renewals of station authorizations. FCC Form 327 is also used to apply for Commission consent to assignments of existing CARS authorizations and to apply for Commission consent to the transfer of control of entities holding CARS authorizations.

(b) *Electronic filing.* Six months after the Commission announces their availability for electronic filing, all applications and other filings using FCC Forms 320, 321, 322, 324, 325, and 327 and their respective associated schedules must be filed electronically in accordance with the electronic filing instructions provided by COALS.

(1) There will be two ways for parties to electronically file applications with the Commission: batch and interactive.

(i) *Batch filing.* Batch filing involves data transmission in a single action. Batch filers will follow a set Commission format for entering data. Batch filers will then send, via file transfer protocol, batches of data to the Commission for compiling. COALS will compile such filings overnight and respond the next business day with a return or dismissal of any defective filings. Thus, batch filers will not receive immediate correction from the system as they enter the information.

(ii) *Interactive filing.* Interactive filing involves data transmission with screen-by-screen prompting from the Commission's COALS system. Interactive filers will receive prompts from the system identifying data entries outside the acceptable ranges of data for the individual fields at the time the data entry is made.

(2) Attachments to applications must be uploaded along with the electronically filed application whenever possible.

(3) Any associated documents submitted with an application must be uploaded as attachments to the application whenever possible. The attachment should be uploaded via COALS in Adobe Acrobat Portable Document Format (PDF) whenever possible.

(c) *Manual filing.* (1) Forms 320, 321, 322, 324, 325, and 327 may be filed manually.

(2) Manual filings must be submitted to the Commission at the appropriate address with the appropriate filing fee. The addresses for filing and the fee amounts for particular applications are listed in subpart G of this part, and in the appropriate fee filing guide for each service available from the Commission's Forms Distribution Center by calling 1–800–418–FORM (3676). The form may be downloaded from the Commission's Web site: *http://www.fcc.gov.*

(3) Manual filings requiring fees as set forth at subpart G, of this part must be filed in accordance with § 0.401(b) of this chapter.

(4) Manual filings that do not require fees must be addressed and sent to the Media Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

(5) FCC forms may be reproduced and the copies used in accordance with the provisions of § 0.409 of this chapter.

(d) *Applications requiring prior coordination.* Parties filing applications that require frequency coordination shall, prior to filing, complete all applicable frequency coordination requirements in § 78.36 of this chapter.

### § 1.1706 Content of filings.

(a) *General.* Filings must contain all information requested on the applicable form and any additional information required by the rules in this title and any rules pertaining to the specific service for which the filing is made.

(b) *Antenna locations.* Applications for CARS stations and aeronautical frequency usage notifications must describe each transmitting antenna site or center of the cable system, respectively, by its geographical coordinates. Geographical coordinates must be specified in degrees, minutes, and seconds to the nearest tenth of a second of latitude and longitude. Submissions must provide such data using the NAD83 datum.

(c) *Antenna structure registration.* Owners of certain antenna structures must notify the Federal Aviation Administration and register with the Commission as required by Part 17 of this chapter. Applications proposing the use of one or more new or existing antenna structures must contain the FCC Antenna Registration Number(s) of each structure for which registration is required. If registration is not required, the applicant must provide information in its application sufficient for the Commission to verify this fact.

(d) *Environmental concerns.* Each applicant is required to indicate at the time its application is filed whether a Commission grant of the application may have a significant environmental effect, as defined by § 1.1307. If yes, an Environmental Assessment, required by § 1.1311, must be filed with the application and environmental review by the Commission must be completed prior to construction.

(e) *International coordination.* Channel assignments and usage under part 78 are subject to the applicable provisions and requirements of treaties and other international agreements between the United States government and the governments of Canada and Mexico.

(f) *Taxpayer Identification Number (TINs).* All filers are required to provide their Taxpayer Identification Numbers (TINS) (as defined in 26 U.S.C. 6109) to the Commission, pursuant to the Debt Collection Improvement Act of 1996 (DCIA). Under the DCIA, the FCC may use an applicant or licensee's TIN for purposes of collecting and reporting to the Department of the Treasury any delinquent amounts arising out of such person's relationship with the Government.

### § 1.1707 Acceptance of filings.

Regardless of filing method, all submissions with an insufficient fee, grossly deficient or inaccurate information, or those without a valid signature will be dismissed immediately. For any submission that is found subsequently to have minimally deficient or inaccurate information, we will notify the filer of the defect. We will allow 15 days from the date of this notification for correction or amendment of the submission if the amendment is minor. If the applicant files a timely corrected application, it will ordinarily be processed as a minor amendment in accordance with the Commission's rules. Thus it will have no effect on the initial filing date of the application or the applicant's filing priority. If, however, the amendment made by the applicant is not a simple correction, but constitutes a major amendment to the application, it will be governed by the rules and procedures applicable to major amendments, that is, it will be treated as a new application with a new filing date and new fees must be paid by the applicant. Finally, if the applicant fails to submit an amended application within the period specified in the notification, the application will be subject to dismissal for failure to prosecute.

## Subpart N—Enforcement of Nondiscrimination on the Basis of Disability In Programs or Activities Conducted By the Federal Communications Commission

SOURCE: 68 FR 22316, Apr. 28, 2003, unless otherwise noted.

### § 1.1801 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 (section 504) to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

### § 1.1802 Applications.

This part applies to all programs or activities conducted by the Federal Communications Commission. The programs or activities of entities that are licensed or certified by the Federal Communications Commission are not covered by these regulations.

### § 1.1803 Definitions.

For purposes of this part, the term—

*Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Commission. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TTY/TDDs), interpreters, Computer-aided realtime transcription (CART), captioning, notetakers, written materials, and other similar services and devices.

*Commission* means Federal Communications Commission.

*Complete complaint* means a written statement, or a complaint in audio, Braille, electronic, and/or video format, that contains the complainant's name and address and describes the Commission's alleged discriminatory action in sufficient detail to inform the Commission of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. The signature of the complainant, or signature of someone authorized by the complainant to do so on his or her behalf, shall be provided on print complaints. Complaints in audio, Braille, electronic, and/or video formats shall contain an affirmative identity statement of the individual, which for this purpose shall be considered to be functionally equivalent to a complainant's signature. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property.

*General Counsel* means the General Counsel of the Federal Communications Commission.

*Individual with a disability* means any individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) *Physical or mental impairment* includes, but is not limited to—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) Diseases and conditions such as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(2) *Major life activities* include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Commission as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Commission as having such impairment.

*Managing Director* means the individual delegated authority as described in 47 CFR 0.11.

*Programs or Activities* mean any activity of the Commission permitted or required by its enabling statutes, including but not limited to any licensing or certification program, proceeding, investigation, hearing, meeting, board or committee.

*Qualified individual with a disability* means—

(1) With respect to any Commission program or activity under which an individual is required to perform services or to achieve a level of accomplishment, an individual with a disability who, with or without reasonable modification to rules, policies, or practices or the provision of auxiliary aids, meets the essential eligibility requirements for participation in the program or activity and can achieve the purpose of the program or activity; or

(2) With respect to any other program or activity, an individual with a disability who, with or without reasonable modification to rules, policies, or practices or the provision of auxiliary aids, meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; or

(3) The definition of that term as defined for purposes of employment in 29 CFR 1630.2(m), which is made applicable to this part by § 1.1840.

*Section 504* means section 504 of the Rehabilitation Act of 1973, Public Law 93–112, 87 Stat. 394, 29 U.S.C. 794, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93–516, 88 Stat. 1617, and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Public Law 95–602, 92 Stat. 2955, and the Rehabilitation Act Amendments of 1986, sec. 103(d), Public Law 99–506, 100 Stat. 1810. As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

*Section 504 Officer* is the Commission employee charged with overseeing the Commission's section 504 programs and activities.

**§ 1.1805 Federal Communications Commission Section 504 Programs and Activities Accessibility Handbook.**

The Consumer & Governmental Affairs Bureau shall publish a ''Federal Communications Commission Section 504 Programs and Activities Accessibility Handbook'' (''Section 504 Handbook'') for Commission staff, and shall update the Section 504 Handbook as necessary and at least every three years. The Section 504 Handbook shall be available to the public in hard copy upon request and electronically on the Commission's Internet website. The Section 504 Handbook shall contain procedures for releasing documents, holding meetings, receiving comments, and for other aspects of Commission programs and activities to achieve accessibility. These procedures will ensure that the Commission presents a consistent and complete accommodation policy pursuant to 29 U.S.C. 794, as amended. The Section 504 Handbook is for internal staff use and public information only, and is not intended to create any rights, responsibilities, or independent cause of action against the Federal Government.

**§ 1.1810 Review of compliance.**

(a) The Commission shall, beginning in 2004 and at least every three years thereafter, review its current policies and practices in view of advances in relevant technology and achievability. Based on this review, the Commission shall modify its practices and procedures to ensure that the Commission's programs and activities are fully accessible.

(b) The Commission shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the review process by submitting comments. Written comments shall be signed by the commenter or by someone authorized to do so on his or her behalf. The signature of the commenter, or signature of someone authorized by the commenter to do so on his or her behalf, shall be provided on print comments. Comments in audio, Braille, electronic, and/or video formats shall contain an affirmative identity statement of the individual, which

for this purpose shall be considered to be functionally equivalent to a commenter's signature.

(c) The Commission shall maintain on file and make available for public inspection for four years following completion of the compliance review—

(1) A description of areas examined and problems identified;

(2) All comments and complaints filed regarding the Commission's compliance; and

(3) A description of any modifications made.

### § 1.1811 Notice.

The Commission shall make available to employees, applicants, participants, beneficiaries, and other interested persons information regarding the regulations set forth in this part, and their applicability to the programs or activities conducted by the Commission. The Commission shall make such information available to such persons in such manner as the Section 504 Officer finds necessary to apprise such persons of the protections against discrimination assured them by section 504.

### § 1.1830 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b) Discriminatory actions prohibited.

(1) The Commission, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The Commission may not deny a qualified individual with a disability the opportunity to participate in any program or activity even where the Commission is also providing equivalent permissibly separate or different programs or activities for persons with disabilities.

(3) The Commission may not, directly or through contractual or other arrangements, utilize criteria or methods of administration—

(i) That have the purpose or effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability; or

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(4) The Commission may not, in determining the site or location of a facility, make selections—

(i) That have the purpose or effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity conducted by the Commission; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(5) The Commission, in the selection of procurement contractors, may not

use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) The Commission may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may the Commission establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the Commission are not, themselves, covered by this part.

(7) The Commission shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Commission can demonstrate that making the modifications would fundamentally alter the nature of the program, service, or activity.

(c) This part does not prohibit the exclusion of persons without disabilities from the benefits of a program limited by Federal statute or Executive order to individuals with disabilities, or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive order to a different class of individuals with disabilities.

(d) The Commission shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

**§ 1.1840 Employment.**

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, as established by the Equal Employment Opportunity Commission in 29 CFR parts 1614 and 1630, as well as the procedures set forth in the Basic Negotiations Agreement Between the Federal Communications Commission and National Treasury Employees Union, as amended, and Subchapter III of the Civil Service Reform Act of 1978, 5 U.S.C. 7121(d), shall apply to employment in federally conducted programs or activities.

**§ 1.1849 Program accessibility: Discrimination prohibited.**

(a) Except as otherwise provided in § 1.1850, no qualified individual with a disability shall, because the Commission's facilities are inaccessible to, or unusable, by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b) Individuals shall request accessibility to the Commission's programs and facilities by contacting the Commission's Section 504 Officer. Such contact may be made in the manner indicated in the FCC Section 504 Handbook. The Commission will make every effort to provide accommodations requiring the assistance of other persons (e.g., American Sign Language interpreters, communication access realtime translation (CART) providers, transcribers, captioners, and readers) if the request is made to the Commission's Section 504 Officer a minimum of five business days in advance of the program. If such requests are made fewer than five business days prior to an event, the Commission will make every effort to secure accommodation services, although it may be less likely that the Commission will be able to secure such services.

**§ 1.1850 Program accessibility: Existing facilities.**

(a) *General.* Except as otherwise provided in this paragraph, the Commission shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require the Commission to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require the Commission to take any action that it can demonstrate

would result in a fundamental alteration in the nature of a program or activity, or in undue financial and administrative burdens. In those circumstances where Commission personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Commission has the burden of proving that compliance with § 1.1850(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Managing Director, in consultation with the Section 504 Officer, after considering all Commission resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the Commission shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

(b) *Methods.* The Commission may comply with the requirements of this section through such means as the redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. The Commission is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The Commission, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Commission shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(c) *Time period for compliance.* The Commission shall comply with the obligations established under this section within sixty (60) days of the effective date of this subpart, except that where structural changes in facilities are undertaken, such changes shall be made within three (3) years of the effective date of this part.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Commission shall develop, within six (6) months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete such changes. The Commission shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transitional plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the Commission's facilities that limit the accessibility of its programs or activities to individuals with disabilities;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one (1) year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

### § 1.1851 Building accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the Commission shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with disabilities. The definitions, requirements and standards of the Architectural Barriers Act, 42 U.S.C. 4151–4157, as established

in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

**§ 1.1870 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs or activities conducted by the Commission.

(b) The Commission shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791.

(c) Complaints alleging violation of section 504 with respect to the Commission's programs and activities shall be addressed to the Managing Director and filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TWB–204, Washington, DC 20554.

(d) *Acceptance of complaint.* (1) The Commission shall accept and investigate all complete complaints, as defined in § 1.1803 of this part, for which it has jurisdiction. All such complaints must be filed within one-hundred eighty (180) days of the alleged act of discrimination. The Commission may extend this time period for good cause.

(2) If the Commission receives a complaint that is not complete as defined in § 1.1803 of this part, the complainant will be notified within thirty (30) days of receipt of the incomplete complaint that additional information is needed. If the complainant fails to complete the complaint within thirty (30) days of receipt of this notice, the Commission shall dismiss the complaint without prejudice.

(e) If the Commission receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Commission shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151–4157, is not readily accessible to and usable by individuals with disabilities.

(g) Within one-hundred eighty (180) days of the receipt of a complete complaint, as defined in § 1.1803, for which it has jurisdiction, the Commission shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within ninety (90) days of receipt from the Commission of the letter required by § 1.1870(g). The Commission may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TWB–204, Washington, DC 20554.

(j) The Commission shall notify the complainant of the results of the appeal within sixty (60) days of the receipt of the appeal request. If the Commission determines that it needs additional information from the complainant, and requests such information, the Commission shall have sixty (60) days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in (g) and (j) of this section may be extended with the permission of the General Counsel.

(l) The Commission may delegate its authority for conducting complaint investigations to other federal agencies, except that the authority for making the final determination may not be delegated to another agency.

## Subpart O—Collection of Claims Owed the United States

AUTHORITY: 31 U.S.C. 3701; 31 U.S.C. 3711 *et seq.*; 5 U.S.C. 5514; sec. 8(1) of E.O. 11609 (3 CFR, 1971–1975 Comp., p.586); redesignated in sec. 2–1 of E.O. 12107; (3 CFR, 1978 Comp., p. 264); 31 CFR parts 901–904; 5 CFR part 550.

SOURCE: 69 FR 27848, May 17, 2004, unless otherwise noted.

GENERAL PROVISIONS

**§ 1.1901 Definitions and construction.**

For purposes of this subpart:

(a) The term *administrative offset* means withholding money payable by the United States Government to, or held by the Government for, a person, organization, or entity to satisfy a debt the person, organization, or entity owes the Government.

(b) The term *agency* or *Commission* means the Federal Communications Commission (including the Universal Service Fund, the Telecommunications Relay Service Fund, and any other reporting components of the Commission) or any other agency of the U.S. Government as defined by section 105 of title 5 U.S.C., the U.S. Postal Service, the U.S. Postal Rate Commission, a military department as defined by section 102 of title 5 U.S.C., an agency or court of the judicial branch, or an agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives.

(c) The term *agency head* means the Chairman of the Federal Communications Commission.

(d) The term *application* includes in addition to petitions and applications elsewhere defined in the Commission's rules, any request, as for assistance, relief, declaratory ruling, or decision, by the Commission or on delegated authority.

(e) The terms *claim* and *debt* are deemed synonymous and interchangeable. They refer to an amount of money, funds, or property that has been determined by an agency official to be due to the United States from any person, organization, or entity, except another Federal agency. For purposes of administrative offset under 31 U.S.C. 3716, the terms ''claim'' and ''debt'' include an amount of money, funds, or property owed by a person to a State, the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico. ''Claim'' and ''debt'' include amounts owed to the United States on account of extension of credit or loans made by, insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, taxes, and forfeitures issued after a notice of apparent liability that have been partially paid or for which a court of competent jurisdiction has order payment and such order is final (except those arising under the Uniform Code of Military Justice), and other similar sources.

(f) The term *creditor agency* means the agency to which the debt is owed.

(g) The term *debt collection center* means an agency of a unit or subagency within an agency that has been designated by the Secretary of the Treasury to collect debt owed to the United States. The Financial Management Service (FMS), Fiscal Service, United States Treasury, is a debt collection center.

(h) The term *demand letter* includes written letters, orders, judgments, and memoranda from the Commission or on delegated authority.

(i) The term ''*delinquent*'' means a claim or debt which has not been paid by the date specified by the agency unless other satisfactory payment arrangements have been made by that date, or, at any time thereafter, the debtor has failed to satisfy an obligation under a payment agreement or instrument with the agency, or pursuant to a Commission rule. For purposes of this subpart only, an installment payment under 47 CFR 1.2110(g) will not be considered deliquent until the expiration of all applicable grace periods and any other applicable periods under Commission rules to make the payment due. The rules set forth in this subpart in no way affect the Commission's rules, as may be amended, regarding payment for licenses (including installment, down, or final payments) or automatic cancellation of Commission licenses (see 47 CFR 1.1902(f)).

(j) The term *disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. Agencies must exclude

deductions described in 5 CFR 581.105(b) through (f) to determine disposable pay subject to salary offset.

(k) The term *employee* means a current employee of the Commission or of another agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserve).

(l) The term *entity* includes natural persons, legal associations, applicants, licensees, and regulatees.

(m) The term *FCCS* means the Federal Claims Collection Standards jointly issued by the Secretary of the Treasury and the Attorney General of the United States at 31 CFR parts 900–904.

(n) The term *paying agency* means the agency employing the individual and authorizing the payment of his or her current pay.

(o) The term *referral for litigation* means referral to the Department of Justice for appropriate legal proceedings except where the Commission has the statutory authority to handle the litigation itself.

(p) The term *reporting component* means any program, account, or entity required to be included in the Agency's Financial Statements by generally accepted accounting principles for Federal Agencies.

(q) The term *salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(r) The term *waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt or fee, including, but not limited to, a debt due to the United States, by an entity or an employee to an agency and as the waiver is permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 31 U.S.C. 3711, or any other law.

(s) Words in the plural form shall include the singular, and vice-versa, and words signifying the masculine gender shall include the feminine, and vice-versa. The terms *includes* and *including* do not exclude matters not listed but do include matters of the same general class.

**§ 1.1902 Exceptions.**

(a) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated or settled in accordance with regulations published under the authority of 31 U.S.C. 3726 (see 41 CFR part 101–41).

(b) Claims arising out of acquisition contracts subject to the Federal Acquisition Regulations (FAR) shall be determined, collected, compromised, terminated, or settled in accordance with those regulations. (See 48 CFR part 32). If not otherwise provided for in the FAR, contract claims that have been the subject of a contracting officer's final decision in accordance with section 6(a) of the Contract Disputes Act of 1978 (41 U.S.C. 605(a)), may be determined, collected, compromised, terminated or settled under the provisions of this regulation, except that no additional review of the debt shall be granted beyond that provided by the contracting officer in accordance with the provisions of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605), and the amount of any interest, administrative charge, or penalty charge shall be subject to the limitations, if any, contained in the contract out of which the claim arose.

(c) Claims based in whole or in part on conduct in violation of the antitrust laws, or in regard to which there is an indication of fraud, the presentation of a false claim, or a misrepresentation on the part of the debtor or any other party having an interest in the claim, shall be referred to the Department of Justice (DOJ) as only the DOJ has authority to compromise, suspend, or terminate collection action on such claims. The standards in the FCCS relating to the administrative collection of claims do apply, but only to the extent authorized by the DOJ in a particular case. Upon identification of a claim based in whole or in part on conduct in violation of the antitrust laws or any claim involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, the Commission shall promptly refer the case to the Department of Justice for action. At its discretion, the DOJ may return the claim to the

forwarding agency for further handling in accordance with the standards in the FCCS.

(d) Tax claims are excluded from the coverage of this regulation.

(e) The Commission will attempt to resolve interagency claims by negotiation in accordance with Executive Order 12146 (3 CFR 1980 Comp., pp. 409–412).

(f) Nothing in this subpart shall supercede or invalidate other Commission rules, such as the part 1 general competitive bidding rules (47 CFR part 1, subpart Q) or the service specific competitive bidding rules, as may be amended, regarding the Commission's rights, including but not limited to the Commission's right to cancel a license or authorization, obtain judgment, or collect interest, penalties, and administrative costs.

### § 1.1903 Use of procedures.

Procedures authorized by this regulation (including, but not limited to, disclosure to a consumer reporting agency, contracting for collection services, administrative offset and salary offset) may be used singly or in combination, so long as the requirements of applicable law and regulation are satisfied.

### § 1.1904 Conformance to law and regulations.

The requirements of applicable law (31 U.S.C. 3701–3719, as amended by Public Law 97–365, 96 Stat. 1749 and Public Law 104–134, 110 Stat. 1321, 1358) have been implemented in government-wide standards which include the Regulations of the Office of Personnel Management (5 CFR part 550) and the Federal Claims Collection Standards issued jointly by the Secretary of the Treasury and the Attorney General of the United States (31 CFR parts 900–904). Not every item in the previous sentence described standards has been incorporated or referenced in this regulation. To the extent, however, that circumstances arise which are not covered by the terms stated in these regulations, the Commission will proceed in any actions taken in accordance with applicable requirements found in the standards referred to in this section.

### § 1.1905 Other procedures; collection of forfeiture penalties.

Nothing contained in these regulations is intended to require the Commission to duplicate administrative or other proceedings required by contract or other laws or regulations, nor do these regulations supercede procedures permitted or required by other statutes or regulations. In particular, the assessment and collection of monetary forfeitures imposed by the Commission will be governed initially by the procedures prescribed by 47 U.S.C. 503, 504 and 47 CFR 1.80. After compliance with those procedures, the Commission may determine that the collection of a monetary forfeiture under the collection alternatives prescribed by this subpart is appropriate but need not duplicate administrative or other proceedings. Fees and penalties prescribed by law, e.g., 47 U.S.C. 158 and 159, and promulgated under the authority of 47 U.S.C. 309(j) (e.g., 47 CFR part 1, subpart Q) may be collected as permitted by applicable law. Nothing contained herein is intended to restrict the Commission from exercising any other right to recover or collect amounts owed to it.

### § 1.1906 Informal action.

Nothing contained in these regulations is intended to preclude utilization of informal administrative actions or remedies which may be available (including, e.g., Alternative Dispute Resolution), and/or for the Commission to exercise rights as agreed to among the parties in written agreements, including notes and security agreements.

### § 1.1907 Return of property or collateral.

Nothing contained in this regulation is intended to deter the Commission from exercising any other right under law or regulation or by agreement it may have or possess, or to exercise its authority and right as a regulator under the Communications Act of 1934, as amended, and the Commission's rules, and demanding the return of specific property or from demanding, as a non-exclusive alternative, either the return of property or the payment of its value or the amount due the United States under any agreement or Commission rule.

**§ 1.1908 Omissions not a defense.**

The failure or omission of the Commission to comply with any provision in this regulation shall not serve as a defense to any debtor.

**§ 1.1909 [Reserved]**

**§ 1.1910 Effect of insufficient fee payments, delinquent debts, or debarment.**

(a)(1) An application (including a petition for reconsideration or any application for review of a fee determination) or request for authorization subject to the FCC Registration Number (FRN) requirement set forth in subpart W of this chapter will be examined to determine if the applicant has paid the appropriate application fee, appropriate regulatory fees, is delinquent in its debts owed the Commission, or is debarred from receiving Federal benefits (*see*, *e.g.*, 31 CFR 285.13; 47 CFR part 1, subpart P).

(2) Fee payments, delinquent debt, and debarment will be examined based on the entity's taxpayer identifying number (TIN), supplied when the entity acquired or was assigned an FRN. See 47 CFR 1.8002(b)(1).

(b)(1) Applications by any entity found not to have paid the proper application or regulatory fee will be handled pursuant to the rules set forth in 47 CFR part 1, subpart G.

(2) Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission (see § 1.1901(j)), unless otherwise provided for in this regulation, e.g., 47 CFR 1.1928 (employee petition for a hearing). The entity will be informed that action will be withheld on the application until full payment or arrangement to pay any non-tax delinquent debt owed to the Commission is made and/or that the application may be dismissed. See the provisisons of §§ 1.1108, 1.1109, 1.1116 and 1.1118. Any Commission action taken prior to the payment of delinquent non-tax debt owed to the Commission is contingent and subject to recission. Failure to make payment on any delinquent debt is subject to collection of the debt, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act, 31 U.S.C. 3717.

(3) If a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days of the date of the notice provided pursuant to paragraph (b)(2) of this section, the application or request for authorization will be dismissed.

(i) The provisions of paragraphs (b)(2) and (b)(3) of this section will not apply if the applicant has timely filed a challenge through an administrative appeal or a contested judicial proceeding either to the existence or amount of the non-tax delinquent debt owed the Commission.

(ii) The provisions of paragraphs (b)(2) and (b)(3) of this section will not apply where more restrictive rules govern treatment of delinquent debtors, such as 47 CFR 1.2105(a)(2)(x) and (xi).

(c)(1) Applications for emergency or special temporary authority involving safety of life or property (including national security emergencies) or involving a brief transition period facilitating continuity of service to a substantial number of customers or end users, will not be subject to the provisions of paragraphs (a) and (b) of this section. However, paragraphs (a) and (b) will be applied to permanent authorizations for these services.

(2) Provisions of paragraph (a) and (b) of this section will not apply to application or requst for authorization to which 11 U.S.C. 525(a) is applicable.

[69 FR 57230, Sept. 24, 2004]

ADMINISTRATIVE OFFSET—CONSUMER REPORTING AGENCIES—CONTRACTING FOR COLLECTION

**§ 1.1911 Demand for payment.**

(a) Written demand as described in paragraph (b) of this section, and which may be in the form of a letter, order, memorandum, or other form of written communication, will be made promptly upon a debtor of the United States in terms that inform the debtor of the consequences of failing to cooperate to resolve the debt. The specific content, timing, and number of demand letters

depend upon the type and amount of the debt, including, e.g., any notes and the terms of agreements of the parties, and the debtor's response, if any, to the Commission's letters or telephone calls. One demand letter will be deemed sufficient. In determining the timing of the demand letter(s), the Commission will give due regard to the need to refer debts promptly to the Department of Justice for litigation, in accordance with the FCCS. When necessary to protect the Government's interest (for example, to prevent the expiration of a statute of limitations), written demand may be preceded by other appropriate actions under the FCCS, including immediate referral for litigation. The demand letter does not provide an additional period within to challenge the existence of, or amount of the non-tax debt if such time period has expired under Commission rules or other applicable limitation periods. Nothing contained herein is intended to limit the Commission's authority or discretion as may otherwise be permitted to collect debts owed.

(b) The demand letter will inform the debtor of:

(1) The basis for the indebtedness and the opportunities, if any, of the debtor to request review within the Commission;

(2) The applicable standards for assessing any interest, penalties, and administrative costs (§§ 1.1940 and 1.1941);

(3) The date by which payment is to be made to avoid late charges and enforced collection, which normally will not be more than 30 days from the date that the initial demand letter was mailed or hand-delivered; and

(4) The name, address, and phone number of a contact person or office within the Commission.

(c) The Commission will expend all reasonable effort to ensure that demand letters are mailed or hand-delivered on the same day that they are dated. As provided for in any agreement among parties, or as may be required by exigent circumstances, the Commission may use other forms of delivery, including, e.g., facsimile telecopier or electronic mail. There is no prescribed format for demand letters. The Commission utilizes demand letters and procedures that will lead to the earliest practicable determination of whether the debt can be resolved administratively or must be referred for litigation.

(d) The Commission may, as circumstances and the nature of the debt permit, include in demand letters such items as the Commission's willingness to discuss alternative methods of payment; its policies with respect to the use of credit bureaus, debt collection centers, and collection agencies; the Commission's remedies to enforce payment of the debt (including assessment of interest, administrative costs and penalties, administrative garnishment, the use of collection agencies, Federal salary offset, tax refund offset, administrative offset, and litigation); the requirement that any debt delinquent for more than 180 days be transferred to the Department of the Treasury for collection; and, depending on applicable statutory authority, the debtor's entitlement to consideration of a waiver. Where applicable, the debtor will be provided with a period of time (normally not more than 15 calendar days) from the date of the demand in which to exercise the opportunity to request a review.

(e) The Commission will respond promptly to communications from the debtor, within 30 days whenever feasible, and will advise debtors who dispute the debt that they must furnish available evidence to support their contentions.

(f) Prior to the initiation of the demand process or at any time during or after completion of the demand process, if the Commission determines to pursue, or is required to pursue, offset, the procedures applicable to offset in §§ 1.1912 and 1.1913, as applicable, will be followed. The availability of funds or money for debt satisfaction by offset and the Commission's determination to pursue collection by offset shall release the Commission from the necessity of further compliance with paragraphs (a), (b), (c), and (d) of this section.

(g) Prior to referring a debt for litigation, the Commission will advise each person determined to be liable for the debt that, unless the debt can be collected administratively, litigation may be initiated. This notification will follow the requirements of Executive

Order 12988 (3 CFR, 1996 Comp., pp. 157–163) and may be given as part of a demand letter under paragraph (b) of this section or in a separate document. Litigation counsel for the Government will be advised that this notice has been given.

(h) When the Commission learns that a bankruptcy petition has been filed with respect to a debtor, before proceeding with further collection action, the Commission may immediately seek legal advice from its counsel concerning the impact of the Bankruptcy Code on any pending or contemplated collection activities. Unless the Commission determines that the automatic stay imposed at the time of filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect, in most cases collection activity against the debtor should stop immediately.

(1) After seeking legal advice, a proof of claim will be filed in most cases with the bankruptcy court or the Trustee. The Commission will refer to the provisions of 11 U.S.C. 106 relating to the consequences on sovereign immunity of filing a proof of claim.

(2) If the Commission is a secured creditor, it may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. 362.

(3) Offset is stayed in most cases by the automatic stay. However, the Commission will determine from its counsel whether its payments to the debtor and payments of other agencies available for offset may be frozen by the Commission until relief from the automatic stay can be obtained from the bankruptcy court. The Commission will also determine from its counsel whether recoupment is available.

### § 1.1912 Collection by administrative offset.

(a) *Scope.* (1) The term *administrative offset* has the meaning provided in § 1.1901.

(2) This section does not apply to:

(i) Debts arising under the Social Security Act, except as provided in 42 U.S.C. 404;

(ii) Payments made under the Social Security Act, except as provided for in 31 U.S.C. 3716(c) (see 31 CFR 285.4, Federal Benefit Offset);

(iii) Debts arising under, or payments made under, the Internal Revenue Code (see 31 CFR 285.2, Tax Refund Offset) or the tariff laws of the United States;

(iv) Offsets against Federal salaries to the extent these standards are inconsistent with regulations published to implement such offsets under 5 U.S.C. 5514 and 31 U.S.C. 3716 (see 5 CFR part 550, subpart K, and 31 CFR 285.7, Federal Salary Offset);

(v) Offsets under 31 U.S.C. 3728 against a judgment obtained by a debtor against the United States;

(vi) Offsets or recoupments under common law, State law, or Federal statutes specifically prohibiting offsets or recoupments of particular types of debts; or

(vii) Offsets in the course of judicial proceedings, including bankruptcy.

(3) Unless otherwise provided for by contract or law, debts or payments that are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(4) Unless otherwise provided by law, administrative offset of payments under the authority of 31 U.S.C. 3716 to collect a debt may not be conducted more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect such debts. This limitation does not apply to debts reduced to a judgment.

(5) In bankruptcy cases, the Commission will seek legal advice from its counsel concerning the impact of the Bankruptcy Code, particularly 11 U.S.C. 106, 362, and 553, on pending or contemplated collections by offset.

(b) *Mandatory centralized administrative offset.* (1) The Commission is required to refer past due, legally enforceable nontax debts which are over 180 days delinquent to the Treasury for collection by centralized administrative offset. Debts which are less than 180 days delinquent also may be referred to the Treasury for this purpose.

*See* FCCS for debt certification requirements.

(2) The names and taxpayer identifying numbers (TINs) of debtors who owe debts referred to the Treasury as described in paragraph (b)(1) of this section shall be compared to the names and TINs on payments to be made by Federal disbursing officials. Federal disbursing officials include disbursing officials of Treasury, the Department of Defense, the United States Postal Service, other Government corporations, and disbursing officials of the United States designated by the Treasury. When the name and TIN of a debtor match the name and TIN of a payee and all other requirements for offset have been met, the payment will be offset to satisfy the debt.

(3) Federal disbursing officials will notify the debtor/payee in writing that an offset has occurred to satisfy, in part or in full, a past due, legally enforceable delinquent debt. The notice shall include a description of the type and amount of the payment from which the offset was taken, the amount of offset that was taken, the identity of the creditor agency requesting the offset, and a contact point within the creditor agency who will respond to questions regarding the offset.

(4)(i) Before referring a delinquent debt to the Treasury for administrative offset, and subject to any agreement and/or waiver to the contrary by the debtor, the Commission shall ensure that offsets are initiated only after the debtor:

(A) Has been sent written notice of the type and amount of the debt, the intention of the Commission to use administrative offset to collect the debt, and an explanation of the debtor's rights under 31 U.S.C. 3716; and

(B) The debtor has been given:

(*1*) The opportunity to request within 15 days of the date of the written notice, after which opportunity is deemed waived, by the debtor, to inspect and copy Commission records related to the debt;

(*2*) The opportunity, unless otherwise waived by the debtor, for a review within the Commission of the determination of indebtedness; and

(*3*) The opportunity to request within 15 days of the date of the written notice, after which the opportunity is deemed waived by the debtor, for the debtor to make a written agreement to repay the debt.

(ii) The Commission may omit the procedures set forth in paragraph (b)(4)(i) of this section when:

(A) The offset is in the nature of a recoupment;

(B) The debt arises under a contract as set forth in Cecile Industries, Inc. v. Cheney, 995 F.2d 1052 (Fed. Cir. 1993) (notice and other procedural protections set forth in 31 U.S.C. 3716(a) do not supplant or restrict established procedures for contractual offsets accommodated by the Contracts Disputes Act); or

(C) In the case of non-centralized administrative offsets conducted under paragraph (c) of this section, the Commission first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review are omitted, the Commission shall give the debtor such notice and an opportunity for review as soon as practicable and shall promptly refund any money ultimately found not to have been owed to the Government.

(iii) When the Commission previously has given a debtor any of the required notice and review opportunities with respect to a particular debt (*see* 31 CFR 901.2), the Commission need not duplicate such notice and review opportunities before administrative offset may be initiated.

(5) Before the Commission refers delinquent debts to the Treasury, the Office of Managing Director must certify, in a form acceptable to the Treasury, that:

(i) The debt(s) is (are) past due and legally enforceable; and

(ii) The Commission has complied with all due process requirements under 31 U.S.C. 3716(a) and its regulations.

(6) Payments that are prohibited by law from being offset are exempt from centralized administrative offset. The Treasury shall exempt payments under

means-tested programs from centralized administrative offset when requested in writing by the head of the payment certifying or authorizing agency. Also, the Treasury may exempt other classes of payments from centralized offset upon the written request of the head of the payment certifying or authorizing agency.

(7) Benefit payments made under the Social Security Act (42 U.S.C. 301 *et seq.*), part B of the Black Lung Benefits Act (30 U.S.C. 921 *et seq.*), and any law administered by the Railroad Retirement Board (other than tier 2 benefits), may be offset only in accordance with Treasury regulations, issued in consultation with the Social Security Administration, the Railroad Retirement Board, and the Office of Management and Budget. *See* 31 CFR 285.4.

(8) In accordance with 31 U.S.C. 3716(f), the Treasury may waive the provisions of the Computer Matching and Privacy Protection Act of 1988 concerning matching agreements and post-match notification and verification (5 U.S.C. 552a(o) and (p)) for centralized administrative offset upon receipt of a certification from a creditor agency that the due process requirements enumerated in 31 U.S.C. 3716(a) have been met. The certification of a debt in accordance with paragraph (b)(5) of this section will satisfy this requirement. If such a waiver is granted, only the Data Integrity Board of the Department of the Treasury is required to oversee any matching activities, in accordance with 31 U.S.C. 3716(g). This waiver authority does not apply to offsets conducted under paragraphs (c) and (d) of this section.

(c) *Non-centralized administrative offset.* (1) Generally, non-centralized administrative offsets are ad hoc case-by-case offsets that the Commission conducts, at the Commission's discretion, internally or in cooperation with the agency certifying or authorizing payments to the debtor. Unless otherwise prohibited by law, when centralized administrative offset is not available or appropriate, past due, legally enforceable nontax delinquent debts may be collected through non-centralized administrative offset. In these cases, a creditor agency may make a request directly to a payment-authorizing agency to offset a payment due a debtor or to collect a delinquent debt. For example, it may be appropriate for a creditor agency to request that the Office of Personnel Management (OPM) offset a Federal employee's lump-sum payment upon leaving Government service to satisfy an unpaid advance.

(2) The Commission will make reasonable effort to ensure that such offsets may occur only after:

(i) The debtor has been provided due process as set forth in paragraph (b)(4) of this section (subject to any waiver by the debtor); and

(ii) The payment authorizing agency has received written certification from the Commission that the debtor owes the past due, legally enforceable delinquent debt in the amount stated, and that the creditor agency has fully complied with its regulations concerning administrative offset.

(3) Payment authorizing agencies shall comply with offset requests by creditor agencies to collect debts owed to the United States, unless the offset would not be in the best interests of the United States with respect to the program of the payment authorizing agency, or would otherwise be contrary to law. Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by administrative offset.

(4) When collecting multiple debts by non-centralized administrative offset, agencies should apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, particularly the applicable statute of limitations.

[69 FR 27848, May 17, 2004, as amended at 76 FR 24393, May 2, 2011]

### § 1.1913 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

Upon providing the Office of Personnel Management (OPM) with written certification that a debtor has been afforded the procedures provided in § 1.1912(b)(4), the Commission may request OPM to offset a debtor's anticipated or future benefit payments under the Civil Service Retirement and Disability Fund (Fund) in accordance with

regulations codified at 5 CFR 831.1801–831.1808. Upon receipt of such a request, OPM will identify and ''flag'' a debtor's account in anticipation of the time when the debtor requests, or becomes eligible to receive, payments from the Fund. This will satisfy any requirement that offset be initiated prior to the expiration of the time limitations referenced in § 1.1914(a)(4).

**§ 1.1914 Collection in installments.**

(a) Subject to the Commission's rules pertaining to the installment loan program (*see e.g.*, 47 CFR § 1.2110(g)), subpart Q or other agreements among the parties, the terms of which will control, whenever feasible, the Commission shall collect the total amount of a debt in one lump sum. If a debtor is financially unable to pay a debt in one lump sum, the Commission, in its sole discretion, may accept payment in regular installments. The Commission will obtain financial statements from debtors who represent that they are unable to pay in one lump sum and which are able to verify independently such representations (*see* 31 CFR 902.2(g)). The Commission will require and obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement, including, as appropriate, sureties and other indicia of creditworthiness (*see* Federal Credit Reform Act of 1990, 2 U.S.C. 661, *et seq.*, OMB Circular A–129), and that contains a provision accelerating the debt in the event of default.

(b) The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments will be sufficient in size and frequency to liquidate the debt in three years or less.

(c) Security for deferred payments will be obtained in appropriate cases. The Commission may accept installment payments notwithstanding the refusal of the debtor to execute a written agreement or to give security, at the Commission's option.

(d) The Commission may deny the extension of credit to any debtor who fails to provide the records requested or fails to show an ability to pay the debt.

**§ 1.1915 Exploration of compromise.**

The Commission may attempt to effect compromise, preferably during the course of personal interviews, in accordance with the standards set forth in part 902 of the Federal Claims Collection Standards (31 CFR part 902). The Commission will also consider a request submitted by the debtor to compromise the debt. Such requests should be submitted in writing with full justification of the offer and addressing the bases for compromise at 31 CFR 902.2. Debtors will provide full financial information to support any request for compromise based on the debtor's inability to pay the debt. Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds $100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the Department of Justice. The Commission will evaluate an offer, using the factors set forth in 31 CFR 902.2 and, as appropriate, refer the offer with the appropriate financial information to the Department of Justice. Department of Justice approval is not required if the Commission rejects a compromise offer.

**§ 1.1916 Suspending or terminating collection action.**

The suspension or termination of collection action shall be made in accordance with the standards set forth in part 903 of the Federal Claims Collection Standards (31 CFR part 903).

**§ 1.1917 Referrals to the Department of Justice and transfer of delinquent debt to the Secretary of Treasury.**

(a) Referrals to the Department of Justice shall be made in accordance with the standards set forth in part 904 of the Federal Claims Collection Standards (31 CFR part 904).

(b) The DCIA includes separate provisions governing the requirements that the Commission transfer delinquent debts to Treasury for general collection purposes (cross-servicing) in accordance with 31 U.S.C. 3711(g)(1) and (2), and notify Treasury of delinquent debts for the purpose of administrative offset in accordance with 31 U.S.C.

3716(c)(6). Title 31, U.S.C. 3711(g)(1) requires the Commission to transfer to Treasury all collection activity for a given debt. Under section 3711(g), Treasury will use all appropriate debt collection tools to collect the debt, including referral to a designated debt collection center or private collection agency, and administrative offset. Once a debt has been transferred to Treasury pursuant to the procedures at 31 CFR 285.12, the Commission will cease all collection activity related to that debt.

(c) All non-tax debts of claims owed to the Commission that have been delinquent for a period of 180 days shall be transferred to the Secretary of the Treasury. Debts which are less than 180 days delinquent may also be referred to the Treasury. Upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim. A debt is past-due if it has not been paid by the date specified in the Commission's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made.

**§ 1.1918 Use of consumer reporting agencies.**

(a) The term *individual* means a natural person, and the term *consumer reporting agency* has the meaning provided in the Federal Claims Collection Act, as amended, 31 U.S.C. 3701(a)(3) or the Fair Credit Reporting Act, 15 U.S.C. 168a(f).

(b) The Commission may disclose to a consumer reporting agency, or provide information to the Treasury who may disclose to a consumer reporting agency from a system of records, information that an individual is responsible for a claim. System information includes, for example, name, taxpayer identification number, business and home address, business and home telephone numbers, the amount of the debt, the amount of unpaid principle, the late period, and the payment history. Before the Commission reports the information, it will:

(1) Provide notice required by section 5 U.S.C. 552a(e)(4) that information in the system may be disclosed to a consumer reporting agency;

(2) Review the claim to determine that it is valid and overdue;

(3) Make reasonable efforts using information provided by the debtor in Commission files to notify the debtor, unless otherwise specified under the terms of a contract or agreement—

(i) That payment of the claim is overdue;

(ii) That, within not less than 60 days from the date of the notice, the Commission intends to disclose to a consumer reporting agency that the individual is responsible for that claim;

(iii) That information in the system of records may be disclosed to the consumer reporting agency; and

(iv) That unless otherwise specified and agreed to in an agreement, contract, or by the terms of a note and/or security agreement, or that the debt arises from the nonpayment of a Commission fee, penalty, or other statutory or regulatory obligations, the individual will be provided with an explanation of the claim, and, as appropriate, procedures to dispute information in the records of the agency about the claim, and to administrative appeal or review of the claim; and

(4) Review Commission records to determine that the individual has not—

(i) Repaid or agreed to repay the claim under a written repayment plan agreed to and signed by both the individual and the Commission's representative; or, if eligible; and

(ii) Filed for review of the claim under paragraph (g) of this section;

(c) The Commission shall: (1) Disclose to each consumer reporting agency to which the original disclosure was made a substantial change in the condition or amount of the claim;

(2) Verify or correct promptly information about the claim, on request of a consumer reporting agency for verification of any or all information so disclosed; and

(3) Obtain assurances from each consumer reporting agency that they are complying with all laws of the United States relating to providing consumer credit information.

(d) The Commission shall ensure that information disclosed to the consumer reporting agency is limited to—

(1) Information necessary to establish the identity of the individual, including name, address, and taxpayer identification number;

(2) The amount, status, and history of the claim; and

(3) The agency or program under which the claim arose.

(e) All accounts in excess of $100 that have been delinquent more than 31 days will normally be referred to a consumer reporting agency.

(f) Under the same provisions as described in paragraph (b) of this section, the Commission may disclose to a credit reporting agency, information relating to a debtor other than a natural person. Such commercial debt accounts are not covered by the Privacy Act. Moreover, commercial debt accounts are subject to the Commission's rules concerning debt obligation, including part 1 rules related to auction debt, and the agreements of the parties.

### § 1.1919 Contracting for collection services.

(a) Subject to the provisions of paragraph (b) of this section, the Commission may contract with private collection contractors, as defined in 31 U.S.C. 3701(f), to recover delinquent debts. In that regard, the Commission:

(1) Retains the authority to resolve disputes, compromise debts, suspend or terminate collection activity, and refer debts for litigation;

(2) Restricts the private collection contractor from offering, as an incentive for payment, the opportunity to pay the debt less the private collection contractor's fee unless the Commission has granted such authority prior to the offer;

(3) Specifically requires, as a term of its contract with the private collection contractor, that the private collection contractor is subject to the Privacy Act of 1974 to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and state laws and regulations pertaining to debt collection practices, including but not limited to the Fair Debt Collection Practices Act, 15 U.S.C. 1692; and

(4) The private collection contractor is required to account for all amounts collected.

(b) Although the Commission will use government-wide debt collection contracts to obtain debt collection services provided by private collection contractors, the Commission may refer debts to private collection contractors pursuant to a contract between the Commission and the private collection contractor in those situations where the Commission is not required to transfer debt to the Secretary of the Treasury for debt collection.

(c) Agencies may fund private collection contractor in accordance with 31 U.S.C. 3718(d), or as otherwise permitted by law.

(d) The Commission may enter into contracts for locating and recovering assets of the United States, such as unclaimed assets, but it will first establish procedures that are acceptable to Treasury before entering into contracts to recover assets of the United States held by a state government or a financial institution.

(e) The Commission may enter into contracts for debtor asset and income search reports. In accordance with 31 U.S.C. 3718(d), such contracts may provide that the fee a contractor charges the Commission for such services may be payable from the amounts recovered, unless otherwise prohibited by statute. In that regard, fees for those services will be added to the amount collected and are part of the administrative collection costs passed on to the debtor. *See* § 1.1940.

### §§ 1.1920–1.1924 [Reserved]

SALARY OFFSET-INDIVIDUAL DEBT

### § 1.1925 Purpose.

Sections 1.1925 through 1.1939 apply to individuals who are employees of the Commission and provides the standards to be followed by the Commission in implementing 5 U.S.C. 5514; sec. 8(1) of E.O. 11609 (3 CFR, 1971–1975 Comp., p.586); redesignated in sec. 2–1 of E.O. 12107 (3 CFR, 1978 Comp., p.264) to recover a debt from the pay account of a Commission employee. It also establishes procedural guidelines to recover debts when the employee's creditor and paying agencies are not the same.

**§ 1.1926 Scope.**

(a) *Coverage*. This section applies to the Commission and employees as defined by § 1.1901.

(b) *Applicability*. This section and 5 U.S.C. 5514 apply in recovering certain debts by offset, except where the employee consents to the recovery, from the current pay account of that employee. Because it is an administrative offset, debt collection procedures for salary offset which are not specified in 5 U.S.C. 5514 and these regulations should be consistent with the provisions of the Federal Claims Collection Standards (31 CFR parts 900–904).

(1) *Excluded debts or claims*. The procedures contained in this section do not apply to debts or claims arising under the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*) or the tariff laws of the United States, or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(2) Section 1.1926 does not preclude an employee from requesting waiver of an erroneous payment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a debt, in the manner prescribed by the Commissioner. Similarly, this subpart does not preclude an employee from requesting waiver of the collection of a debt under any other applicable statutory authority.

(c) *Time limit*. Under 31 CFR 901.3(a)(4) offset may not be initiated more than 10 years after the Government's right to collect the debt first accrued, unless an exception applies as stated in section 901.3(a)(4).

**§ 1.1927 Notification.**

(a) Salary offset deductions will not be made unless the Managing Director of the Commission, or the Managing Director's designee, provides to the employee at least 30 days before any deduction, written notice stating at a minimum:

(1) The Commission's determination that a debt is owed, including the origin, nature, and amount of the debt;

(2) The Commission's intention to collect the debt by means of deduction from the employee's current disposable pay account;

(3) The frequency and amount of the intended deduction (stated as a fixed dollar amount or as a percentage of pay, not to exceed 15 percent of disposable pay) and the intention to continue the deductions until the debt is paid in full or otherwise resolved;

(4) An explanation of the Commission's policy concerning interest, penalties, and administrative costs (*See* §§ 1.1940 and 1.1941), a statement that such assessments must be made unless excused in accordance with the FCCS;

(5) The employee's right to inspect and copy Government records relating to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records.

(6) If not previously provided, the opportunity (under terms agreeable to the Commission) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the Managing Director (or designee) of the Commission and documented in Commission files (see the FCCS).

(7) The employee's right to a hearing conducted by an official arranged by the Commission (an administrative law judge, or alternatively, a hearing official not under the control of the head of the Commission) if a petition is filed as prescribed by this subpart.

(8) The method and time period for petitioning for a hearing;

(9) That the timely filing of a petition for hearing will stay the commencement of collection proceedings;

(10) That the final decision in the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(11) That any knowingly false, misleading, or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under Chapter 75 of title 5, U.S.C., part 752 of title 5, Code of Federal Regulations, or any other applicable statutes or regulations.

(ii) Penalties under the False Claims Act sections 3729–3731 of title 31, U.S.C., or any other applicable statutory authority; or

(iii) Criminal penalties under sections 286, 287, 1001, and 1002 of title 18, U.S.C., or any other applicable statutory authority.

(12) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(13) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

(b) Notifications under this section shall be hand delivered with a record made of the date of delivery, or shall be mailed by certified mail, return receipt requested.

(c) No notification, hearing, written responses or final decisions under this regulation are required by the Commission for:

(1) Any adjustment to pay arising out of an employee's election of coverage, or change in coverage, under a Federal benefit program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less;

(2) A routine intra-Commission adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and point of contact for contesting such adjustment; or

(3) Any adjustment to collect a debt amounting to $50 or less, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

**§ 1.1928 Hearing.**

(a) *Petition for hearing.* (1) An employee may request a hearing by filing a written petition with the Managing Director of the Commission, or designated official stating why the employee believes the determination of the Commission concerning the existence or the amount of the debt is in error.

(2) The employee's petition must be executed under penalty of perjury by the employee and fully identify and explain with reasonable specificity all the facts, evidence and witnesses, if any, which the employee believes support his or her position.

(3) The petition must be filed no later than fifteen (15) calendar days from the date that the notification was hand delivered or the date of delivery by certified mail, return receipt requested.

(4) If a petition is received after the fifteenth (15) calendar day deadline referred to paragraph (a) (3) of this section, the Commission will nevertheless accept the petition if the employee can show, in writing, that the delay was due to circumstances beyond his or her control, or because of failure to receive notice of the time limit (unless otherwise aware of it).

(5) If a petition is not filed within the time limit specified in paragraph (a) (3) of this section, and is not accepted pursuant to paragraph (a)(4) of this section, the employee's right to hearing will be considered waived, and salary offset will be implemented by the Commission.

(b) *Type of hearing.* (1) The form and content of the hearing will be determined by the hearing official who shall be a person outside the control or authority of the Commission except that nothing herein shall be construed to prohibit the appointment of an administrative law judge by the Commission. In determining the type of hearing, the hearing officer will consider the nature and complexity of the transaction giving rise to the debt. The hearing may be conducted as an informal conference or interview, in which the Commission and employee will be given a full opportunity to present their respective

positions, or as a more formal proceeding involving the presentation of evidence, arguments and written submissions.

(2) The employee may represent him or herself, or may be represented by an attorney.

(3) The hearing official shall maintain a summary record of the hearing.

(4) The decision of the hearing officer shall be in writing, and shall state:

(i) The facts purported to evidence the nature and origin of the alleged debt;

(ii) The hearing official's analysis, findings, and conclusions, in the light of the hearing, as to—

(A) The employee's and/or agency's grounds,

(B) The amount and validity of the alleged debt, and,

(C) The repayment schedule, if applicable.

(5) The decision of the hearing official shall constitute the final administrative decision of the Commission.

### § 1.1929 Deduction from employee's pay.

(a) Deduction by salary offset, from an employee's current disposable pay, shall be subject to the following conditions:

(1) Ordinarily, debts to the United States will be collected in full, in one lump sum. This will be done when funds are available for payment in one lump sum. However, if the employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposable pay for an officially established pay interval, collection must be made in installments.

(2) The size of the installment deductions will bear a reasonable relationship to the size of the debt and the employee's ability to pay (*see* the FCCS). However, the installments will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount.

(3) Deduction will generally commence with the next full pay interval (ordinarily the next biweekly pay period) following the date: of the employee's written consent to salary offset, the waiver of hearing, or the decision issued by the hearing officer.

(4) Installment deductions will be pro-rated for a period not greater than the anticipated period of employment except as provided in § 1.1930.

### § 1.1930 Liquidation from final check or recovery from other payment.

(a) If the employee retires or resigns or if his or her employment or period of active duty ends before collection of the debt is completed, offset of the entire remaining balance of the debt may be made from a final payment of any nature, including, but not limited to a final salary payment or lump-sum leave due the employee as the date of separation, to such extent as is necessary to liquidate the debt.

(b) If the debt cannot be liquidated by offset from a final payment, offset may be made from later payments of any kind due from the United States, including, but not limited to, the Civil Service Retirement and Disability Fund, pursuant to § 1.1913.

### § 1.1931 Non-waiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless statutory or contractual provisions provide to the contrary.

### § 1.1932 Refunds.

(a) Refunds shall promptly be made when—(1) A debt is waived or otherwise found not owing to the United States (unless expressly prohibited by statute or regulation); or

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

(b) Refunds do not bear interest unless required or permitted by law or contract.

### § 1.1933 Interest, penalties and administrative costs.

The assessment of interest, penalties and administrative costs shall be in accordance with §§ 1.1940 and 1.1941.

**§ 1.1934 Recovery when the Commission is not creditor agency.**

(a) *Responsibilities of creditor agency.* Upon completion of the procedures established under 5 U.S.C. 5514, the creditor agency must do the following:

(1) Must certify, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is due, the date of the Government's right to collect the debt first accrued, and that the creditor agency's regulations implementing 5 U.S.C. 5514 have been approved by OPM.

(2) If the collection must be made in installments, the creditor agency also must advise the Commission of the number of installments to be collected, the amount of each installment, and the commencement date of the first installment (if a date other than the next officially established pay period is required).

(3) Unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures, and the written consent or statement is forwarded to the Commission, the creditor agency also must advise the Commission of the action(s) taken under 5 U.S.C. 5514(b) and give the date(s) the action(s) was taken.

(4) Except as otherwise provided in this paragraph, the creditor agency must submit a debt claim containing the information specified in paragraphs (a)(1) through (a)(3) of this section and an installment agreement (or other instruction on the payment schedule), if applicable to the Commission.

(5) If the employee is in the process of separating, the creditor agency must submit its claim to the Commission for collection pursuant to § 1.1930. The Commission will certify the total amount of its collection and provide copies to the creditor agency and the employee as stated in paragraph (c)(1) of this section. If the Commission is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that there has been full compliance with the provisions of this section. However, the creditor agency must submit a properly certified claim to the agency responsible for making such payments before collection can be made.

(6) If the employee is already separated and all payments from the Commission have been paid, the creditor agency may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR 831.1801 *et seq.*), or other similar funds, be administratively offset to collect the debt. (31 U.S.C. 3716 and 4 CFR 102.4)

(b) *Responsibilities of the Commission*—(1) *Complete claim.* When the Commission receives a properly certified debt claim from a creditor agency, deductions should be scheduled to begin prospectively at the next official established pay interval. The Commission will notify the employee that the Commission has received a certified debt claim from the creditor agency (including the amount) and written notice of the date deductions from salary will commence and of the amount of such deductions.

(2) *Incomplete claim.* When the Commission receives an incomplete debt claim from a creditor agency, the Commission will return the debt claim with a notice that procedures under 5 U.S.C. 5514 and this subpart must be provided, and a properly certified debt claim received, before action will be taken to collect from the employee's current pay account.

(3) *Review.* The Commission will not review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(c) Employees who transfer from one paying agency to another. (1) If, after the creditor agency has submitted the debt claim to the Commission, the employee transfers to a position served by a different paying agency before the debt is collected in full, the Commission must certify the total amount of the collection made on the debt. One copy of the certification must be furnished to the employee, another to the creditor agency along with notice of employee's transfer. However, the creditor agency must submit a properly

certified claim to the new paying agency before collection can be resumed.

(2) When an employee transfers to another paying agency, the creditor agency need not repeat the due process procedures described by 5 U.S.C. 5514 and this subpart to resume the collection. However, the creditor agency is responsible for reviewing the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is resumed by the new paying agency.

### § 1.1935 Obtaining the services of a hearing official.

(a) When the debtor does not work for the creditor agency and the creditor agency cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement, the creditor agency may contact an agent of the Commission designated in Appendix A of 5 CFR part 581 for a hearing official, and the Commission will then cooperate as provided by the FCCS and provide a hearing official.

(b) When the debtor works for the creditor agency, the creditor agency may contact any agent (of another agency) designated in Appendix A of 5 CFR part 581 to arrange for a hearing official. Agencies must then cooperate as required by the FCCS and provide a hearing official.

(c) The determination of a hearing official designated under this section is considered to be an official certification regarding the existence and amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514. A creditor agency may make a certification to the Secretary of the Treasury under 31 CFR 550.1108 or a paying agency under 31 CFR 550.1109 regarding the existence and amount of the debt based on the certification of a hearing official. If a hearing official determines that a debt may not be collected via salary offset, but the creditor agency finds that the debt is still valid, the creditor agency may still seek collection of the debt through other means, such as offset of other Federal payments, litigation, etc.

### § 1.1936 Administrative wage garnishment.

(a) *Purpose.* This section provides procedures for the Commission to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent nontax debt owed to the United States.

(b) *Scope.* (1) This section applies to Commission-administered programs that give rise to a delinquent nontax debt owed to the United States and to the Commission's pursuit of recovery of such debt.

(2) This section shall apply notwithstanding any provision of State law.

(3) Nothing in this section precludes the compromise of a debt or the suspension or termination of collection action in accordance with applicable law. See, for example, the Federal Claims Collection Standards (FCCS), 31 CFR parts 900 through 904.

(4) The receipt of payments pursuant to this section does not preclude the Commission from pursuing other debt collection remedies, including the offset of Federal payments to satisfy delinquent nontax debt owed to the United States. The Commission may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment.

(5) This section does not apply to the collection of delinquent nontax debt owed to the Commission from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal salary offset procedures set forth in 5 U.S.C. 5514, §§ 1.1925 through 1.1935, and other applicable laws.

(6) Nothing in this section requires the Commission to duplicate notices or administrative proceedings required by contract or other laws or regulations.

(c) *Definitions.* In addition to the definitions set forth in § 1.1901 as used in this section, the following definitions shall apply:

(1) *Business day means Monday through Friday.* For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

(2) *Certificate of service* means a certificate signed by a Commission official indicating the nature of the document to which it pertains, the date of

mailing of the document, and to whom the document is being sent.

(3) *Day means calendar day*. For purposes of computation, the last day of the period will be included unless it is a Saturday, a Sunday, or a Federal legal holiday.

(4) *Disposable pay* means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld.

(5) *Amounts required by law to be withheld* include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

(6) *Employer* means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government.

(7) *Garnishment* means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

(8) *Withholding order* means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of this section, the terms ''wage garnishment order'' and ''garnishment order'' have the same meaning as ''withholding order.''

(d) *General rule*. Whenever the Commission determines that a delinquent debt is owed by an individual, the Commission may initiate proceedings administratively to garnish the wages of the delinquent debtor as governed by procedures prescribed by 31 CFR 285. Wage garnishment will usually be performed for the Commission by the Treasury as part of the debt collection processes for Commission debts referred to Treasury for further collection action.

(e) *Notice requirements*. (1) At least 30 days before the initiation of garnishment proceedings, the Commission shall mail, by first class mail, to the debtor's last known address a written notice informing the debtor of:

(i) The nature and amount of the debt;

(ii) The intention of the Commission to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties and administrative costs are paid in full; and

(iii) An explanation of the debtor's rights, including those set forth in paragraph (e)(2) of this section, and the time frame within which the debtor may exercise his or her rights.

(2) The debtor shall be afforded the opportunity:

(i) To inspect and copy agency records related to the debt;

(ii) To enter into a written repayment agreement with the Commission under terms agreeable to the Commission; and

(iii) For a hearing in accordance with paragraph (f) of this section concerning the existence or the amount of the debt or the terms of the proposed repayment schedule under the garnishment order. However, the debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement under paragraph (e)(2)(ii) of this section.

(3) The Commission will keep a copy of a certificate of service indicating the date of mailing of the notice. The certificate of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

(f) *Hearing*. Pursuant to 31 CFR 285.11(f)(1), the Commission hereby adopts by reference the hearing procedures of 31 CFR 285.11(f).

(g) *Wage garnishment order*. (1) Unless the Commission receives information that the Commission believes justifies a delay or cancellation of the withholding order, the Commission will send, by first class mail, a withholding order to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing (*i.e.*, within 15 business days after the mailing of the notice described in paragraph (e)(1) of this section), or, if a timely request for a hearing is made by the debtor, within 30 days after a final decision is

made by the Commission to proceed with garnishment, or as soon as reasonably possible thereafter.

(2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury on the Commission's letterhead and signed by the head of the Commission or his/her delegate. The order shall contain only the information necessary for the employer to comply with the withholding order, including the debtor's name, address, and social security number, as well as instructions for withholding and information as to where payments should be sent.

(3) The Commission will keep a copy of a certificate of service indicating the date of mailing of the order. The certificate of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

(h) *Certification by employer*. Along with the withholding order, the Commission shall send to the employer a certification in a form prescribed by the Secretary of the Treasury. The employer shall complete and return the certification to the Commission within the time frame prescribed in the instructions to the form addressing matters such as information about the debtor's employment status and disposable pay available for withholding.

(i) *Amounts withheld*. (1) After receipt of the garnishment order issued under this section, the employer shall deduct from all disposable pay paid to the applicable debtor during each pay period the amount of garnishment described in paragraph (i)(2) of this section.

(2) Subject to the provisions of paragraphs (i)(3) and (i)(4) of this section, the amount of garnishment shall be the lesser of:

(i) The amount indicated on the garnishment order up to 15% of the debtor's disposable pay; or

(ii) The amount set forth in 15 U.S.C. 1673(a)(2) (Restriction on Garnishment). The amount set forth at 15 U.S.C. 1673(a)(2) is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the minimum wage. See 29 CFR 870.10.

(3) When a debtor's pay is subject to withholding orders with priority the following shall apply:

(i) Unless otherwise provided by Federal law, withholding orders issued under this section shall be paid in the amounts set forth under paragraph (i)(2) of this section and shall have priority over other withholding orders which are served later in time. Notwithstanding the foregoing, withholding orders for family support shall have priority over withholding orders issued under this section.

(ii) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this section, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to the withholding order issued under this section shall be the lesser of:

(A) The amount calculated under paragraph (i)(2) of this section, or

(B) An amount equal to 25% of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.

(iii) If a debtor owes more than one debt to the Commission, the Commission may issue multiple withholding orders provided that the total amount garnished from the debtor's pay for such orders does not exceed the amount set forth in paragraph (i)(2) of this section. For purposes of this paragraph (i)(3)(iii), the term *agency* refers to the Commission that is owed the debt.

(4) An amount greater than that set forth in paragraphs (i)(2) and (i)(3) of this section may be withheld upon the written consent of debtor.

(5) The employer shall promptly pay to the Commission all amounts withheld in accordance with the withholding order issued pursuant to this section.

(6) An employer shall not be required to vary its normal pay and disbursement cycles in order to comply with the withholding order.

(7) Any assignment or allotment by an employee of his earnings shall be void to the extent it interferes with or prohibits execution of the withholding order issued under this section, except

for any assignment or allotment made pursuant to a family support judgment or order.

(8) The employer shall withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the Commission to discontinue wage withholding. The garnishment order shall indicate a reasonable period of time within which the employer is required to commence wage withholding.

(j) *Exclusions from garnishment.* The Commission may not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. The debtor has the burden of informing the Commission of the circumstances surrounding an involuntary separation from employment.

(k) *Financial hardship.* (1) A debtor whose wages are subject to a wage withholding order under this section, may, at any time, request a review by the Commission of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in demonstrated financial hardship.

(2) A debtor requesting a review under paragraph (k)(1) of this section shall submit the basis for claiming that the current amount of garnishment results in demonstrated financial hardship to the debtor, along with supporting documentation. The Commission will consider any information submitted; however, demonstrated financial hardship must be based on financial records that include Federal and state tax returns, affidavits executed under the pain and penalty of perjury, and, in the case of business-related financial hardship (e.g., the debtor is a partner or member of a business-agency relationship) full financial statements (audited and/or submitted under oath) in accordance with procedures and standards established by the Commission.

(3) If a financial hardship is found, the Commission will downwardly adjust, by an amount and for a period of time agreeable to the Commission, the amount garnisheed to reflect the debtor's financial condition. The Commission will notify the employer of any adjustments to the amounts to be withheld.

(l) *Ending garnishment.* (1) Once the Commission has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs consistent with the FCCS, the Commission will send the debtor's employer notification to discontinue wage withholding.

(2) At least annually, the Commission shall review its debtors' accounts to ensure that garnishment has been terminated for accounts that have been paid in full.

(m) *Actions prohibited by the employer.* An employer may not discharge, refuse to employ, or take disciplinary action against the debtor due to the issuance of a withholding order under this section.

(n) *Refunds.* (1) If a hearing official, at a hearing held pursuant to paragraph (f)(3) of this section, determines that a debt is not legally due and owing to the United States, the Commission shall promptly refund any amount collected by means of administrative wage garnishment.

(2) Unless required by Federal law or contract, refunds under this section shall not bear interest.

(o) *Right of action.* The Commission may sue any employer for any amount that the employer fails to withhold from wages owed and payable to an employee in accordance with paragraphs (g) and (i) of this section. However, a suit may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, ''termination of the collection action'' occurs when the Commission has terminated collection action in accordance with the FCCS or other applicable standards. In any event, termination of the collection action will have been deemed to occur if the Commission has not received any payments to satisfy the debt from the particular debtor whose wages were subject to garnishment, in whole or in part, for a period of one (1) year.

**§§ 1.1937–1.1939 [Reserved]**

INTEREST, PENALTIES, ADMINISTRATIVE COSTS AND OTHER SANCTIONS

**§ 1.1940 Assessment.**

(a) Except as provided in paragraphs (g), (h), and (i) of this section or § 1.1941, the Commission shall charge interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. The Commission will mail, hand-deliver, or use other forms of transmission, including facsimile telecopier service, a written notice to the debtor, at the debtor's CORES contact address (see section 1.8002(b)) explaining the Commission's requirements concerning these charges except where these requirements are included in a contractual or repayment agreement, or otherwise provided in the Commission's rules, as may be amended from time to time. These charges shall continue to accrue until the debt is paid in full or otherwise resolved through compromise, termination, or waiver of the charges. This provision is not intended to modify or limit the terms of any contract, note, or security agreement from the debtor, or to modify or limit the Commission's rights under its rules with regard to the notice or the parties' agreement to waive notice.

(b) The Commission shall charge interest on debts owed the United States as follows:

(1) Interest shall accrue from the date of delinquency, or as otherwise provided by the terms of any contract, note, or security agreement, regulation, or law.

(2) Unless otherwise established in a contract, note, or security agreement, repayment agreement, or by statute, the rate of interest charged shall be the rate established annually by the Treasury in accordance with 31 U.S.C. 3717. Pursuant to 31 U.S.C. 3717, an agency may charge a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the rights of the United States. The agency should document the reason(s) for its determination that the higher rate is necessary.

(3) The rate of interest, as initially charged, shall remain fixed for the duration of the indebtedness. When a debtor defaults on a repayment agreement and seeks to enter into a new agreement, the agency may require payment of interest at a new rate that reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest shall not be compounded, that is, interest shall not be charged on interest, penalties, or administrative costs required by this section. If, however, a debtor defaults on a previous repayment agreement, charges that accrued but were not collected under the defaulted agreement shall be added to the principal under the new repayment agreement.

(c) The Commission shall assess administrative costs incurred for processing and handling delinquent debts. The calculation of administrative costs may be based on actual costs incurred or upon estimated costs as determined by the Commission. Commission administrative costs include the personnel and service costs (e.g., telephone, copier, and overhead) to notify and collect the debt, without regard to the success of such efforts by the Commission.

(d) Unless otherwise established in a contract, repayment agreement, or by statute, the Commission will charge a penalty, pursuant to 31 U.S.C. 3717(e)(2), currently not to exceed six percent (6%) a year on the amount due on a debt that is delinquent for more than 90 days. This charge shall accrue from the date of delinquency. If the rate permitted under 31 U.S.C. 3717 is changed, the Commission will apply that rate.

(e) The Commission may increase an *administrative debt* by the cost of living adjustment in lieu of charging interest and penalties under this section. *Administrative debt* includes, but is not limited to, a debt based on fines, penalties, and overpayments, but does not include a debt based on the extension of Government credit, such as those arising from loans and loan guaranties. The cost of living adjustment is the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price

Index for the month of June of the calendar year in which the debt was determined or last adjusted. Increases to administrative debts shall be computed annually. Agencies should use this alternative only when there is a legitimate reason to do so, such as when calculating interest and penalties on a debt would be extremely difficult because of the age of the debt.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalties and administrative cost charges, second to accrued interest, and third to the outstanding principal.

(g) The Commission will waive the collection of interest and administrative charges imposed pursuant to this section on the portion of the debt that is paid within 30 days after the date on which interest began to accrue. The Commission will not extend this 30-day period except for good cause shown of extraordinary and compelling circumstances, completely documented and supported in writing, submitted and received before the expiration of the first 30-day period. The Commission may, on good cause shown of extraordinary and compelling circumstances, completely documented and supported in writing, waive interest, penalties, and administrative costs charged under this section, in whole or in part, without regard to the amount of the debt, either under the criteria set forth in these standards for the compromise of debts, or if the agency determines that collection of these charges is against equity and good conscience or is not in the best interest of the United States.

(h) The Commission retains the common law right to impose interest and related charges on debts not subject to 31 U.S.C. 3717.

### § 1.1941 Exemptions.

(a) The preceding sections of this part, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, such as administrative offset, use of credit bureaus, contracting for collection agencies, and interest and related charges, do not apply to debts arising under, or payments made under, the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*), except to the extent provided under 42 U.S.C. 404 and 31 U.S.C. 3716(c); or the tariff laws of the United States. These remedies and procedures, however, may be authorized with respect to debts that are exempt from the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, to the extent that they are authorized under some other statute or the common law.

(b) This section should not be construed as prohibiting the use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in paragraph (a) of this section unless the debt arose under those laws. However, the Commission is authorized to assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

### § 1.1942 Other sanctions.

The remedies and sanctions available to the Commission in this subpart are not exclusive. The Commission may impose other sanctions, where permitted by law, for any inexcusable, prolonged, or repeated failure of a debtor to pay such a claim. In such cases, the Commission will provide notice, as required by law, to the debtor prior to imposition of any such sanction.

### §§ 1.1943–1.1949 [Reserved]

## COOPERATION WITH THE INTERNAL REVENUE SERVICE

### § 1.1950 Reporting discharged debts to the Internal Revenue Service.

(a) In accordance with applicable provisions of the Internal Revenue Code and implementing regulations (26 U.S.C. 6050P; 26 CFR 1.6050P–1), when the Commission discharges a debt for less than the full value of the indebtedness, it will report the outstanding balance discharged, not including interest, to the Internal Revenue Service, using IRS Form 1099–C or any other form prescribed by the Service, when:

(1) The principle amount of the debt not in dispute is $600 or more; and

(2) The obligation has not been discharged in a bankruptcy proceeding; and

(3) The obligation is no longer collectible either because the time limit in the applicable statute for enforcing collection expired during the tax year, or because during the year a formal compromise agreement was reached in which the debtor was legally discharged of all or a portion of the obligation.

(b) The Treasury will prepare the Form 1099–C for those debts transferred to Treasury for collection and deemed uncollectible.

### § 1.1951 Offset against tax refunds.

The Commission will take action to effect administrative offset against tax refunds due to debtors under 26 U.S.C. 6402, in accordance with the provisions of 31 U.S.C. 3720A and Treasury Department regulations.

### § 1.1952 Use and disclosure of mailing addresses.

(a) When attempting to locate a debtor in order to collect or compromise a debt under this subpart or other authority, the Commission may send a request to the Secretary of the Treasury (or designee) to obtain a debtor's mailing address from the records of the Internal Revenue Service.

(b) The Commission is authorized to use mailing addresses obtained under paragraph (a) of this section to enforce collection of a delinquent debt and may disclose such mailing addresses to other agencies and to collection agencies for collection purposes.

GENERAL PROVISIONS CONCERNING INTERAGENCY REQUESTS

### § 1.1953 Interagency requests.

(a) Requests to the Commission by other Federal agencies for administrative or salary offset shall be in writing and forwarded to the Financial Operations Center, FCC, 445 12th Street, SW., Washington, DC 20554.

(b) Requests by the Commission to other Federal agencies holding funds payable to the debtor will be in writing and forwarded, certified return receipt, as specified by that agency in its regulations. If the agency's rules governing this matter are not readily available or identifiable, the request will be submitted to that agency's office of legal counsel with a request that it be processed in accordance with their internal procedures.

(c) Requests to and from the Commission shall be accompanied by a certification that the debtor owes the debt (including the amount) and that the procedures for administrative or salary offset contained in this subpart, or comparable procedures prescribed by the requesting agency, have been fully complied with. The Commission will cooperate with other agencies in effecting collection.

(d) Requests to and from the Commission shall be processed within 30 calendar days of receipt. If such processing is impractical or not feasible, notice to extend the time period for another 30 calendar days will be forwarded 10 calendar days prior to the expiration of the first 30-day period.

## Subpart P—Implementation of the Anti-Drug Abuse Act of 1988

SOURCE: 57 FR 187, Jan. 3, 1992, unless otherwise noted.

### § 1.2001 Purpose.

To determine eligibility for professional and/or commercial licenses issued by the Commission with respect to any denials of Federal benefits imposed by Federal and/or state courts under authority granted in 21 U.S.C. 862.

[60 FR 39269, Aug. 2, 1995]

### § 1.2002 Applicants required to submit information.

(a) In order to be eligible for any new, modified, and/or renewed instrument of authorization from the Commission, including but not limited to, authorizations issued pursuant to sections 214, 301, 302, 303(1), 308, 310(d), 318, 319, 325(b), 351, 361(b), 362(b), 381, and 385 of the Communications Act of 1934, as

amended, by whatever name that instrument may be designated, all applicants shall certify that neither the applicant nor any party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988. 21 U.S.C. 862. If a section 5301 certification has been incorporated into the FCC application form being filed, the applicant need not submit a separate certification. If a section 5301 certification has not been incorporated into the FCC application form being filed, the applicant shall be deemed to have certified by signing the application, unless an exhibit is included stating that the signature does not constitute such a certification and explaining why the applicant is unable to certify. If no FCC application form is involved, the applicant must attach a certification to its written application. If the applicant is unable to so certify, the applicant shall be ineligible for the authorization for which it applied, and will have 90 days from the filing of the application to comply with this rule. If a section 5301 certification has been incorporated into the FCC application form, failure to respond to the question concerning certification shall result in dismissal of the application pursuant to the relevant processing rules.

(b) A party to the application, as used in paragraph (a) of this section shall include:

(1) If the applicant is an individual, that individual;

(2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; and

(3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership.

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission, or to Federal, State or local governmental entities or subdivisions thereof.

(d) The provisions of paragraphs (a) and (b) of this section are applicable to spectrum lessees (*see* §1.9003 of subpart X of this part) engaged in spectrum manager leasing arrangements and *de facto* transfer leasing arrangements pursuant to the rules set forth in subpart X of this part.

[57 FR 187, Jan. 3, 1992, as amended at 58 FR 8701, Feb. 17, 1993; 60 FR 39269, Aug. 2, 1995; 68 FR 66277, Nov. 25, 2003]

### § 1.2003 Applications affected.

The certification required by §1.2002 must be filed with the following applications and any other requests for authorization filed with the Commission, as well as for spectrum leasing notifications and spectrum leasing applications (*see* subpart X of this part), regardless of whether a specific form exists.

FCC 301 Application for Construction Permit for Commercial Broadcast Station;

FCC 301–A Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization;

FCC 302 Application for New Broadcast Station License;

FCC 302—FM Application for FM Broadcast Station License;

FCC 303–S Application for Renewal of License for AM, FM, TV, Translator, or LPTV Station;

FCC 307 Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit;

FCC 308 Application for Permit to Deliver Programs to Foreign Broadcast Stations;

FCC 309 Application for Authority to Construct or Make Changes in an International or Experimental Broadcast Station;

FCC 310 Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License;

FCC 311 Application for Renewal of an International or Experimental Broadcast License;

FCC 313 Application for Authorization in the Auxiliary Radio Broadcast Services;

FCC 313–R Application for Renewal of Auxiliary Broadcast License;

FCC 314 Application for Consent to Assignment of Broadcast Station Construction Permit or License;

FCC 315 Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License;
FCC 316 Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License;
FCC 327 Application for Cable Television Relay Service Station Authorzation;
FCC 330 Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to Assign or Transfer Such Stations;
FCC 330–L Application for Instructional Television Fixed Station License;
FCC 330–R Application for Renewal of Instructional Television Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License;
FCC 340 Application for Construction Permit for Noncommercial Educational Broadcast Station;
FCC 345 Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station;
FCC 346 Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station;
FCC 347 Application for a Low Power TV, TV Translator or TV Booster Station License;
FCC 349 Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station;
FCC 350 Application for an FM Translator or FM Booster Station License;
FCC 401 Application for New or Modified Common Carrier Radio Station Authorization Under part 22 of this chapter.
FCC 402 Application for Station Authorization in the Private Operational Fixed Microwave Radio Service;
FCC 402–R Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service;
FCC 403 Application for Radio Station License or Modification Thereof Under parts 23 or 25 of this chapter;
FCC 404 Application for Aircraft Radio Station License;
FCC 405 Application for Renewal of Radio Station License;
FCC 405–A Application for Renewal of Radio Station License and/or Notification of Change to License Information;
FCC 405–B Ship/Aircraft License Expiration Notice and/or Renewal Application;
FCC 406 Application for Ground Station Authorization in the Aviation Services;
FCC 407 Application for New or Modified Radio Station Construction Permit;
FCC 410 Registration of Canadian Radio Station Licensee and Application for Permit to Operate (Land Mobile);
FCC 442 Application for New or Modified Radio Station Authorization Under part 5 of this chapter—Experimental Radio Service (Other than Broadcast);
FCC 490 Application for Assignment or Transfer of Control Under part 22 of this chapter;
FCC 493 Application for Earth Station Authorization or Modification of Station License (Proposed);
FCC 494 Application for a New or Modified Microwave Radio Station License Under part 21 of this chapter;
FCC 494–A Certification of Completion of Construction Under part 21 of this chapter;
FCC 503 Application for Land Radio Station License in the Maritime Services;
FCC 506 Application for Ship Radio Station License;
FCC 574 Application for Private Land Mobile and General Mobile Radio Services;
FCC 574–R Application for Renewal of Radio Station License;
FCC 601 FCC Application for Wireless Telecommunications Bureau Radio Service Authorization;
FCC 602 FCC Ownership Disclosure Information for the Wireless Telecommunications Services;
FCC 603 Wireless Telecommunications Bureau Application for Assignment of Authorization and Transfer of Control;
FCC 605 Quick Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services;
FCC 608 Notification or Application for Spectrum Leasing Arrangement;
FCC 701 Application for Additional Time to Construct a Radio Station;
FCC 702 Application for Consent to Assignment of Radio Station Construction Permit or License;
FCC 703 Application for Consent to Transfer Control of Corporation Holding Station License;
FCC 704 Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License;
FCC 730 Application for Registration of Equipment to be Connected to the Telephone Network;
FCC 731 Application for Equipment Authorization;
FCC 753 Restricted Radiotelephone Operator Permit Application;
FCC 755 Application for Restricted Radiotelephone Operator Permit—Limited Use;

FCC 756 Application for Commercial Radio Operator License.

[57 FR 187, Jan. 3, 1992, as amended at 57 FR 48333, Oct. 23, 1992; 59 FR 63051, Dec. 7, 1994; 63 FR 68942, Dec. 14, 1998; 68 FR 66277, Nov. 25, 2003; 69 FR 77550, Dec. 27, 2004; 70 FR 19307, Apr. 13, 2005]

EFFECTIVE DATE NOTE: At 69 FR 77550, Dec. 27, 2004, §1.2003 was amended. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

## Subpart Q—Competitive Bidding Proceedings

SOURCE: 59 FR 44293, Aug. 26, 1994, unless otherwise noted.

GENERAL PROCEDURES

### § 1.2101 Purpose.

The provisions of this subpart implement Section 309(j) of the Communications Act of 1934, as added by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66) and the Balanced Budget Act of 1997 (Pub. L. 105–33), authorizing the Commission to employ competitive bidding procedures to choose from among two or more mutually exclusive applications for certain initial licenses.

[63 FR 2340, Jan. 15, 1998]

### § 1.2102 Eligibility of applications for competitive bidding.

(a) Mutually exclusive initial applications are subject to competitive bidding.

(b) The following types of license applications are not subject to competitive bidding procedures:

(1) Public safety radio services, including private internal radio services used by state and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that

(i) Are used to protect the safety of life, health, or property; and

(ii) Are not commercially available to the public;

(2) Initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(3) Noncommercial educational and public broadcast stations described under 47 U.S.C. 397(6).

(c) Applications in the following services or classes of services are not subject to competitive bidding:

(1) Alaska-Private Fixed Stations (*see* 47 CFR part 80, subpart O);

(2) Broadcast radio (AM and FM) and broadcast television (VHF, UHF, LPTV) under 47 CFR part 73;

(3) Broadcast Auxiliary and Cable Television Relay Services (*see* 47 CFR part 74, subparts D, E, F, G, H and L and part 78, subpart B);

(4) Instructional Television Fixed Service (*see* 47 CFR part 74, subpart I);

(5) Maritime Support Stations (*see* 47 CFR part 80, subpart N);

(6) Marine Operational Fixed Stations (*see* 47 CFR part 80, subpart L);

(7) Marine Radiodetermination Stations (*see* 47 CFR part 80, subpart M);

(8) Personal Radio Services (*see* 47 CFR part 95), except applications filed after July 26, 1993, in the Interactive Video Data Service (*see* 47 CFR part 95, subpart F);

(9) Public Safety, Industrial/Land Transportation, General and Business Radio categories above 800 MHz, including finder's preference requests for frequencies not allocated to the SMR service (*see* 47 CFR 90.173), and including, until further notice of the Commission, the Automated Vehicle Monitoring Service (*see* 47 CFR 90.239);

(10) Private Land Mobile Radio Services between 470–512 MHz (*see* 47 CFR part 90, subparts B-F), including those based on finder's preferences, (*see* 47 CFR 90.173);

(11) Private Land Mobile Radio Services below 470 MHz (*see* 47 CFR part 90, subparts B-F) except in the 220 MHz band (*see* 47 CFR part 90, subpart T), including those based on finder's preferences (*see* 47 CFR §90.173); and

(12) Private Operational Fixed Services (*see* 47 CFR part 94).

NOTE TO §1.2102: To determine the rules that apply to competitive bidding, specific service rules should also be consulted.

[59 FR 44293, Aug. 26, 1994, as amended at 60 FR 40718, Aug. 9, 1995; 62 FR 23163, Apr. 29, 1997; 63 FR 10780, Mar. 5, 1998]

**§ 1.2103 Competitive bidding design options.**

(a) The Commission will choose from one or more of the following types of auction designs for services or classes of services subject to competitive bidding:

(1) Simultaneous multiple-round auctions (using remote or on-site electronic bidding);

(2) Sequential multiple round auctions (using either oral ascending or remote and/or on-site electronic bidding);

(3) Sequential or simultaneous single-round auctions (using either sealed paper or remote and/or on-site electronic bidding); and

(4) Combinatorial (package) bidding auctions.

(b) The Commission may use combinatorial bidding, which would allow bidders to submit all or nothing bids on combinations of licenses or authorizations, in addition to bids on individual licenses or authorizations. The Commission may require that to be declared the high bid, a combinatorial bid must exceed the sum of the individual bids by a specified amount. Combinatorial bidding may be used with any type of auction. The Commission may also allow bidders to submit contingent bids on individual and/or combinations of licenses.

(1) *Apportioned package bid*. The apportioned package bid on a license is an estimate of the price of an individual license included in a package of licenses in an auction with combinatorial (package) bidding. Apportioned package bids shall be determined by the Commission according to a methodology it establishes in advance of each auction with combinatorial bidding.

(2) *Substitute for bid amount*. The apportioned package bid on a license included in a package shall be used in place of the amount of an individual bid on that license when the bid amount is needed to determine the size of a designated entity bidding credit (see § 1.2110(f)(1) and (f)(2)), a new entrant bidding credit (see § 73.5007), a bid withdrawal or default payment obligation (see § 1.2104(g)), a tribal land bidding credit limit (see § 1.2110(f)(3)(iv)), or a size-based bidding credit unjust enrichment payment obligation (see § 1.2111(d), (e)(2) and (e)(3)), or for any other determination required by the Commission's rules or procedures.

(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.

(d) The Commission may use real time bidding in all electronic auction designs.

[59 FR 44293, Aug. 26, 1994, as amended at 62 FR 13542, Mar. 21, 1997; 63 FR 2341, Jan. 15, 1998; 68 FR 42995, July 21, 2003; 71 FR 6226, Feb. 7, 2006]

**§ 1.2104 Competitive bidding mechanisms.**

(a) *Sequencing*. The Commission will establish the sequence in which multiple licenses will be auctioned.

(b) *Grouping*. In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Commission will determine which licenses will be auctioned simultaneously or in combination.

(c) *Reserve Price*. The Commission may establish a reserve price or prices, either disclosed or undisclosed, below which a license or licenses subject to auction will not be awarded. For any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) requiring the recovery of estimated relocation costs, the Commission will establish a reserve price or prices pursuant to which the total cash proceeds from any auction of eligible frequencies shall equal at least 110 percent of the total estimated relocation costs provided to the Commission by the National Telecommunications and Information Administration pursuant to section 113(g)(4) of such Act (47 U.S.C. 923(g)(4)).

(d) *Minimum Bid Increments, Minimum Opening Bids and Maximum Bid Increments*. The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms. The

Commission also may establish minimum opening bids and maximum bid increments on a service-specific basis.

(e) *Stopping Rules.* The Commission may establish stopping rules before or during multiple round auctions in order to terminate the auctions within a reasonable time.

(f) *Activity Rules.* The Commission may establish activity rules which require a minimum amount of bidding activity.

(g) *Withdrawal, Default and Disqualification Payment.* As specified below, when the Commission conducts an auction pursuant to §1.2103, the Commission will impose payments on bidders who withdraw high bids during the course of an auction, or who default on payments due after an auction closes or who are disqualified.

(1) *Bid withdrawal prior to close of auction.* A bidder that withdraws a bid during the course of an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or subsequent auction(s). In the event that a bidding credit applies to any of the bids, the bid withdrawal payment is either the difference between the net withdrawn bid and the subsequent net winning bid, or the difference between the gross withdrawn bid and the subsequent gross winning bid, whichever is less. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid. The withdrawal payment amount is deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission. In the case of multiple bid withdrawals on a single license, the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn in the same or subsequent auction(s). In the event that a license for which there have been withdrawn bids subject to withdrawal payments is not won in the same auction, those bidders for which a final withdrawal payment cannot be calculated will be assessed an interim bid withdrawal payment of between 3 and 20 percent of their withdrawn bids, according to a percentage (or percentages) established by the Commission in advance of the auction. The interim bid withdrawal payment will be applied toward any final bid withdrawal payment that will be assessed at the close of a subsequent auction of the corresponding license.

*Example 1 to paragraph (g)(1).* Bidder A withdraws a bid of $100. Subsequently, Bidder B places a bid of $90 and withdraws. In that same auction, Bidder C wins the license at a bid of $95. Withdrawal payments are assessed as follows: Bidder A owes $5 ($100–$95). Bidder B owes nothing.

*Example 2 to paragraph (g)(1).* Bidder A withdraws a bid of $100. Subsequently, Bidder B places a bid of $95 and withdraws. In that same auction, Bidder C wins the license at a bid of $90. Withdrawal payments are assessed as follows: Bidder A owes $5 ($100–$95). Bidder B owes $5 ($95–$90).

*Example 3 to paragraph (g)(1).* Bidder A withdraws a bid of $100. Subsequently, in that same auction, Bidder B places a bid of $90 and withdraws. In a subsequent auction, Bidder C places a bid of $95 and withdraws. Bidder D wins the license in that auction at a bid of $80. Assuming that the Commission established an interim bid withdrawal payment of 3 percent in advance of the first auction, withdrawal payments are assessed as follows: At the end of the first auction, Bidder A and Bidder B are each assessed an interim withdrawal payment equal to 3 percent of their withdrawn bids pending Commission assessment of a final withdrawal payment (Bidder A would owe 3% of $100, or $3, and Bidder B would owe 3% of $90, or $2.70). At the end of the second auction, Bidder A would owe $5 ($100–$95) less the $3 interim withdrawal payment for a total of $2. Because Bidder C placed a subsequent bid that was higher than Bidder B's $90 bid, Bidder B would owe nothing. Bidder C would owe $15 ($95–$80).

(2) *Default or disqualification after close of auction.* A bidder assumes a binding obligation to pay its full bid amount upon acceptance of the winning bid at the close of an auction. If a bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to a default payment consisting of a deficiency payment, described in §1.2104(g)(2)(i), and an additional payment, described in §1.2104(g)(2)(ii) and (g)(2)(iii). The default payment will be deducted from any upfront payments or down payments that the defaulting

bidder has deposited with the Commission.

(i) *Deficiency payment*. The deficiency payment will equal the difference between the amount of the defaulted bid and the amount of the winning bid in a subsequent auction, so long as there have been no intervening withdrawn bids that equal or exceed the defaulted bid or the subsequent winning bid. If the subsequent winning bid or any intervening subsequent withdrawn bid equals or exceeds the defaulted bid, no deficiency payment will be assessed. If there have been intervening subsequent withdrawn bids that are lower than the defaulted bid and higher than the subsequent winning bid, but no intervening withdrawn bids that equal or exceed the defaulted bid, the deficiency payment will equal the difference between the amount of the defaulted bid and the amount of the highest intervening subsequent withdrawn bid. In the event that a bidding credit applies to any of the applicable bids, the deficiency payment will be based solely on net bids or solely on gross bids, whichever results in a lower payment.

(ii) *Additional payment—applicable percentage*. When the default or disqualification follows an auction without combinatorial bidding, the additional payment will equal between 3 and 20 percent of the applicable bid, according to a percentage (or percentages) established by the Commission in advance of the auction. When the default or disqualification follows an auction with combinatorial bidding, the additional payment will equal 25 percent of the applicable bid.

(iii) *Additional payment—applicable bid*. When no deficiency payment is assessed, the applicable bid will be the net amount of the defaulted bid. When a deficiency payment is assessed, the applicable bid will be the subsequent winning bid, using the same basis—i.e., net or gross—as was used in calculating the deficiency payment.

(h) The Commission will generally release information concerning the identities of bidders before each auction but may choose, on an auction-by-auction basis, to withhold the identity of the bidders associated with bidder identification numbers.

(i) The Commission may delay, suspend, or cancel an auction in the event of a natural disaster, technical obstacle, evidence of security breach, unlawful bidding activity, administrative necessity, or for any other reason that affects the fair and efficient conduct of the competitive bidding. The Commission also has the authority, at its sole discretion, to resume the competitive bidding starting from the beginning of the current or some previous round or cancel the competitive bidding in its entirety.

(j) *Bid apportionment*. The Commission may specify a method for apportioning a bid among portions of the license (i.e., portions of the license's service area or bandwidth, or both) when necessary to compare a bid on the original license or portions thereof with a bid on a corresponding reconfigured license for purposes of the Commission's rules or procedures, such as to calculate a bid withdrawal or default payment obligation in connection with the bid.

[59 FR 44293, Aug. 26, 1994, as amended at 63 FR 2341, Jan. 15, 1998; 65 FR 52344, Aug. 29, 2000; 68 FR 42995, July 21, 2003; 71 FR 6226, Feb. 7, 2006]

### § 1.2105 Bidding application and certification procedures; prohibition of certain communications.

(a) *Submission of Short-Form Application (FCC Form 175)*. In order to be eligible to bid, an applicant must timely submit a short-form application (FCC Form 175), together with any appropriate upfront payment set forth by Public Notice. Beginning January 1, 1999, all short-form applications must be filed electronically.

(1) All short-form applications will be due:

(i) On the date(s) specified by public notice; or

(ii) In the case of application filing dates which occur automatically by operation of law (*see*, e.g., 47 CFR 22.902), on a date specified by public notice after the Commission has reviewed the applications that have been filed on those dates and determined that mutual exclusivity exists.

(2) The short-form application must contain the following information:

(i) Identification of each license on which the applicant wishes to bid;

(ii)(A) The applicant's name, if the applicant is an individual. If the applicant is a corporation, then the short-form application will require the name and address of the corporate office and the name and title of an officer or director. If the applicant is a partnership, then the application will require the name, citizenship and address of all general partners, and, if a partner is not a natural person, then the name and title of a responsible person should be included as well. If the applicant is a trust, then the name and address of the trustee will be required. If the applicant is none of the above, then it must identify and describe itself and its principals or other responsible persons; and

(B) Applicant ownership and other information, as set forth in § 1.2112.

(iii) The identity of the person(s) authorized to make or withdraw a bid;

(iv) If the applicant applies as a designated entity pursuant to § 1.2110, a statement to that effect and a declaration, under penalty of perjury, that the applicant is qualified as a designated entity under § 1.2110.

(v) Certification that the applicant is legally, technically, financially and otherwise qualified pursuant to section 308(b) of the Communications Act of 1934, as amended. The Commission will accept applications certifying that a request for waiver or other relief from the requirements of section 310 is pending;

(vi) Certification that the applicant is in compliance with the foreign ownership provisions of section 310 of the Communications Act of 1934, as amended;

(vii) Certification that the applicant is and will, during the pendency of its application(s), remain in compliance with any service-specific qualifications applicable to the licenses on which the applicant intends to bid including, but not limited to, financial qualifications. The Commission may require certification in certain services that the applicant will, following grant of a license, come into compliance with certain service-specific rules, including, but not limited to, ownership eligibility limitations;

(viii) An exhibit, certified as truthful under penalty of perjury, identifying all parties with whom the applicant has entered into partnerships, joint ventures, consortia or other agreements, arrangements or understandings of any kind relating to the licenses being auctioned, including any such agreements relating to the post-auction market structure.

(ix) Certification under penalty of perjury that it has not entered and will not enter into any explicit or implicit agreements, arrangements or understandings of any kind with any parties other than those identified pursuant to paragraph (a)(2)(viii) regarding the amount of their bids, bidding strategies or the particular licenses on which they will or will not bid.

(x) Certification that the applicant is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency.

(xi) An attached statement made under penalty of perjury indicating whether or not the applicant has ever been in default on any Commission license or has ever been delinquent on any non-tax debt owed to any Federal agency.

NOTE TO PARAGRAPH (a): The Commission may also request applicants to submit additional information for informational purposes to aid in its preparation of required reports to Congress.

(b) *Modification and Dismissal of Short-Form Application (FCC Form 175).* (1) Any short-form application (FCC Form 175) that does not contain all of the certifications required pursuant to this section is unacceptable for filing and cannot be corrected subsequent to the applicable filing deadline. The application will be dismissed with prejudice and the upfront payment, if paid, will be returned.

(2) The Commission will provide bidders a limited opportunity to cure defects specified herein (except for failure to sign the application and to make certifications) and to resubmit a corrected application. During the resubmission period for curing defects, a short-form application may be amended or modified to cure defects identified by the Commission or to make minor amendments or modifications.

After the resubmission period has ended, a short-form application may be amended or modified to make minor changes or correct minor errors in the application. Major amendments cannot be made to a short-form application after the initial filing deadline. Major amendments include changes in ownership of the applicant that would constitute an assignment or transfer of control, changes in an applicant's size which would affect eligibility for designated entity provisions, and changes in the license service areas identified on the short-form application on which the applicant intends to bid. Minor amendments include, but are not limited to, the correction of typographical errors and other minor defects not identified as major. An application will be considered to be newly filed if it is amended by a major amendment and may not be resubmitted after applicable filing deadlines.

(3) Applicants who fail to correct defects in their applications in a timely manner as specified by public notice will have their applications dismissed with no opportunity for resubmission.

(4) Applicants shall have a continuing obligation to make any amendments or modifications that are necessary to maintain the accuracy and completeness of information furnished in pending applications. Such amendments or modifications shall be made as promptly as possible, and in no case more than five business days after applicants become aware of the need to make any amendment or modification, or five business days after the reportable event occurs, whichever is later. An applicant's obligation to make such amendments or modifications to a pending application continues until they are made.

(c) *Prohibition of certain communications.* (1) Except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section, after the short-form application filing deadline, all applicants for licenses in any of the same geographic license areas are prohibited from cooperating or collaborating with respect to, discussing with each other, or disclosing to each other in any manner the substance of their own, or each other's, or any other competing applicants' bids or bidding strategies, or discussing or negotiating settlement agreements, until after the down payment deadline, unless such applicants are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application pursuant to §1.2105(a)(2)(viii).

(2) Applicants may modify their short-form applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided such changes do not result in a change in control of the applicant, and provided that the parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic license areas. Such changes will not be considered major modifications of the application.

(3) After the filing of short-form applications, applicants may make agreements to bid jointly for licenses, provided the parties to the agreement have not applied for licenses in any of the same geographic license areas.

(4) After the filing of short-form applications, a holder of a non-controlling attributable interest in an entity submitting a short-form application may acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with, other applicants for licenses in the same geographic license area, provided that:

(i) The attributable interest holder certifies to the Commission that it has not communicated and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has a consortium or joint bidding arrangement, and which have applied for licenses in the same geographic license area(s); and

(ii) The arrangements do not result in any change in control of an applicant; or

(iii) When an applicant has withdrawn from the auction, is no longer placing bids and has no further eligibility, a holder of a non-controlling, attributable interest in such an applicant may obtain an ownership interest in or enter into a consortium with another applicant for a license in the same geographic service area, provided that the

attributable interest holder certifies to the Commission that it did not communicate with the new applicant prior to the date that the original applicant withdrew from the auction.

(5) Applicants must modify their short-form applications to reflect any changes in ownership or in membership of consortia or joint bidding arrangements.

(6) Any applicant that makes or receives a communication of bids or bidding strategies prohibited under paragraph (c)(1) of this section shall report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. An applicant's obligation to make such a report continues until the report has been made. Such reports shall be filed as directed in public notices detailing procedures for the bidding that was the subject of the reported communication. If no public notice provides direction, such notices shall be filed with the Chief of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most expeditious means available.

(7) For purposes of this paragraph:

(i) The term *applicant* shall include all controlling interests in the entity submitting a short-form application to participate in an auction (FCC Form 175), as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity; and

(ii) The term *bids or bidding strategies* shall include capital calls or requests for additional funds in support of bids or bidding strategies.

*Example:* Company A is an applicant in area 1. Company B and Company C each own 10 percent of Company A. Company D is an applicant in area 1, area 2, and area 3. Company C is an applicant in area 3. Without violating the Commission's Rules, Company B can enter into a consortium arrangement with Company D or acquire an ownership interest in Company D if Company B certifies either (1) that it has communicated with and will communicate neither with Company A or anyone else concerning Company A's bids or bidding strategy, nor with Company C or anyone else concerning Company C's bids or bidding strategy, or (2) that it has not communicated with and will not communicate with Company D or anyone else concerning Company D's bids or bidding strategy.

[63 FR 2341, Jan. 15, 1998, as amended at 63 FR 29958, June 2, 1998; 63 FR 50799, Sept. 23, 1998; 64 FR 59659, Nov. 3, 1999; 65 FR 52345, Aug. 29, 2000; 66 FR 54452, Oct. 29, 2001; 71 FR 15619, Mar. 29, 2006; 71 FR 26251, May 4, 2006; 72 FR 48843, Aug. 24, 2007; 75 FR 4702, Jan. 29, 2010; 75 FR 9797, Mar. 4, 2010]

### § 1.2106 Submission of upfront payments.

(a) The Commission may require applicants for licenses subject to competitive bidding to submit an upfront payment. In that event, the amount of the upfront payment and the procedures for submitting it will be set forth in a Public Notice. Any auction applicant that has previously been in default on any Commission license or has previously been delinquent on any non-tax debt owed to any Federal agency must submit an upfront payment equal to 50 percent more than that set for each particular license. No interest will be paid on upfront payments.

(b) Upfront payments must be made by wire transfer in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission.

(c) If an upfront payment is not in compliance with the Commission's Rules, or if insufficient funds are tendered to constitute a valid upfront payment, the applicant shall have a limited opportunity to correct its submission to bring it up to the minimum valid upfront payment prior to the auction. If the applicant does not submit at least the minimum upfront payment, it will be ineligible to bid, its application will be dismissed and any upfront payment it has made will be returned.

(d) The upfront payment(s) of a bidder will be credited toward any down payment required for licenses on which the bidder is the high bidder. Where the upfront payment amount exceeds the required deposit of a winning bidder, the Commission may refund the excess amount after determining that no bid

withdrawal penalties are owed by that bidder.

(e) In accordance with the provisions of paragraph (d), in the event a penalty is assessed pursuant to § 1.2104 for bid withdrawal or default, upfront payments or down payments on deposit with the Commission will be used to satisfy the bid withdrawal or default penalty before being applied toward any additional payment obligations that the high bidder may have.

[59 FR 44293, Aug. 26, 1994, as amended at 62 FR 13543, Mar. 21, 1997; 65 FR 52345, Aug. 29, 2000]

### § 1.2107 Submission of down payment and filing of long-form applications.

(a) After bidding has ended, the Commission will identify and notify the high bidder and declare the bidding closed.

(b) Unless otherwise specified by public notice, within ten (10) business days after being notified that it is a high bidder on a particular license(s), a high bidder must submit to the Commission's lockbox bank such additional funds (the ''down payment'') as are necessary to bring its total deposits (not including upfront payments applied to satisfy bid withdrawal or default payments) up to twenty (20) percent of its high bid(s). (In single round sealed bid auctions conducted under § 1.2103, however, bidders may be required to submit their down payments with their bids.) Unless otherwise specified by public notice, this down payment must be made by wire transfer in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission. Down payments will be held by the Commission until the high bidder has been awarded the license and has paid the remaining balance due on the license or authorization, in which case it will not be returned, or until the winning bidder is found unqualified to be a licensee or has defaulted, in which case it will be returned, less applicable payments. No interest on any down payment will be paid to the bidders.

(c) A high bidder that meets its down payment obligations in a timely manner must, within ten (10) business days after being notified that it is a high bidder, submit an additional application (the ''long-form application'') pursuant to the rules governing the service in which the applicant is the high bidder. Except as otherwise provided in § 1.1104, high bidders need not submit an additional application filing fee with their long-form applications. Specific procedures for filing applications will be set out by Public Notice. Ownership disclosure requirements are set forth in § 1.2112. Beginning January 1, 1999, all long-form applications must be filed electronically. An applicant that fails to submit the required long-form application under this paragraph and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and will be subject to the payments set forth in § 1.2104.

(d) As an exhibit to its long-form application, the applicant must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement it had entered into relating to the competitive bidding process prior to the time bidding was completed. Such agreements must have been entered into prior to the filing of short-form applications pursuant to § 1.2105.

(e) A winning bidder that seeks a bidding credit to serve a qualifying tribal land, as defined in § 1.2110(f)(3)(i), within a particular market must indicate on the long-form application (FCC Form 601) that it intends to serve a qualifying tribal land within that market.

(f) An applicant must also submit FCC Form 602 (*see* § 1.919 of this chapter) with its long form application (FCC Form 601).

(g)(1)(i) A consortium participating in competitive bidding pursuant to § 1.2110(b)(3)(i) that is a winning bidder may not apply as a consortium for licenses covered by the winning bids. Individual members of the consortium or new legal entities comprising individual consortium members may apply for the licenses covered by the winning bids of the consortium. An individual member of the consortium or a new legal entity comprising two or more individual consortium members applying for a license pursuant to this provision

shall be the applicant for purposes of all related requirements and filings, such as filing FCC Form 602. However, the members filing separate long-form applications shall all use the consortium's FCC Registration Number (''FRN'') on their long-form applications. An application by an individual consortium member or a new legal entity comprising two or more individual consortium members for a license covered by the winning bids of the consortium shall not constitute a major modification of the application or a change in control of the applicant for purposes of Commission rules governing the application.

(ii) Within ten business days after release of the public notice announcing grant of a long-form application, that licensee must update its filings in the Commission's Universal Licensing System (''ULS'') to substitute its individual FRN for that of the consortium.

(2) The continuing eligibility for size-based benefits, such as size-based bidding credits or set-aside licenses, of a newly formed legal entity comprising two or more individual consortium members will be based on the size of such newly formed entity as of the filing of its long-form application.

(3) Members of a consortium intending to partition or disaggregate license(s) among individual members or new legal entities comprising two or more individual consortium members must select one member or one new legal entity comprising two or more individual consortium members to apply for the license(s). The applicant must include in its applications, as part of the explanation of terms and conditions provided pursuant to § 1.2107(d), the agreement of the applicable parties to partition or disaggregate the relevant license(s). Upon grant of the long-form application for that license, the licensee must then apply to partition or disaggregate the license pursuant to those terms and conditions.

[59 FR 44293, Aug. 26, 1994, as amended at 61 FR 49075, Sept. 18, 1996; 62 FR 13543, Mar. 21, 1997; 63 FR 2342, Jan. 15, 1998; 63 FR 12659, Mar. 16, 1998; 63 FR 68942, Dec. 14, 1998; 65 FR 47354, Aug. 2, 2000; 67 FR 45365, July 9, 2002; 71 FR 6227, Feb. 7, 2006; 76 FR 37661, June 28, 2011]

## § 1.2108 Procedures for filing petitions to deny against long-form applications.

(a) Where petitions to deny are otherwise provided for under the Act or the commission's Rules, and unless other service-specific procedures for the filing of such petitions are provided for elsewhere in the Commission's Rules, the procedures in this section shall apply to the filing of petitions to deny the long-form applications of winning bidders.

(b) Within a period specified by Public Notice and after the Commission by Public Notice announces that long-form applications have been accepted for filing, petitions to deny such applications may be filed. The period for filing petitions to deny shall be no more than ten (10) days. The appropriate licensing Bureau, within its discretion, may, in exigent circumstances, reduce this period of time to no less than five (5) days. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. The time for filing such oppositions shall be at least five (5) days from the filing date for petitions to deny, and the time for filing replies shall be at least five (5) days from the filing date for oppositions. The Commission may grant a license based on any long-form application that has been accepted for filing. The Commission shall in no case grant licenses earlier than seven (7) days following issuance of a public notice announcing long-form applications have been accepted for filing.

(d) If the Commission determines that:

(1) An applicant is qualified and there is no substantial and material issue of fact concerning that determination, it will grant the application.

(2) An applicant is not qualified and that there is no substantial issue of fact concerning that determination,

the Commission need not hold an evidentiary hearing and will deny the application.

(3) Substantial and material issues of fact require a hearing, it will conduct a hearing. The Commission may permit all or part of the evidence to be submitted in written form and may permit employees other than administrative law judges to preside at the taking of written evidence. Such hearing will be conducted on an expedited basis.

[59 FR 44293, Aug. 26, 1994, as amended at 63 FR 2343, Jan. 15, 1998; 65 FR 52345, Aug. 29, 2000]

### § 1.2109 License grant, denial, default, and disqualification.

(a) Unless otherwise specified by public notice, auction winners are required to pay the balance of their winning bids in a lump sum within ten (10) business days following the release of a public notice establishing the payment deadline. If a winning bidder fails to pay the balance of its winning bids in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five percent of the amount due. When a winning bidder fails to pay the balance of its winning bid by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. Licenses will be awarded upon the full and timely payment of winning bids and any applicable late fees.

(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in §§ 1.2104(g)(2) or 1.2104(g)(3), whichever is applicable. In such event, the Commission, at its discretion, may either re-auction the license(s) to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. If the license(s) is offered to the other highest bidders (in descending order), the down payment obligations set forth in § 1.2107(b) will apply. However, in combinatorial bidding auctions, the Commission will only re-auction the license(s) to existing or new applicants. The Commission will not offer the package or licenses to the next highest bidder.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted, its application will be dismissed, and it will be liable for the payment set forth in §§ 1.2104(g)(2) or 1.2104(g)(3), whichever is applicable. In such event, the Commission may either re-auction the license(s) to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. However, in combinatorial bidding auctions, the Commission will only re-auction the license(s) to existing or new applicants. The Commission will not offer the package or licenses to the next highest bidder.

(d) Bidders who are found to have violated the antitrust laws or the Commission's rules in connection with their participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture of their upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions.

[59 FR 44293, Aug. 26, 1994, as amended at 62 FR 13544, Mar. 21, 1997; 63 FR 2343, Jan. 15, 1998; 68 FR 42996, July 21, 2003]

### § 1.2110 Designated entities.

(a) Designated entities are small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies.

(b) *Eligibility for small business and entrepreneur provisions*—(1) *Size attribution.* (i) The gross revenues of the applicant (or licensee), its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship shall be attributed to the applicant (or licensee) and considered on a cumulative basis and aggregated for purposes of determining

whether the applicant (or licensee) is eligible for status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules. An applicant seeking status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules, must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues for each of the previous three years of the applicant (or licensee), its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship.

(ii) If applicable, pursuant to § 24.709 of this chapter, the total assets of the applicant (or licensee), its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship shall be attributed to the applicant (or licensee) and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as an entrepreneur. An applicant seeking status as an entrepreneur must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues for each of the previous two years of the applicant (or licensee), its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship.

(2) *Aggregation of affiliate interests.* Persons or entities that hold interests in an applicant (or licensee) that are affiliates of each other or have an identity of interests identified in § 1.2110(c)(5)(iii) will be treated as though they were one person or entity and their ownership interests aggregated for purposes of determining an applicant's (or licensee's) compliance with the requirements of this section.

*Example 1 to paragraph (b)(2):* ABC Corp. is owned by individuals, A, B and C, each having an equal one-third voting interest in ABC Corp. A and B together, with two-thirds of the stock have the power to control ABC Corp. and have an identity of interest. If A&B invest in DE Corp., a broadband PCS applicant for block C, A and B's separate interests in DE Corp. must be aggregated because A and B are to be treated as one person or entity.

*Example 2 to paragraph (b)(2):* ABC Corp. has subsidiary BC Corp., of which it holds a controlling 51 percent of the stock. If ABC Corp. and BC Corp., both invest in DE Corp., their separate interests in DE Corp. must be aggregated because ABC Corp. and BC Corp. are affiliates of each other.

(3) *Exceptions*—(i) *Consortium.* Where an applicant to participate in bidding for Commission licenses or permits is a consortium either of entities eligible for size-based bidding credits an/or for closed bidding based on gross revenues and/or total assets, the gross revenues and/or total assets of each consortium member shall not be aggregated. Each consortium member must constitute a separate and distinct legal entity to qualify for this exception. Consortia that are winning bidders using this exception must comply with the requirements of § 1.2107(g) of this chapter as a condition of license grant.

(ii) Applicants without identifiable controlling interests. Where an applicant (or licensee) cannot identify controlling interests under the standards set forth in this section, the gross revenues of all interest holders in the applicant, and their affiliates, will be attributable.

(iii) *Rural telephone cooperatives.* (A)(*1*) An applicant will be exempt from § 1.2110(c)(2)(ii)(F) for the purpose of attribution in § 1.2110(b)(1), if the applicant or a controlling interest in the applicant, as the case may be, meets all of the following conditions:

(*i*) The applicant (or the controlling interest) is organized as a cooperative pursuant to state law;

(*ii*) The applicant (or the controlling interest) is a ''rural telephone company'' as defined by the Communications Act; and

(*iii*) The applicant (or the controlling interest) demonstrates either that it is eligible for tax-exempt status under the Internal Revenue Code or that it adheres to the cooperative principles articulated in *Puget Sound Plywood, Inc.* v. *Commissioner of Internal Revenue,* 44 T.C. 305 (1965).

(*2*) If the condition in paragraph (b)(3)(iii)(A)(*1*)(*i*) above cannot be met because the relevant jurisdiction has not enacted an organic statute that specifies requirements for organization

as a cooperative, the applicant must show that it is validly organized and its articles of incorporation, by-laws, and/or other relevant organic documents provide that it operates pursuant to cooperative principles.

(B) However, if the applicant is not an eligible rural telephone cooperative under paragraph (a) of this section, and the applicant has a controlling interest other than the applicant's officers and directors or an eligible rural telephone cooperative's officers and directors, paragraph (a) of this section applies with respect to the applicant's officers and directors and such controlling interest's officers and directors only when such controlling interest is either:

(*1*) An eligible rural telephone cooperative under paragraph (a) of this section or

(*2*) controlled by an eligible rural telephone cooperative under paragraph (a) of this section.

(iv) *Applicants or licensees with material relationships*—(A) *Impermissible material relationships*. An applicant or licensee that would otherwise be eligible for designated entity benefits under this section and applicable service-specific rules shall be ineligible for such benefits if the applicant or licensee has an impermissible material relationship. An applicant or licensee has an impermissible material relationship when it has arrangements with one or more entities for the lease or resale (including under a wholesale agreement) of, on a cumulative basis, more than 50 percent of the spectrum capacity of any one of the applicant's or licensee's licenses.

(B) *Attributable material relationships*. An applicant or licensee must attribute the gross revenues (and, if applicable, the total assets) of any entity, (including the controlling interests, affiliates, and affiliates of the controlling interests of that entity) with which the applicant or licensee has an attributable material relationship. An applicant or licensee has an attributable material relationship when it has one or more arrangements with any individual entity for the lease or resale (including under a wholesale agreement) of, on a cumulative basis, more than 25 percent of the spectrum capacity of any one of the applicant's or licensee's licenses.

(C) *Grandfathering*—(*1*) *Licensees*. An impermissible or attributable material relationship shall not disqualify a licensee for previously awarded benefits with respect to a license awarded before April 25, 2006, based on spectrum lease or resale (including wholesale) arrangements entered into before April 25, 2006.

(*2*) *Applicants*. An impermissible or attributable material relationship shall not disqualify an applicant seeking eligibility in an application for a license, authorization, assignment, or transfer of control or for partitioning or disaggregation filed before April 25, 2006, based on spectrum lease or resale (including wholesale) arrangements entered into before April 25, 2006. Any applicant seeking eligibility in an application for a license, authorization, assignment, or transfer of control or for partitioning or disaggregation filed after April 25, 2006, or in an application to participate in an auction in which bidding begins on or after June 5, 2006, need not attribute the material relationship(s) of those entities that are its affiliates based solely on §1.2110(c)(5)(i)(C) if those affiliates entered into such material relationship(s) before April 25, 2006, and are subject to a contractual prohibition preventing them from contributing to the applicant's total financing.

*Example to paragraph (b)(3)(iv)(C)(2):* Newco is an applicant seeking designated entity status in an auction in which bidding begins after the effective date of the rules. Investor is a controlling interest of Newco. Investor also is a controlling interest of Existing DE. Existing DE previously was awarded designated entity benefits and has impermissible material relationships based on leasing agreements entered into before April 25, 2006, with a third party, Lessee, that were in compliance with the Commission's designated eligibility standards prior to April 25, 2006. In this example, Newco would not be prohibited from acquiring designated entity benefits solely because of the existing impermissible material relationships of its affiliate, Existing DE. Newco, Investor, and Existing DE, however, would need to enter into a contractual prohibition that prevents Existing DE from contributing to the total financing of Newco.

(c) *Definitions*—(1) *Small businesses.* The Commission will establish the definition of a small business on a service-specific basis, taking into consideration the characteristics and capital requirements of the particular service.

(2) *Controlling interests.* (i) For purposes of this section, controlling interest includes individuals or entities with either *de jure* or *de facto* control of the applicant. *De jure* control is evidenced by holdings of greater than 50 percent of the voting stock of a corporation, or in the case of a partnership, general partnership interests. *De facto* control is determined on a case-by-case basis. An entity must disclose its equity interest and demonstrate at least the following indicia of control to establish that it retains *de facto* control of the applicant:

(A) The entity constitutes or appoints more than 50 percent of the board of directors or management committee;

(B) The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; and

(C) The entity plays an integral role in management decisions.

(ii) *Calculation of certain interests.* (A) *Fully diluted requirement.* (*1*) Except as set forth in paragraph (c)(2)(ii)(A)(*2*) of this section, ownership interests shall be calculated on a fully diluted basis; all agreements such as warrants, stock options and convertible debentures will generally be treated as if the rights thereunder already have been fully exercised.

(*2*) Rights of first refusal and put options shall not be calculated on a fully diluted basis for purposes of determining *de jure* control; however, rights of first refusal and put options shall be calculated on a fully diluted basis if such ownership interests, in combination with other terms to an agreement, deprive an otherwise qualified applicant or licensee of *de facto* control.

NOTE TO PARAGRAPH (c)(2)(ii)(A): Mutually exclusive contingent ownership interests, i.e., one or more ownership interests that, by their terms, are mutually exclusive of one or more other ownership interests, shall be calculated as having been fully exercised only in the possible combinations in which they can be exercised by their holder(s). A contingent ownership interest is mutually exclusive of another only if contractual language specifies that both interests cannot be held simultaneously as present ownership interests.

(B) Partnership and other ownership interests and any stock interest equity, or outstanding stock, or outstanding voting stock shall be attributed as specified.

(C) Stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal, or extra-trust business relationship to the grantor or the beneficiary, the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust.

(D) Non-voting stock shall be attributed as an interest in the issuing entity.

(E) Limited partnership interests shall be attributed to limited partners and shall be calculated according to both the percentage of equity paid in and the percentage of distribution of profits and losses.

(F) Officers and directors of the applicant shall be considered to have a controlling interest in the applicant. The officers and directors of an entity that controls a licensee or applicant shall be considered to have a controlling interest in the licensee or applicant. The personal net worth, including personal income of the officers and directors of an applicant, is not attributed to the applicant. To the extent that the officers and directors of an applicant are affiliates of other entities, the gross revenues of the other entities are attributed to the applicant.

(G) Ownership interests that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, 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.

(H) Any person who manages the operations of an applicant or licensee pursuant to a management agreement shall be considered to have a controlling interest in such applicant or licensee if such person, or its affiliate, has authority to make decisions or otherwise engage in practices or activities that determine, or significantly influence:

(*1*) The nature or types of services offered by such an applicant or licensee;

(*2*) The terms upon which such services are offered; or

(*3*) The prices charged for such services.

(I) Any licensee or its affiliate who enters into a joint marketing arrangement with an applicant or licensee, or its affiliate, shall be considered to have a controlling interest, if such applicant or licensee, or its affiliate, has authority to make decisions or otherwise engage in practices or activities that determine, or significantly influence:

(*1*) The nature or types of services offered by such an applicant or licensee;

(*2*) The terms upon which such services are offered; or

(*3*) The prices charged for such services.

(3) *Businesses owned by members of minority groups and/or women.* Unless otherwise provided in rules governing specific services, a business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens control the applicant, have at least greater than 50 percent equity ownership and, in the case of a corporate applicant, have a greater than 50 percent voting interest. For applicants that are partnerships, every general partner must be either a minority and/or woman (or minorities and/or women) who are U.S. citizens and who individually or together own at least 50 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interests of minorities and women are to be calculated on a fully diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised. However, upon a demonstration that options or conversion rights held by non-controlling principals will not deprive the minority and female principals of a substantial financial stake in the venture or impair their rights to control the designated entity, a designated entity may seek a waiver of the requirement that the equity of the minority and female principals must be calculated on a fully-diluted basis. The term minority includes individuals of Black or African American, Hispanic or Latino, American Indian or Alaskan Native, Asian, and Native Hawaiian or Pacific Islander extraction.

(4) *Rural telephone companies.* A rural telephone company is any local exchange carrier operating entity to the extent that such entity—

(i) Provides common carrier service to any local exchange carrier study area that does not include either:

(A) Any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census, or

(B) Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(ii) Provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(iii) Provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(iv) Has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

(5) *Affiliate.* (i) An individual or entity is an affiliate of an applicant or of a person holding an attributable interest in an applicant if such individual or entity—

(A) Directly or indirectly controls or has the power to control the applicant, or

(B) Is directly or indirectly controlled by the applicant, or

(C) Is directly or indirectly controlled by a third party or parties that

also controls or has the power to control the applicant, or

(D) Has an ''identity of interest'' with the applicant.

(ii) Nature of control in determining affiliation.

(A) Every business concern is considered to have one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

*Example.* An applicant owning 50 percent of the voting stock of another concern would have negative power to control such concern since such party can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders in the other entity. Affiliation exists when the applicant has the power to control a concern while at the same time another person, or persons, are in control of the concern at the will of the party or parties with the power to control.

(B) Control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

(C) Control can arise through management positions where a concern's voting stock is so widely distributed that no effective control can be established.

*Example.* In a corporation where the officers and directors own various size blocks of stock totaling 40 percent of the corporation's voting stock, but no officer or director has a block sufficient to give him or her control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control. If persons with such management control of the other entity are persons with attributable interests in the applicant, the other entity will be deemed an affiliate of the applicant.

(iii) *Identity of interest between and among persons.* Affiliation can arise between or among two or more persons with an identity of interest, such as members of the same family or persons with common investments. In determining if the applicant controls or has the power to control a concern, persons with an identity of interest will be treated as though they were one person.

*Example.* Two shareholders in Corporation Y each have attributable interests in the same PCS application. While neither shareholder has enough shares to individually control Corporation Y, together they have the power to control Corporation Y. The two shareholders with these common investments (or identity in interest) are treated as though they are one person and Corporation Y would be deemed an affiliate of the applicant.

(A) *Spousal affiliation.* Both spouses are deemed to own or control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States. In calculating their net worth, investors who are legally separated must include their share of interests in property held jointly with a spouse.

(B) *Kinship affiliation.* Immediate family members will be presumed to own or control or have the power to control interests owned or controlled by other immediate family members. In this context ''immediate family member'' means father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father or -mother, step-brother or -sister, step-son or -daughter, half brother or sister. This presumption may be rebutted by showing that the family members are estranged, the family ties are remote, or the family members are not closely involved with each other in business matters.

*Example.* A owns a controlling interest in Corporation X. A's sister-in-law, B, has an attributable interest in a PCS application. Because A and B have a presumptive kinship affiliation, A's interest in Corporation Y is attributable to B, and thus to the applicant, unless B rebuts the presumption with the necessary showing.

(iv) *Affiliation through stock ownership.* (A) An applicant is presumed to control or have the power to control a concern if he or she owns or controls or

has the power to control 50 percent or more of its voting stock.

(B) An applicant is presumed to control or have the power to control a concern even though he or she owns, controls or has the power to control less than 50 percent of the concern's voting stock, if the block of stock he or she owns, controls or has the power to control is large as compared with any other outstanding block of stock.

(C) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, such minority holdings are equal or approximately equal in size, and the aggregate of these minority holdings is large as compared with any other stock holding, the presumption arises that each one of these persons individually controls or has the power to control the concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(v) Affiliation arising under stock options, convertible debentures, and agreements to merge. Except as set forth in paragraph (c)(2)(ii)(A)(*2*) of this section, stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are generally treated as though the rights held thereunder had been exercised. However, an affiliate cannot use such options and debentures to appear to terminate its control over another concern before it actually does so.

*Example 1 to paragraph (c)(5)(v).* If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in a PCS application, the situation is treated as though company B had exercised its rights and had become owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

*Example 2.* If a large company, BigCo, holds 70% (70 of 100 outstanding shares) of the voting stock of company A, who holds an attributable interest in a PCS application, and gives a third party, SmallCo, an option to purchase 50 of the 70 shares owned by BigCo, BigCo will be deemed to be an affiliate of company A, and thus the applicant, until SmallCo actually exercises its option to purchase such shares. In order to prevent BigCo from circumventing the intent of the rule which requires such options to be considered on a fully diluted basis, the option is not considered to have present effect in this case.

*Example 3.* If company A has entered into an agreement to merge with company B in the future, the situation is treated as though the merger has taken place.

NOTE TO PARAGRAPH (c)(5)(v): Mutually exclusive contingent ownership interests, i.e., one or more ownership interests that, by their terms, are mutually exclusive of one or more other ownership interests, shall be calculated as having been fully exercised only in the possible combinations in which they can be exercised by their holder(s). A contingent ownership interest is mutually exclusive of another only if contractual language specifies that both interests cannot be held simultaneously as present ownership interests.

(vi) *Affiliation under voting trusts.* (A) Stock interests held in trust shall be deemed controlled by any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will.

(B) If a trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the stock interests held in trust will be deemed controlled by the grantor or beneficiary, as appropriate.

(C) If the primary purpose of a voting trust, or similar agreement, is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may meet the Commission's size standards, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not recognized within the appropriate jurisdiction.

(vii) *Affiliation through common management.* Affiliation generally arises where officers, directors, or key employees serve as the majority or otherwise as the controlling element of the board of directors and/or the management of another entity.

(viii) *Affiliation through common facilities.* Affiliation generally arises where one concern shares office space and/or

employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operations, or where such concerns were formerly affiliated, and through these sharing arrangements one concern has control, or potential control, of the other concern.

(ix) *Affiliation through contractual relationships.* Affiliation generally arises where one concern is dependent upon another concern for contracts and business to such a degree that one concern has control, or potential control, of the other concern.

(x) *Affiliation under joint venture arrangements.* (A) A joint venture for size determination purposes is an association of concerns and/or individuals, with interests in any degree or proportion, formed by contract, express or implied, to engage in and carry out a single, specific business venture for joint profit for which purpose they combine their efforts, property, money, skill and knowledge, but not on a continuing or permanent basis for conducting business generally. The determination whether an entity is a joint venture is based upon the facts of the business operation, regardless of how the business operation may be designated by the parties involved. An agreement to share profits/losses proportionate to each party's contribution to the business operation is a significant factor in determining whether the business operation is a joint venture.

(B) The parties to a joint venture are considered to be affiliated with each other. Nothing in this subsection shall be construed to define a small business consortium, for purposes of determining status as a designated entity, as a joint venture under attribution standards provided in this section.

(xi) *Exclusion from affiliation coverage.* For purposes of this section, Indian tribes or Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), or entities owned and controlled by such tribes or corporations, are not considered affiliates of an applicant (or licensee) that is owned and controlled by such tribes, corporations or entities, and that otherwise complies with the requirements of this section, except that gross revenues derived from gaming activities conducted by affiliate entities pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) will be counted in determining such applicant's (or licensee's) compliance with the financial requirements of this section, unless such applicant establishes that it will not receive a substantial unfair competitive advantage because significant legal constraints restrict the applicant's ability to access such gross revenues.

(6) *Consortium.* A consortium of small businesses, very small businesses, or entrepreneurs is a conglomerate organization composed of two or more entities, each of which individually satisfies the definition of a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules. Each individual member must constitute a separate and distinct legal entity to qualify.

(d) The Commission may set aside specific licenses for which only eligible designated entities, as specified by the Commission, may bid.

(e) The Commission may permit partitioning of service areas in particular services for eligible designated entities.

(f) *Bidding credits.* (1) The Commission may award bidding credits (*i.e.*, payment discounts) to eligible designated entities. Competitive bidding rules applicable to individual services will specify the designated entities eligible for bidding credits, the licenses for which bidding credits are available, the amounts of bidding credits and other procedures.

(2) *Size of bidding credits.* A winning bidder that qualifies as a small business may use the following bidding credits corresponding to its respective average gross revenues for the preceding 3 years:

(i) Businesses with average gross revenues for the preceding years, 3 years not exceeding $3 million are eligible for bidding credits of 35 percent;

(ii) Businesses with average gross revenues for the preceding years, 3 years not exceeding $15 million are eligible for bidding credits of 25 percent; and

(iii) Businesses with average gross revenues for the preceding years, 3

years not exceeding $40 million are eligible for bidding credits of 15 percent.

(3) *Bidding credit for serving qualifying tribal land.* A winning bidder for a market will be eligible to receive a bidding credit for serving a qualifying tribal land within that market, provided that it complies with §1.2107(e). The following definition, terms, and conditions shall apply for the purposes of this section and §1.2107(e):

(i) Qualifying tribal land means any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments, that has a wireline telephone subscription rate equal to or less than eighty-five (85) percent based on the most recently available U.S. Census Data.

(ii) *Certification.* (A) Within 180 days after the filing deadline for long-form applications, the winning bidder must amend its long-form application and attach a certification from the tribal government stating the following:

(*1*) The tribal government authorizes the winning bidder to site facilities and provide service on its tribal land;

(*2*) The tribal area to be served by the winning bidder constitutes qualifying tribal land; and

(*3*) The tribal government has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate among wireless carriers seeking to provide service on the qualifying tribal land.

(B) In addition, within 180 days after the filing deadline for long-form applications, the winning bidder must amend its long-form application and file a certification that it will comply with the construction requirements set forth in paragraph (f)(3)(vii) of this section and consult with the tribal government regarding the siting of facilities and deployment of service on the tribal land.

(C) If the winning bidder fails to submit the required certifications within the 180-day period, the bidding credit will not be awarded, and the winning bidder must pay any outstanding balance on its winning bid amount.

(iii) *Bidding credit formula.* Subject to the applicable bidding credit limit set forth in §1.2110(f)(3)(iv), the bidding credit shall equal five hundred thousand (500,000) dollars for the first two hundred (200) square miles (518 square kilometers) of qualifying tribal land, and twenty-five hundred (2500) dollars for each additional square mile (2.590 square kilometers) of qualifying tribal land above two hundred (200) square miles (518 square kilometers).

(iv) *Bidding credit limit.* If the high bid is equal to or less than one million (1,000,000) dollars, the maximum bidding credit calculated pursuant to §1.2110(f)(3)(iii) shall not exceed fifty (50) percent of the high bid. If the high bid is greater than one million (1,000,000) dollars, but equal to or less than two million (2,000,000) dollars, the maximum bidding credit calculated pursuant to §1.2110(f)(3)(iii) shall not exceed five hundred thousand (500,000) dollars. If the high bid is greater than two million (2,000,000) dollars, the maximum bidding credit calculated pursuant to §1.2110(f)(3)(iii) shall not exceed thirty-five (35) percent of the high bid.

(v) *Bidding credit limit in auctions subject to specified reserve price(s).* In any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2) with reserve price(s) and in any auction with reserve price(s) in which the Commission specifies that this provision shall apply, the aggregate amount available to be awarded as bidding credits for serving qualifying tribal land with respect to all licenses subject to a reserve price shall not exceed the amount by which winning bids for those licenses net of discounts the Commission takes into account when reporting net bids in the Public Notice closing the auction exceed the applicable reserve price. If the total amount that might be awarded as tribal land bidding credits based on applications for all licenses subject to the reserve price exceeds the aggregate amount available to be awarded, the Commission will award eligible applicants a pro rata tribal land bidding credit. The Commission may determine at any time that the total amount that might be

awarded as tribal land bidding credits is less than the aggregate amount available to be awarded and grant full tribal land bidding credits to relevant applicants, including any that previously received pro rata tribal land bidding credits. To determine the amount of an applicant's pro rata tribal land bidding credit, the Commission will multiply the full amount of the tribal land bidding credit for which the applicant would be eligible excepting this limitation ((f)(3)(v)) of this section by a fraction, consisting of a numerator in the amount by which winning bids for licenses subject to the reserve price net of discounts the Commission takes into account when reporting net bids in the Public Notice closing the auction exceed the reserve price and a denominator in the amount of the aggregate maximum tribal land bidding credits for which applicants for such licenses might have qualified excepting this limitation ((f)(3)(v)) of this section. When determining the aggregate maximum tribal land bidding credits for which applicants for such licenses might have qualified, the Commission shall assume that any applicant seeking a tribal land bidding credit on its long-form application will be eligible for the largest tribal land bidding credit possible for its bid for its license excepting this limitation ((f)(3)(v)) of this section. After all applications seeking a tribal land bidding credit with respect to licenses covered by a reserve price have been finally resolved, the Commission will recalculate the pro rata credit. For these purposes, final determination of a credit occurs only after any review or reconsideration of the award of such credit has been concluded and no opportunity remains for further review or reconsideration. To recalculate an applicant's pro rata tribal land bidding credit, the Commission will multiply the full amount of the tribal land bidding credit for which the applicant would be eligible excepting this limitation ((f)(3)(v)) of this section by a fraction, consisting of a numerator in the amount by which winning bids for licenses subject to the reserve price net of discounts the Commission takes into account when reporting net bids in the Public Notice closing the auction exceed the reserve price and a denominator in the amount of the aggregate amount of tribal land bidding credits for which all applicants for such licenses would have qualified excepting this limitation ((f)(3)(v)) of this section.

(vi) *Application of credit.* A pending request for a bidding credit for serving qualifying tribal land has no effect on a bidder's obligations to make any auction payments, including down and final payments on winning bids, prior to award of the bidding credit by the Commission. Tribal land bidding credits will be calculated and awarded prior to license grant. If the Commission grants an applicant a pro rata tribal land bidding credit prior to license grant, as provided by paragraph (f)(3)(v) of this section, the Commission shall recalculate the applicant's pro rata tribal land bidding credit after all applications seeking tribal land biddings for licenses subject to the same reserve price have been finally resolved. If a recalculated tribal land bidding credit is larger than the previously awarded pro rata tribal land bidding credit, the Commission will award the difference.

(vii) *Post-construction certification.* Within fifteen (15) days of the third anniversary of the initial grant of its license, a recipient of a bidding credit under this section shall file a certification that the recipient has constructed and is operating a system capable of serving seventy-five (75) percent of the population of the qualifying tribal land for which the credit was awarded. The recipient must provide the total population of the tribal area covered by its license as well as the number of persons that it is serving in the tribal area.

(viii) *Performance penalties.* If a recipient of a bidding credit under this section fails to provide the post-construction certification required by paragraph (f)(3)(vii) of this section, then it shall repay the bidding credit amount in its entirety, plus interest. The interest will be based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted. Such payment shall be made within thirty (30) days of the third anniversary of the initial grant of its license. Failure to repay the bidding

credit amount and interest within the required time period will result in automatic termination of the license without specific Commission action. Repayment of bidding credit amounts pursuant to this provision shall not affect the calculation of amounts available to be awarded as tribal land bidding credits pursuant to (f)(3)(v) of this section.

(g) *Installment payments.* The Commission may permit small businesses (including small businesses owned by women, minorities, or rural telephone companies that qualify as small businesses) and other entities determined to be eligible on a service-specific basis, which are high bidders for licenses specified by the Commission, to pay the full amount of their high bids in installments over the term of their licenses pursuant to the following:

(1) Unless otherwise specified by public notice, each eligible applicant paying for its license(s) on an installment basis must deposit by wire transfer in the manner specified in §1.2107(b) sufficient additional funds as are necessary to bring its total deposits to ten (10) percent of its winning bid(s) within ten (10) days after the Commission has declared it the winning bidder and closed the bidding. Failure to remit the required payment will make the bidder liable to pay a default payment pursuant to §1.2104(g)(2).

(2) Within ten (10) days of the conditional grant of the license application of a winning bidder eligible for installment payments, the licensee shall pay another ten (10) percent of the high bid, thereby commencing the eligible licensee's installment payment plan. If a winning bidder eligible for installment payments fails to submit this additional ten (10) percent of its high bid by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five percent of the amount due. When a winning bidder eligible for installment payments fails to submit this additional ten (10) percent of its winning bid, plus the late fee, by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. Licenses will be awarded upon the full and timely payment of second down payments and any applicable late fees.

(3) Upon grant of the license, the Commission will notify each eligible licensee of the terms of its installment payment plan and that it must execute a promissory note and security agreement as a condition of the installment payment plan. Unless other terms are specified in the rules of particular services, such plans will:

(i) Impose interest based on the rate of U.S. Treasury obligations (with maturities closest to the duration of the license term) at the time of licensing;

(ii) Allow installment payments for the full license term;

(iii) Begin with interest-only payments for the first two years; and

(iv) Amortize principal and interest over the remaining term of the license.

(4) A license granted to an eligible entity that elects installment payments shall be conditioned upon the full and timely performance of the licensee's payment obligations under the installment plan.

(i) Any licensee that fails to submit its quarterly payment on an installment payment obligation (the ''Required Installment Payment'') may submit such payment on or before the last day of the next quarter (the ''first additional quarter'') without being considered delinquent. Any licensee making its Required Installment Payment during this period (the ''first additional quarter grace period'') will be assessed a late payment fee equal to five percent (5%) of the amount of the past due Required Installment Payment. The late payment fee applies to the total Required Installment Payment regardless of whether the licensee submitted a portion of its Required Installment Payment in a timely manner.

(ii) If any licensee fails to make the Required Installment Payment on or before the last day of the first additional quarter set forth in paragraph (g)(4)(i) of this section, the licensee may submit its Required Installment Payment on or before the last day of the next quarter (the ''second additional quarter''), except that no such additional time will be provided for the

July 31, 1998 suspension interest and installment payments from C or F block licensees that are not made within 90 days of the payment resumption date for those licensees, as explained in Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, *Order on Reconsideration of the Second Report and Order*, WT Docket No. 97–82, 13 FCC Rcd 8345 (1998). Any licensee making the Required Installment Payment during the second additional quarter (the ''second additional quarter grace period'') will be assessed a late payment fee equal to ten percent (10%) of the amount of the past due Required Installment Payment. Licensees shall not be required to submit any form of request in order to take advantage of the first and second additional quarter grace periods.

(iii) All licensees that avail themselves of these grace periods must pay the associated late payment fee(s) and the Required Installment Payment prior to the conclusion of the applicable additional quarter grace period(s). Payments made at the close of any grace period(s) will first be applied to satisfy any lender advances as required under each licensee's ''Note and Security Agreement,'' with the remainder of such payments applied in the following order: late payment fees, interest charges, installment payments for the most back-due quarterly installment payment.

(iv) If an eligible entity obligated to make installment payments fails to pay the total Required Installment Payment, interest and any late payment fees associated with the Required Installment Payment within two quarters (6 months) of the Required Installment Payment due date, it shall be in default, its license shall automatically cancel, and it will be subject to debt collection procedures. A licensee in the PCS C or F blocks shall be in default, its license shall automatically cancel, and it will be subject to debt collection procedures, if the payment due on the payment resumption date, referenced in paragraph (g)(4)(ii) of this section, is more than ninety (90) days delinquent.

(h) The Commission may establish different upfront payment requirements for categories of designated entities in competitive bidding rules of particular auctionable services.

(i) The Commission may offer designated entities a combination of the available preferences or additional preferences.

(j) Designated entities must describe on their long-form applications how they satisfy the requirements for eligibility for designated entity status, and must list and summarize on their long-form applications all agreements that affect designated entity status such as partnership agreements, shareholder agreements, management agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, and all other agreements, including oral agreements, establishing, as applicable, de facto or *de jure* control of the entity or the presence or absence of impermissible and attributable material relationships. Designated entities also must provide the date(s) on which they entered into each of the agreements listed. In addition, designated entities must file with their long-form applications a copy of each such agreement. In order to enable the Commission to audit designated entity eligibility on an ongoing basis, designated entities that are awarded eligibility must, for the term of the license, maintain at their facilities or with their designated agents the lists, summaries, dates, and copies of agreements required to be identified and provided to the Commission pursuant to this paragraph and to § 1.2114.

(k) The Commission may, on a service-specific basis, permit consortia, each member of which individually meets the eligibility requirements, to qualify for any designated entity provisions.

(l) The Commission may, on a service-specific basis, permit publicly-traded companies that are owned by members of minority groups or women to qualify for any designated entity provisions.

(m) *Audits.* (1) Applicants and licensees claiming eligibility shall be subject to audits by the Commission, using in-house and contract resources. Selection for audit may be random, on information, or on the basis of other factors.

(2) Consent to such audits is part of the certification included in the short-form application (FCC Form 175). Such consent shall include consent to the audit of the applicant's or licensee's books, documents and other material (including accounting procedures and practices) regardless of form or type, sufficient to confirm that such applicant's or licensee's representations are, and remain, accurate. Such consent shall include inspection at all reasonable times of the facilities, or parts thereof, engaged in providing and transacting business, or keeping records regarding FCC-licensed service and shall also include consent to the interview of principals, employees, customers and suppliers of the applicant or licensee.

(n) *Annual reports.* Each designated entity licensee must file with the Commission an annual report within five business days before the anniversary date of the designated entity's license grant. The annual report shall include, at a minimum, a list and summaries of all agreements and arrangements (including proposed agreements and arrangements) that relate to eligibility for designated entity benefits. In addition to a summary of each agreement or arrangement, this list must include the parties (including affiliates, controlling interests, and affiliates of controlling interests) to each agreement or arrangement, as well as the dates on which the parties entered into each agreement or arrangement. Annual reports will be filed no later than, and up to five business days before, the anniversary of the designated entity's license grant.

(o) *Gross revenues.* Gross revenues shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (e.g., cost of goods sold), as evidenced by audited financial statements for the relevant number of most recently completed calendar years or, if audited financial statements were not prepared on a calendar-year basis, for the most recently completed fiscal years preceding the filing of the applicant's short-form (FCC Form 175). If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate. When an applicant does not otherwise use audited financial statements, its gross revenues may be certified by its chief financial officer or its equivalent and must be prepared in accordance with Generally Accepted Accounting Principles.

(p) *Total assets.* Total assets shall mean the book value (except where generally accepted accounting principles (GAAP) require market valuation) of all property owned by an entity, whether real or personal, tangible or intangible, as evidenced by the most recently audited financial statements or certified by the applicant's chief financial offer or its equivalent if the applicant does not otherwise use audited financial statements.

[63 FR 2343, Jan. 15, 1998; 63 FR 12659, Mar. 16, 1998, as amended at 63 FR 17122, Apr. 8, 1998; 65 FR 47355, Aug. 2, 2000; 65 FR 52345, Aug. 29, 2000; 65 FR 68924, Nov. 15, 2000; 67 FR 16650, Apr. 8, 2002; 67 FR 45365, July 9, 2002; 68 FR 23422, May 2, 2003; 68 FR 42996, July 21, 2003; 69 FR 61321, Oct. 18, 2004; 70 FR 57187, Sept. 30, 2005; 71 FR 6227, Feb. 7, 2006; 71 FR 26251, May 4, 2006]

### § 1.2111 Assignment or transfer of control: unjust enrichment.

(a) *Reporting requirement.* An applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's rules) of a license within three years of receiving a new license 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 license was obtained through competitive bidding. Such applicant must also file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the local consideration that the applicant would receive in return for the transfer or assignment of its license (see § 1.948). This information should include not only a monetary purchase 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) *Unjust enrichment payment: set-aside*. As specified in this paragraph an applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's rules) of, or for entry into a material relationship (see §§1.2110, 1.2114) (otherwise permitted under the Commission's rules) involving, a license acquired by the applicant pursuant to a set-aside for eligible designated entities under §1.2110(c), or which proposes to take any other action relating to ownership or control that will result in loss of eligibility as a designated entity, must seek Commission approval and may be required to make an unjust enrichment payment (Payment) to the Commission by cashier's check or wire transfer before consent will be granted. The Payment will be based upon a schedule that will take account of the term of the license, any applicable construction benchmarks, and the estimated value of the set-aside benefit, which will be calculated as the difference between the amount paid by the designated entity for the license and the value of comparable non-set-aside license in the free market at the time of the auction. The Commission will establish the amount of the Payment and the burden will be on the applicants to disprove this amount. No Payment will be required if:

(1) The license is transferred or assigned more than five years after its initial issuance, unless otherwise specified; or

(2) The proposed transferee or assignee is an eligible designated entity under §1.2110(c) or the service-specific competitive bidding rules of the particular service, and so certifies.

(c) *Unjust enrichment payment: installment financing*. (1) If a licensee that utilizes installment financing under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for installment payments, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of approval.

(2) If a licensee that utilizes installment financing under this section seeks to make any change in ownership structure or to enter into a material relationship (see §1.2110) that would result in the licensee losing eligibility for installment payments, the licensee shall first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of such change as a condition of approval. A licensee's (or other attributable entity's) increased gross revenues or increased total assets due to nonattributable equity investments, debt financing, revenue from operations or other investments, business development or expanded service shall not be considered to result in the licensee losing eligibility for installment payments.

(3) If a licensee seeks to make any change in ownership or to enter into a material relationship (see §1.2110) that would result in the licensee qualifying for a less favorable installment plan under this section, the licensee shall seek Commission approval and must adjust its payment plan to reflect its new eligibility status. A licensee may not switch its payment plan to a more favorable plan.

(d) *Unjust enrichment payment: bidding credits*. (1) A licensee that utilizes a bidding credit, and that during the initial term seeks to assign or transfer control of a license to an entity that does not meet the eligibility criteria for a bidding credit, will be required to reimburse the U.S. Government for the amount of the bidding credit, plus interest based on the rate for ten year U.S. Treasury obligations applicable on the date the license was granted, as a condition of Commission approval of the assignment or transfer. If, within the initial term of the license, a licensee that utilizes a bidding credit seeks to assign or transfer control of a license to an entity that is eligible for a lower bidding credit, the difference between the bidding credit obtained by the assigning party and the bidding credit for which the acquiring party would qualify, plus interest based on the rate for ten year U.S. treasury obligations applicable on the date the license is granted, must be paid to the

U.S. Government as a condition of Commission approval of the assignment or transfer. If, within the initial term of the license, a licensee that utilizes a bidding credit seeks to make any ownership change or to enter into a material relationship (see § 1.2110) that would result in the licensee losing eligibility for a bidding credit (or qualifying for a lower bidding credit), the amount of the bidding credit (or the difference between the bidding credit originally obtained and the bidding credit for which the licensee would qualify after restructuring or entry into a material relationship), plus interest based on the rate for ten year U.S. treasury obligations applicable on the date the license is granted, must be paid to the U.S. Government as a condition of Commission approval of the assignment or transfer or of a reportable eligibility event (see § 1.2114).

(2) *Payment schedule.* (i) For licenses initially granted after April 25, 2006, the amount of payments made pursuant to paragraph (d)(1) of this section will be 100 percent of the value of the bidding credit prior to the filing of the notification informing the Commission that the construction requirements applicable at the end of the initial license term have been met. If the notification informing the Commission that the construction requirements applicable at the end of the initial license term have been met, the amount of the payments will be reduced over time as follows:

(A) A loss of eligibility in the first five years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit (or in the case of eligibility changing to qualify for a lower bidding credit, 100 percent of the difference between the bidding credit received and the bidding credit for which it is eligible);

(B) A loss of eligibility in years 6 and 7 of the license term will result in a forfeiture of 75 percent of the value of the bidding credit (or in the case of eligibility changing to qualify for a lower bidding credit, 75 percent of the difference between the bidding credit received and the bidding credit for which it is eligible);

(C) A loss of eligibility in years 8 and 9 of the license term will result in a forfeiture of 50 percent of the value of the bidding credit (or in the case of eligibility changing to qualify for a lower bidding credit, 50 percent of the difference between the bidding credit received and the bidding credit for which it is eligible); and

(D) A loss of eligibility in year 10 of the license term will result in a forfeiture of 25 percent of the value of the bidding credit (or in the case of eligibility changing to qualify for a lower bidding credit, 25 percent of the difference between the bidding credit received and the bidding credit for which it is eligible).

(ii) For licenses initially granted before April 25, 2006, the amount of payments made pursuant to paragraph (d)(1) of this section will be reduced over time as follows:

(A) A transfer in the first two years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit (or in the case of very small businesses transferring to small businesses, 100 percent of the difference between the bidding credit received by the former and the bidding credit for which the latter is eligible);

(B) A transfer in year 3 of the license term will result in a forfeiture of 75 percent of the value of the bidding credit;

(C) A transfer in year 4 of the license term will result in a forfeiture of 50 percent of the value of the bidding credit;

(D) A transfer in year 5 of the license term will result in a forfeiture of 25 percent of the value of the bidding credit; and

(E) For a transfer in year 6 or thereafter, there will be no payment.

(iii) These payments will have to be paid to the United States Treasury as a condition of approval of the assignment, transfer, ownership change, or reportable eligibility event (see § 1.2114).

(e) *Unjust enrichment: partitioning and disaggregation*—(1) *Installment payments.* Licensees making installment payments, that partition their licenses or disaggregate their spectrum to entities not meeting the eligibility standards

for installment payments, will be subject to the provisions concerning unjust enrichment as set forth in this section.

(2) *Bidding credits.* Licensees that received a bidding credit that partition their licenses or disaggregate their spectrum to entities not meeting the eligibility standards for such a bidding credit, will be subject to the provisions concerning unjust enrichment as set forth in this section.

(3) *Apportioning unjust enrichment payments.* Unjust enrichment payments for partitioned license areas shall be calculated based upon the ratio of the population of the partitioned license area to the overall population of the license area and by utilizing the most recent census data. Unjust enrichment payments for disaggregated spectrum shall be calculated based upon the ratio of the amount of spectrum disaggregated to the amount of spectrum held by the licensee.

[59 FR 44293, Aug. 26, 1994, as amended at 63 FR 2346, Jan. 15, 1998; 63 FR 68942, Dec. 14, 1998; 71 FR 26252, May 4, 2006; 71 FR 34278, June 14, 2006]

### § 1.2112 Ownership disclosure requirements for applications.

(a) Each application to participate in competitive bidding (*i.e.*, short-form application (*see* 47 CFR 1.2105)), or for a license, authorization, assignment, or transfer of control shall fully disclose the following:

(1) List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

(2) List the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held;

(3) List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses);

(4) List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;

(5) List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater;

(6) List all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, 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 and reported as if it were a 100 percent interest; and

(7) List any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (e.g., Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant).

(b) *Designated entity status.* In addition to the information required under paragraph (a) of this section, each applicant claiming eligibility for small business provisions shall disclose the following:

(1) On its application to participate in competitive bidding (*i.e.*, short-form application (see 47 CFR 1.2105)):

(i) List the names, addresses, and citizenship of all officers, directors, affiliates, and other controlling interests of the applicant, as described in § 1.2110, and, if a consortium of small businesses or consortium of very small businesses, the members of the conglomerate organization;

(ii) List any FCC-regulated entity or applicant for an FCC license, in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant; and

(iii) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of de facto or *de jure* control or the presence or absence of impermissible and attributable material relationships. Such agreements and instruments include articles of incorporation and bylaws, partnership agreements, shareholder agreements, voting or other trust agreements, management agreements, franchise agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, and any other relevant agreements (including letters of intent), oral or written;

(iv) List separately and in the aggregate the gross revenues, computed in accordance with §1.2110, for each of the following: The applicant, its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship; and if a consortium of small businesses, the members comprising the consortium.

(2) As an exhibit to its application for a license, authorization, assignment, or transfer of control:

(i) List the names, addresses, and citizenship of all officers, directors, and other controlling interests of the applicant, as described in §1.2110;

(ii) List any FCC-regulated entity or applicant for an FCC license, in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant;

(iii) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of de facto or *de jure* control or the presence or absence of impermissible and attributable material relationships. Such agreements and instruments include articles of incorporation and bylaws, partnership agreements, shareholder agreements, voting or other trust agreements, management agreements, franchise agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, and any other relevant agreements (including letters of intent), oral or written;

(iv) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees;

(v) List separately and in the aggregate the gross revenues, computed in accordance with §1.2110, for each of the following: the applicant, its affiliates, its controlling interests, affiliates of its controlling interests, and parties with which it has attributable material relationships; and if a consortium of small businesses, the members comprising the consortium; and

(vi) List and summarize, if seeking the exemption for rural telephone cooperatives pursuant to §1.2110, all documentation to establish eligibility pursuant to the factors listed under §1.2110(b)(3)(iii)(A).

(vii) List and summarize any agreements in which the applicant has entered into arrangements for the lease or resale (including wholesale agreements) of any of the spectrum capacity of the license that is the subject of the application.

[68 FR 42997, July 21, 2003, as amended at 70 FR 57187, Sept. 30, 2005; 71 FR 26253, May 4, 2006]

### § 1.2113 Construction prior to grant of application.

Subject to the provisions of this section, applicants for licenses awarded by competitive bidding may construct facilities to provide service prior to grant of their applications, but must not operate such facilities until the FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities for licenses subject to competitive bidding.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility upon release of the Public Notice listing the post-auction long-form application for that facility as acceptable for filing.

(b) *Notification to stop.* If the FCC for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

(1) Applications that are not granted;

(2) Errors or delays in issuing public notices;

(3) Having to alter, relocate or dismantle the facility; or

(4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or FCC rules and orders.

(d) *Conditions.* Except as indicated, all pre-grant construction is subject to the following conditions:

(1) The application does not include a request for a waiver of one or more FCC rules;

(2) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460–1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, PRB, Support Services Branch, Gettysburg, PA 17325;

(3) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with §§ 1.1301 through 1.1319;

(4) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required; and

(5) Any service-specific restrictions not listed herein.

[63 FR 2348, Jan. 15, 1998]

### § 1.2114 Reporting of eligibility event.

(a) A designated entity must seek Commission approval for all reportable eligibility events. A reportable eligibility event is:

(1) Any spectrum lease (as defined in § 1.9003) or resale arrangement (including wholesale agreements) with one entity or on a cumulative basis that might cause a licensee to lose eligibility for installment payments, a set-aside license, or a bidding credit (or for a particular level of bidding credit) under § 1.2110 and applicable service-specific rules.

(2) Any other event that would lead to a change in the eligibility of a licensee for designated entity benefits.

(b) *Documents listed on and filed with application.* A designated entity filing an application pursuant to this section must—

(1) List and summarize on the application all agreements and arrangements (including proposed agreements and arrangements) that give rise to or otherwise relate to a reportable eligibility event. In addition to a summary of each agreement or arrangement, this list must include the parties (including each party's affiliates, its controlling interests, the affiliates of its controlling interests, its spectrum lessees, and its spectrum resellers and wholesalers) to each agreement or arrangement, as well as the dates on which the parties entered into each agreement or arrangement.

(2) File with the application a copy of each agreement and arrangement listed pursuant to this paragraph.

(3) Maintain at its facilities or with its designated agents, for the term of

the license, the lists, summaries, dates, and copies of agreements and arrangements required to be provided to the Commission pursuant to this section.

(c) *Application fees*. The application reporting the eligibility event will be treated as a transfer of control for purposes of determining the applicable application fees as set forth in § 1.1102.

(d) *Streamlined approval procedures*. (1) The eligibility event application will be placed on public notice once the application is sufficiently complete and accepted for filing (see § 1.933).

(2) Petitions to deny filed in accordance with section 309(d) of the Communications Act must comply with the provisions of § 1.939, except that such petitions must be filed no later than 14 days following the date of the Public Notice listing the application as accepted for filing.

(3) No later than 21 days following the date of the Public Notice listing an application as accepted for filing, the Wireless Telecommunications Bureau (Bureau) will grant the application, deny the application, or remove the application from streamlined processing for further review.

(4) Grant of the application will be reflected in a Public Notice (see § 1.933(a)(2)) promptly issued after the grant.

(5) If the Bureau determines to remove an application from streamlined processing, it will issue a Public Notice indicating that the application has been removed from streamlined processing. Within 90 days of that Public Notice, the Bureau will either take action upon the application or provide public notice that an additional 90-day period for review is needed.

(e) *Public notice of application*. Applications under this subpart will be placed on an informational public notice on a weekly basis (see § 1.933(a)).

(f) *Contents of the application*. The application must contain all information requested on the applicable form, any additional information and certifications required by the rules in this chapter, and any rules pertaining to the specific service for which the application is filed.

(g) The designated entity is required to update any change in a relationship that gave rise to a reportable eligibility event.

[71 FR 26253, May 4, 2006, as amended at 71 FR 34278, June 14, 2006]

## Subpart R—Implementation of Section 4(g)(3) of the Communications Act: Procedures Governing Acceptance of Unconditional Gifts, Donations and Bequests

SOURCE: 59 FR 38128, July 27, 1994, unless otherwise noted.

### § 1.3000 Purpose and scope.

The purpose of this subpart is to implement the Telecommunications Authorization Act of 1992 which amended the Communications Act by creating section 4(g)(3), 47 U.S.C. 154(g)(3). The provisions of this subpart shall apply to gifts, donations and bequests made to the Commission itself. Travel reimbursement for attendance at, or participation in, government-sponsored meetings or events required to carry out the Commission's statutory or regulatory functions may also be accepted under this subpart. The acceptance of gifts by Commission employees, most notably gifts of food, drink and entertainment, is governed by the government-wide standards of employee conduct established at 5 CFR part 2635. Travel, subsistence and related expenses for non-government-sponsored meetings or events will continue to be accepted pursuant to the Government Employees Training Act, 41 U.S.C. 4111 or 31 U.S.C. 1353, and its General Services Administration's implementing regulations, 41 CFR 304–1.8, as applicable.

### § 1.3001 Definitions.

For purposes of this subpart:

(a) The term *agency* means the Federal Communications Commission.

(b) The term *gift* means any unconditional gift, donation or bequest of real, personal and other property (including voluntary and uncompensated services as authorized under 5 U.S.C. 3109).

(c) The terms *agency ethics official*, *designated agency ethics official*, *employee*, *market value*, *person*, and *prohibited source*, have the same meaning as found in 5 CFR 2635.102, 2635.203.

### § 1.3002 Structural rules and prohibitions.

(a) *General prohibitions*. An employee shall not:

(1) Directly or indirectly, solicit or coerce the offering of a gift, donation or bequest to the Commission from a regulated entity or other prohibited source; or

(2) Accept gifts of cash pursuant to this subpart.

(b) *Referral of offers to designated agency ethics official*. Any person who seeks to offer any gift to the Commission under the provisions of this subpart shall make such offer to the Commission's designated agency ethics official. In addition, any Commission employee who is contacted by a potential donor or the representative thereof for the purpose of discussing the possibility of making a gift, donation or bequest to the Commission shall immediately refer such person or persons to the Commission's designated agency ethics official. The designated agency ethics official shall, in consultation with other agency ethics officials, make a determination concerning whether acceptance of such offers would create a conflict of interest or the appearance of a conflict of interest. Agency ethics officials may also advise potential donors and their representatives of the types of equipment, property or services that may be of use to the Commission and the procedures for effectuating gifts set forth in this subpart. The Commission may, in its discretion, afford public notice before accepting any gift under authority of this subpart.

### § 1.3003 Mandatory factors for evaluating conflicts of interest.

No gift shall be accepted under this subpart unless a determination is made that its acceptance would not create a conflict of interest or the appearance of a conflict of interest. In making conflict of interest determinations, designated agency ethics officials shall consider the following factors:

(a) Whether the benefits of the intended gift will accrue to an individual employee and, if so—

(1) Whether the employee is responsible for matters affecting the potential donor that are currently before the agency; and

(2) The significance of the employee's role in any such matters;

(b) The nature and sensitivity of any matters pending at the Commission affecting the intended donor;

(c) The timing of the intended gift;

(d) The market value of the intended gift;

(e) The frequency of other gifts made by the same donor; and

(f) The reason underlying the intended gift given in a written statement from the proposed donor.

### § 1.3004 Public disclosure and reporting requirements.

(a) *Public disclosure of gifts accepted from prohibited sources*. The Commission's Security Operations Office, Office of the Managing Director, shall maintain a written record of gifts accepted from prohibited sources by the Commission pursuant to section 4(g)(3) authority, which will include:

(1) The identity of the prohibited source;

(2) A description of the gift;

(3) The market value of the gift;

(4) Documentation concerning the prohibited source's reason for the gift as required in § 1.3003(f);

(5) A signed statement of verification from the prohibited source that the gift is unconditional and is not contingent on any promise or expectation that the Commission's receipt of the gift will benefit the proposed donor in any regulatory matter; and

(6) The date the gift is accepted by the Commission.

(b) *Reporting Requirements for all gifts*. The Commission shall file a semi-annual report to Congress listing the gift, donor and value of all gifts accepted from any donor under this subpart.

## Subpart S—Preemption of Restrictions That ''Impair'' the Ability To Receive Television Broadcast Signals, Direct Broadcast Satellite Services, or Multichannel Multipoint Distribution Services or the Ability To Receive or Transmit Fixed Wireless Communications Signals

SOURCE: 66 FR 2333, Jan. 11, 2001, unless otherwise noted.

### § 1.4000 Restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

(a)(1) Any restriction, including but not limited to any state or local law or regulation, including zoning, land-use, or building regulations, or any private covenant, contract provision, lease provision, homeowners' association rule or similar restriction, on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership or leasehold interest in the property that impairs the installation, maintenance, or use of:

(i) An antenna that is:

(A) Used to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, and

(B) One meter or less in diameter or is located in Alaska;

(ii) An antenna that is:

(A) Used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite, and

(B) That is one meter or less in diameter or diagonal measurement;

(iii) An antenna that is used to receive television broadcast signals; or

(iv) A mast supporting an antenna described in paragraphs (a)(1)(i), (a)(1)(ii), or (a)(1)(iii) of this section; is prohibited to the extent it so impairs, subject to paragraph (b) of this section.

(2) For purposes of this section, ''fixed wireless signals'' means any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Fixed wireless signals do not include, among other things, AM radio, FM radio, amateur (''HAM'') radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.

(3) For purposes of this section, a law, regulation, or restriction impairs installation, maintenance, or use of an antenna if it:

(i) Unreasonably delays or prevents installation, maintenance, or use;

(ii) Unreasonably increases the cost of installation, maintenance, or use; or

(iii) Precludes reception or transmission of an acceptable quality signal.

(4) Any fee or cost imposed on a user by a rule, law, regulation or restriction must be reasonable in light of the cost of the equipment or services and the rule, law, regulation or restriction's treatment of comparable devices. No civil, criminal, administrative, or other legal action of any kind shall be taken to enforce any restriction or regulation prohibited by this section except pursuant to paragraph (d) or (e) of this section. In addition, except with respect to restrictions pertaining to safety and historic preservation as described in paragraph (b) of this section, if a proceeding is initiated pursuant to paragraph (d) or (e) of this section, the entity seeking to enforce the antenna restrictions in question must suspend all enforcement efforts pending completion of review. No attorney's fees shall be collected or assessed and no fine or other penalties shall accrue against an antenna user while a proceeding is pending to determine the validity of any restriction. If a ruling is issued adverse to a user, the user shall be granted at least a 21-day grace period in which to comply with the adverse ruling; and neither a fine nor a penalty may be collected from the user if the user complies with the adverse ruling during this grace period, unless the proponent of the restriction demonstrates, in the same proceeding which resulted in the adverse ruling,

that the user's claim in the proceeding was frivolous.

(b) Any restriction otherwise prohibited by paragraph (a) of this section is permitted if:

(1) It is necessary to accomplish a clearly defined, legitimate safety objective that is either stated in the text, preamble, or legislative history of the restriction or described as applying to that restriction in a document that is readily available to antenna users, and would be applied to the extent practicable in a non-discriminatory manner to other appurtenances, devices, or fixtures that are comparable in size and weight and pose a similar or greater safety risk as these antennas and to which local regulation would normally apply; or

(2) It is necessary to preserve a prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on, the National Register of Historic Places, as set forth in the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470, and imposes no greater restrictions on antennas covered by this rule than are imposed on the installation, maintenance, or use of other modern appurtenances, devices, or fixtures that are comparable in size, weight, and appearance to these antennas; and

(3) It is no more burdensome to affected antenna users than is necessary to achieve the objectives described in paragraphs (b)(1) or (b)(2) of this section.

(c) In the case of an antenna that is used to transmit fixed wireless signals, the provisions of this section shall apply only if a label is affixed to the antenna that:

(1) Provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transceiver antennas; and

(2) References the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310 of this chapter.

(d) Local governments or associations may apply to the Commission for a waiver of this section under §1.3 of this chapter. Waiver requests must comply with the procedures in paragraphs (f) and (h) of this section and will be put on public notice. The Commission may grant a waiver upon a showing by the applicant of local concerns of a highly specialized or unusual nature. No petition for waiver shall be considered unless it specifies the restriction at issue. Waivers granted in accordance with this section shall not apply to restrictions amended or enacted after the waiver is granted. Any responsive pleadings must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies must be filed within 15 days thereafter.

(e) Parties may petition the Commission for a declaratory ruling under §1.2 of this chapter, or a court of competent jurisdiction, to determine whether a particular restriction is permissible or prohibited under this section. Petitions to the Commission must comply with the procedures in paragraphs (f) and (h) of this section and will be put on public notice. Any responsive pleadings in a Commission proceeding must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies in a Commission proceeding must be served on all parties and filed within 15 days thereafter.

(f) Copies of petitions for declaratory rulings and waivers must be served on interested parties, including parties against whom the petitioner seeks to enforce the restriction or parties whose restrictions the petitioner seeks to prohibit. A certificate of service stating on whom the petition was served must be filed with the petition. In addition, in a Commission proceeding brought by an association or a local government, constructive notice of the proceeding must be given to members of the association or to the citizens under the local government's jurisdiction. In a court proceeding brought by an association, an association must give constructive notice of the proceeding to its members. Where constructive notice is required, the petitioner or plaintiff must file with the Commission or the court overseeing the proceeding a copy of the constructive notice with a statement explaining where the notice was placed and why such placement was reasonable.

(g) In any proceeding regarding the scope or interpretation of any provision of this section, the burden of demonstrating that a particular governmental or nongovernmental restriction complies with this section and does not impair the installation, maintenance, or use of devices used for over-the-air reception of video programming services or devices used to receive or transmit fixed wireless signals shall be on the party that seeks to impose or maintain the restriction.

(h) All allegations of fact contained in petitions and related pleadings before the Commission must be supported by affidavit of a person or persons with actual knowledge thereof. An original and two copies of all petitions and pleadings should be addressed to the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Copies of the petitions and related pleadings will be available for public inspection in the Reference Information Center, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Copies will be available for purchase from the Commission's contract copy center, and the Commission decisions will be available on the Internet.

[66 FR 2333, Jan. 11, 2001, as amended at 67 FR 13224, Mar. 21, 2002]

## Subpart T—Exempt Telecommunications Companies

### § 1.5000 Purpose.

The purpose of part 1, subpart T, is to implement Section 34(a) of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79 et seq., as added by Section 103 of the Telecommunications Act of 1996, Public Law No. 104–104, 110 Stat. 56 (1996).

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

### § 1.5001 Definitions.

(a) For the purpose of this part, the terms *telecommunications services* and *information services* shall have the same meanings as provided in the Communications Act of 1934, as amended;

(b) Commission shall be defined as the Federal Communications Commission; and

(c) *ETC* shall be defined as an exempt telecommunications company.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

### § 1.5002 Contents of application and procedure for filing.

(a) A person seeking status as an exempt telecommunications company (applicant) must file with the Commission with respect to the company or companies which are eligible companies owned or operated by the applicant, and serve on the Securities and Exchange Commission and any affected State commission, the following:

(1) A brief description of the planned activities of the company or companies which are or will be eligible companies owned and/or operated by the applicant;

(2) A sworn statement, by a representative legally authorized to bind the applicant, attesting to any facts or representations presented to demonstrate eligibility for ETC status, including a representation that the applicant is engaged directly, or indirectly, wherever located, through one or more affiliates (as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935), and exclusively in the business of providing:

(i) Telecommunications services;

(ii) Information services;

(iii) Other services or products subject to the jurisdiction of the Commission; or

(iv) Products or services that are related or incidental to the provision of a product or service described in paragraph (a)(1)(i), (a)(1)(ii), or (a)(1)(iii); and

(3) A sworn statement, by a representative legally authorized to bind the applicant, certifying that the applicant satisfies part 1, subpart P, of the Commission's regulations, 47 CFR 1.2001 through 1.2003, regarding implementation of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

### § 1.5003 Effect of filing.

A person applying in good faith for a Commission determination of exempt telecommunications company status will be deemed to be an exempt telecommunications company from the date of receipt of the application until the date of Commission action pursuant to § 1.5004.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

### § 1.5004 Commission action.

If the Commission has not issued an order granting or denying an application within 60 days of receipt of the application, the application will be deemed to have been granted as a matter of law.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

### § 1.5005 Notification of Commission action to the Securities and Exchange Commission.

The Secretary of the Commission will notify the Securities and Exchange Commission whenever a person is determined to be an exempt telecommunications company.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

### § 1.5006 Procedure for notifying Commission of material change in facts.

If there is any material change in facts that may affect an ETC's eligibility for ETC status under Section 34(a)(1) of the Public Utility Holding Company Act of 1935, the ETC must, within 30 days of the change in fact, either:

(a) Apply to the Commission for a new determination of ETC status;

(b) File a written explanation with the Commission of why the material change in facts does not affect the ETC's status; or

(c) Notify the Commission that it no longer seeks to maintain ETC status.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

### § 1.5007 Comments.

(a) Any person wishing to be heard concerning an application for ETC status may file comments with the Commission within fifteen (15) days from the release date of a public notice regarding the application, or such other period of time set by the Commission. Any comments must be limited to the adequacy or accuracy of the application.

(b) Any person who files comments with the Commission must also serve copies of all comments on the applicant.

(c) An applicant has seven (7) days to reply to any comments filed regarding the adequacy and accuracy of its application, or such other period of time as set by the Commission. Such reply shall be served on the commenters.

[61 FR 52899, Oct. 9, 1996; 61 FR 57335, Nov. 6, 1996]

## Subpart U—Implementation of Section 325(e) of the Communications Act: Procedures Governing Complaints Filed by Television Broadcast Stations Against Satellite Carriers for Retransmission Without Consent

SOURCE: 65 FR 10720, Feb. 29, 2000, unless otherwise noted.

### § 1.6000 Purpose.

The purpose of part 1, Subpart U, is to implement Section 325(e) of the Communications Act of 1934, as amended, 47 U.S.C. 325(e), *et seq.*, as added by section 1009 of the Satellite Home Viewer Improvement Act of 1999, Public Law 106–113, section 1000(9), 113 Stat. 1501, Appendix I (1999). The procedures set forth in this subpart supersede 47 U.S.C. 312.

### § 1.6001 Retransmission consent complaint procedures.

*By whom.* If a television broadcast station believes that a satellite carrier has retransmitted its broadcast station's signal to any person in the local market of such station in violation of 47 U.S.C. 325 (b)(1), the station may file a complaint with the Commission under this section.

### § 1.6002 Form and content.

(a) The following format shall be used for complaints of this type:

Before the Federal Communications Commission

Washington, D.C. 20554

In the Matter of Complainant,
v.
Defendant
File No. (to be inserted by the staff)

*Complaint*

To: The Commission.
The complainant (here insert the name, address, and call letters of the complaining television broadcast station) avers that: On (here insert the dates upon which the alleged transmission occurred), retransmission of the broadcast television station's signal was made by (insert here name and address of the satellite carrier) to (here insert the street address of at least one person in the local market of the station to whom the alleged retransmission was made). The complainant avers that (here insert a statement that the retransmission was not expressly authorized by the television broadcast station), and requests that the appropriate relief be granted by the Commission, as provided by the pertinent provisions of the Communications Act of 1934, as amended, and the Commission's Rules.
Date:
(here insert the name and address of counsel for the complaining station).

(b) A complaint lacking any of the foregoing information shall be dismissed by the FCC without prejudice to the complaining station.

(c) Additional information may be provided, and, where applicable, should conform to the requirements set forth in §§1.48 through 1.52 of the Commission's rules.

**§ 1.6003 Service requirements.**

(a) *General*. Pursuant to 47 U.S.C. 325(e), for purposes of any proceeding under this subsection, any satellite carrier that retransmits the signal of any broadcast station shall be deemed to designate the Secretary of the Commission as its agent for service of process.

(b) *Specific*. (1) A television broadcast station shall serve a satellite carrier with a complaint concerning an alleged violation of 47 U.S.C. 325(b)(1) by filing the original and two copies of the complaint on the Secretary of the Commission and serving a copy of the complaint by means of two commonly used overnight delivery services, each addressed to the chief executive officer of the satellite carrier at its principal place of business and each marked ''URGENT LITIGATION MATTER'' on the outer packaging. Service shall be deemed complete one business day after a copy of the complaint is provided to the delivery services for overnight delivery. On receipt of a complaint filed by a television broadcast station under this subsection, the Secretary of the Commission shall send the original complaint by United States mail, postage prepaid, receipt requested, addressed to the chief executive officer of the satellite carrier at its principal place of business.

(2) Satellite carriers shall provide the name, address, and telephone number (including area code) of their chief executive officers to the Secretary of the Commission, no later than April 15, 2000. Satellite carriers shall update this information, as necessary, in the event that the identity or the address of their respective chief executive officers changes. These updates shall be made by United States mail within seven (7) days of such changes. Complaints sent to the last known address shall be deemed served if the satellite carrier fails to notify the Secretary of the Commission in accordance with this provision.

**§ 1.6004 Answers.**

Within five (5) business days after the date of service, without regard to §1.4 of this part, the satellite carrier shall file its answer with the Commission, and shall contemporaneously serve the answer upon counsel designated in the complaint, at the address listed for such counsel in the complaint. Service of the answer shall be made by use of one commonly used overnight delivery service and by the United States mail.

**§ 1.6005 Exclusive defenses.**

(a) The defenses listed in paragraphs (a)(1) through (a)(4) of this section, are the only defenses available to a satellite carrier against which a complaint under this section is filed.

(1) The satellite carrier did not retransmit the television broadcast station's signal to any person in the ''local market'' of the television broadcast station, as that term is defined in 17 U.S.C. 122(j) (Designated Market

Area as determined by Nielsen Media Research and county containing the station's community of license), during the time period specified in the complaint;

(2) The television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the ''local market'' of the television broadcast station, as that term is defined in 17 U.S.C. 122(j), to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a violation of 47 U.S.C. 325 (b)(1) has occurred;

(3) The retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under 47 U.S.C. 338 as against the satellite carrier for the relevant period; or

(4) The television broadcast station whose signal is being retransmitted is a noncommercial television broadcast station.

(b) [Reserved]

### § 1.6006 Counting of violations.

Each day of retransmission without consent of a particular television broadcast station to one or more persons in the local market of the station shall be considered a separate violation of 47 U.S.C. 325(b)(1).

### § 1.6007 Burden of proof.

With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least one person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under § 1.6005(a)(1).

### § 1.6008 Determinations.

(a) *In General*. Within forty five (45) days after the filing of a complaint, the Commission shall issue a final determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on the written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on the written filings by the parties.

(b) *Discovery*. The Commission may direct the parties to exchange pertinent documents, and if necessary, to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within forty five (45) days. In this connection, the Commission may utilize the discovery or other evidentiary procedures set forth in §§ 1.311 through 1.364 of the Commission's rules.

### § 1.6009 Relief.

If the Commission determines that a satellite carrier has retransmitted the television broadcast station to at least one person in the local market of such station and has failed to meet its burden of proving one of the defenses under § 1.6005 (a)(2) through (a)(4) with respect to such retransmission, the Commission shall:

(a) Make a finding that the satellite carrier violated 47 U.S.C. 325(b)(1) with respect to that station; and

(b) Issue an order, within forty-five (45) days after the filing of the complaint, containing—

(1) A cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such station;

(2) If the satellite carrier is found to have violated 47 U.S.C. 325(b)(1) with respect to more than two television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local

market of the stations identified in the cease-and-desist order, until such time as the Commission, after giving notice to the station, determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such stations; and

(3) An award to the complainant of that complainant's costs and reasonable attorney's fees. Such award shall be made only after the complainant submits appropriate documentation in support of its request.

(c) Any cease-and-desist order issued hereunder shall include a statement of findings and the grounds therefor, shall specify the effective date of the order, and shall be served by the Commission upon the satellite carrier to which such order is directed.

### § 1.6010 Reporting of remedial measures.

Any satellite carrier found to have violated Section 47 U.S.C. 325(b)(1) shall, upon receipt of the cease-and-desist order, immediately take all necessary steps to comply with the statute. Within two (2) days of receipt of the cease-and-desist order, the satellite carrier shall notify the Secretary of the Commission of steps taken to comply with the statute by written submission. The submission certified by the satellite carrier's chief executive officer shall also contain a copy of the pertinent cease-and-desist order, and shall be delivered to the Secretary of the Commission by means of one commonly used overnight delivery service, in addition to a copy delivered by United States mail.

EFFECTIVE DATE NOTE: At 65 FR 10721, Feb. 29, 2000, § 1.6010 was added. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.6011 Effective date.

The rules in section 1.6000 through section 1.6009 shall become effective May 30, 2000. Section 1.6010 contains information collection requirements that are not effective until approved by the Office of Management and Budget. The effective date for this section will be announced by the Commission in the FEDERAL REGISTER.

### § 1.6012 Sunset provisions.

No complaint may be filed under this rule section after December 31, 2001. This rule subpart shall continue to apply to any complaint filed on or before such date. *See* 47 U.S.C. 325 (e)(12).

## Subpart V—Implementation of Section 706 of the Telecommunications Act of 1996; Commission Collection of Advanced Telecommunications Capability Data

SOURCE: 65 FR 19684, Apr. 12, 2000; 65 FR 24654, Apr. 27, 2000, unless otherwise noted.

### § 1.7000 Purpose.

The purpose of this subpart is to set out the terms by which certain commercial and government-controlled entities report data to the Commission concerning the deployment of advanced telecommunications capability, defined pursuant to 47 U.S.C. 157 as ''high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology,'' and the deployment of services that are competitive with advanced telecommunications capability.

### § 1.7001 Scope and content of filed reports.

(a) *Definitions.* Terms used in this subpart have the following meanings:

(1) *Facilities-based providers.* Those entities that provide broadband services over their own facilities or over Unbundled Network Elements (UNEs), special access lines, and other leased lines and wireless channels that the entity obtains from a communications service provider and equips as broadband.

(2) *Own facilities.* Lines and wireless channels the entity actually owns and facilities that it obtained the right to use from other entities as dark fiber or satellite transponder capacity.

(3) *One-way broadband lines or wireless channels.* Lines or wireless channels with information carrying capability in excess of 200 Kbps in at least one direction, but not both.

(4) *Own facilities.* Lines and wireless channels the entity actually owns and facilities that it obtained the right to use from other entities as dark fiber or satellite transponder capacity.

(b) All commercial and government-controlled entities, including but not limited to common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)), cable television companies, fixed wireless providers, terrestrial and satellite mobile wireless providers, utilities and others, that are facilities-based providers, shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they provide service.

(c) Respondents identified in paragraph (b) of this section shall include in each report a certification signed by an appropriate official of the respondent (as specified in the instructions to FCC Form 477).

(d) Respondents may make requests for Commission non-disclosure of provider-specific data contained in FCC Form 477 under § 0.459 of this chapter by so indicating on Form 477 at the time that the subject data are submitted. The Commission shall make all decisions regarding non-disclosure or provider-specific information, except that the Chief of the Wireline Competition Bureau may release provider-specific information to a state commission provided that the state commission has protections in place that would preclude disclosure of any confidential information.

(e) Respondents identified in paragraph (b) of this section shall file a revised version of FCC Form 477 if and when they discover a significant error in their filed FCC Form 477. For counts, a difference amounting to 5 percent of the filed number is considered significant. For percentages, a difference of 5 percentage points is considered significant.

(f) Failure to file the FCC Form 477 in accordance with the Commission's rules and the instructions to the Form 477 may lead to enforcement action pursuant to the Act and any other applicable law.

[65 FR 19684, Apr. 12, 2000; 65 FR 24654, Apr. 27, 2000, as amended at 67 FR 13224, Mar. 21, 2002; 69 FR 77938, Dec. 29, 2004; 69 FR 72027, Dec. 10, 2004; 73 FR 37881, July 2, 2008]

EFFECTIVE DATE NOTE: At 73 FR 37881, July 2, 2008, Section 1.7001 was amended by revising paragraphs (a)(2), (b), and (c). This text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.7002 Frequency of reports.

Entities subject to the provisions of § 1.7001 shall file reports semi-annually. Reports shall be filed each year on or before March 1st (reporting data about the status of their broadband deployment as of December 31 of the prior year) and September 1st (reporting data about the status of their broadband deployment as of June 31 of the current year). Entities becoming subject to the provisions of § 1.7001 for the first time within a calendar year shall file data for the reporting period in which they become eligible and semi-annually thereafter. Entities subject to the provisions of § 1.7001 shall make an initial filing of the FCC Form 477 on May 15, 2000 (reporting data about the status of their broadband deployment as of December 31, 1999).

[65 FR 19684, Apr. 12, 2000; 65 FR 24654, Apr. 27, 2000]

## Subpart W—FCC Registration Number

SOURCE: 66 FR 47895, Sept. 14, 2001, unless otherwise noted.

### § 1.8001 FCC Registration Number (FRN).

(a) The FCC Registration Number (FRN) is a 10-digit unique identifying number that is assigned to entities doing business with the Commission.

(b) The FRN is obtained through the Commission Registration System (CORES) over the Internet at the CORES link at *www.fcc.gov* or by filing FCC Form 160.

### § 1.8002 Obtaining an FRN.

(a) The FRN must be obtained by anyone doing business with the Commission, see 31 U.S.C. 7701(c)(2), including but not limited to:

(1) Anyone required to pay statutory charges under subpart G of this part;

(2) Anyone applying for a license, including someone who is exempt from paying statutory charges under subpart G of this part, see §§ 1.1114 and 1.1162;

(3) Anyone participating in a spectrum auction;

(4) Anyone holding or obtaining a spectrum auction license or loan;

(5) Anyone paying statutory charges on behalf of another entity or person; and

(6) Any applicant or service provider participating in the Schools and Libraries Universal Service Support Program, part 54, subpart F, of this chapter.

(b)(1) When registering for an FRN through the CORES, an entity's name, entity type, contact name and title, address, and taxpayer identifying number (TIN) must be provided. For individuals, the TIN is the social security number (SSN).

(2) Information provided when registering for an FRN must be kept current by registrants either by updating the information on-line at the CORES link at *www.fcc.gov* or by filing FCC Form 161 (CORES Update/Change Form).

(c) A business may obtain as many FRNs as it deems appropriate for its business operations. Each subsidiary with a different TIN must obtain a separate FRN. Multiple FRNs shall not be obtained to evade payment of fees or other regulatory responsibilities.

(d) An FRN may be assigned by the Commission, which will promptly notify the entity of the assigned FRN.

(e) An FRN may be assigned by the Billing and Collection Agent for North American Numbering Plan Administration and the Administrators of the Universal Service Fund and the Telecommunications Relay Services Fund. In each instance, the Billing and Collection Agent for North American Numbering Plan Administration and the Administrators of the Universal Service Fund and the Telecommunications Relay Services Fund shall promptly notify the entity of the assigned FRN.

[66 FR 47895, Sept. 14, 2001, as amended at 67 FR 36818, May 28, 2002; 68 FR 66277, Nov. 25, 2003; 69 FR 55109, Sept. 13, 2004; 70 FR 21651, Apr. 27, 2005]

### § 1.8003 Providing the FRN in Commission filings.

The FRN must be provided with any filings requiring the payment of statutory charges under subpart G of this part, anyone applying for a license (whether or not a fee is required), including someone who is exempt from paying statutory charges under subpart G of this part, anyone participating in a spectrum auction, making up-front payments or deposits in a spectrum auction, anyone making a payment on an auction loan, anyone making a contribution to the Universal Service Fund, any applicant or service provider participating in the Schools and Libraries Universal Service Support Program, and anyone paying a forfeiture or other payment. A list of applications and other instances where the FRN is required will be posted on our Internet site and linked to the CORES page.

[69 FR 55109, Sept. 13, 2004]

### § 1.8004 Penalty for Failure to Provide the FRN.

(a) Electronic filing systems for filings that require the FRN will not accept a filing without the appropriate FRN. If a party seeks to make an electronic filing and does not have an FRN, the system will direct the party to the CORES website to obtain an FRN.

(b) Except as provided in paragraph (d) of this section or in other Commission rules, filings subject to the FRN requirement and submitted without an FRN will be returned or dismissed.

(c) Where the Commission has not established a filing deadline for an application, a missing or invalid FRN on such an application may be corrected and the application resubmitted. Except as provided in paragraph (d) of this section or in other Commission rules, the date that the resubmitted application is received by the Commission with a valid FRN will be considered the official filing date.

(d) Except for the filing of tariff publications (*see* 47 CFR 61.1(b)) or as provided in other Commission rules, where the Commission has established a filing deadline for an application and that application may be filed on paper, a missing or invalid FRN on such an application may be corrected with ten (10) business days of notification to the filer by the Commission staff and, in the event of such timely correction, the original date of filing will be retained as the official filing date.

[66 FR 47895, Sept. 14, 2001, as amended at 67 FR 36818, May 28, 2002]

## Subpart X—Spectrum Leasing

SOURCE: 68 FR 66277, Nov. 25, 2003, unless otherwise noted.

SCOPE AND AUTHORITY

### § 1.9001 Purpose and scope.

(a) The purpose of part 1, subpart X is to implement policies and rules pertaining to spectrum leasing arrangements between licensees in the services identified in this subpart and spectrum lessees. This subpart also implements policies for private commons arrangements. These policies and rules also implicate other Commission rule parts, including parts 1, 2, 20, 22, 24, 25, 26, 27, 80, 90, 95, and 101 of title 47, chapter I of the Code of Federal Regulations.

(b) Licensees holding exclusive use rights are permitted to engage in spectrum leasing whether their operations are characterized as commercial, common carrier, private, or non-common carrier.

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 77550, Dec. 27, 2004; 76 FR 31259, May 31, 2011]

### § 1.9003 Definitions.

*De facto transfer leasing arrangement.* A spectrum leasing arrangement in which a licensee retains *de jure* control of its license while transferring *de facto* control of the leased spectrum to a spectrum lessee, pursuant to the spectrum leasing rules set forth in this subpart.

*FCC Form 608.* FCC Form 608 is the form to be used by licensees and spectrum lessees that enter into spectrum leasing arrangements pursuant to the rules set forth in this subpart. Parties are required to submit this form electronically when entering into spectrum leasing arrangements under this subpart, except that licensees falling within the provisions of §1.913(d), may file the form either electronically or manually.

*Long-term de facto transfer leasing arrangement.* A long-term *de facto* transfer leasing arrangement is a *de facto* transfer leasing arrangement that has an individual term, or series of combined terms, of more than one year.

*Private commons.* A ''private commons'' arrangement is an arrangement, distinct from a spectrum leasing arrangement but permitted in the same services for which spectrum leasing arrangements are allowed, in which a licensee or spectrum lessee makes certain spectrum usage rights under a particular license authorization available to a class of third-party users employing advanced communications technologies that involve peer-to-peer (device-to-device) communications and that do not involve use of the licensee's or spectrum lessee's end-to-end physical network infrastructure (e.g., base stations, mobile stations, or other related elements).

*Short-term de facto transfer leasing arrangement.* A short-term *de facto* transfer leasing arrangement is a *de facto* transfer leasing arrangement that has an individual or combined term of not longer than one year.

*Spectrum leasing application.* The application submitted to the Commission by a licensee and a spectrum lessee seeking approval of a *de facto* transfer leasing arrangement.

*Spectrum leasing arrangement.* An arrangement between a licensed entity and a third-party entity in which the licensee leases certain of its spectrum usage rights in the licensed spectrum to the third-party entity, the spectrum lessee, pursuant to the rules set forth in this subpart. The arrangement may involve the leasing of any amount of licensed spectrum, in any geographic area or site encompassed by the license, for any period of time during the term of the license authorization. Two different types of spectrum leasing arrangements, spectrum manager leasing

arrangements and *de facto* transfer leasing arrangements, are permitted under this subpart.

*Spectrum leasing notification*. The required notification submitted by a licensee to the Commission regarding a spectrum manager leasing arrangement.

*Spectrum lessee*. Any third-party entity that leases, pursuant to the spectrum leasing rules set forth in this subpart, certain spectrum usage rights held by a licensee. This term includes reference to third-party entities that lease spectrum usage rights as spectrum sublessees under spectrum subleasing arrangements.

*Spectrum manager leasing arrangement*. A spectrum leasing arrangement in which a licensee retains both *de jure* control of its license and *de facto* control of the leased spectrum that it leases to a spectrum lessee, pursuant to the spectrum leasing rules set forth in this subpart.

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 77550, Dec. 27, 2004]

EFFECTIVE DATE NOTE: At 69 FR 77550, Dec. 27, 2004, §1.9003 was amended. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.9005 Included services.

The spectrum leasing policies and rules of this subpart apply to the following services, which include Wireless Radio Services in which commercial or private licensees hold exclusive use rights and the Ancillary Terrestrial Component (ATC) of a Mobile Satellite Service:

(a) The Paging and Radiotelephone Service (part 22 of this chapter);

(b) The Rural Radiotelephone Service (part 22 of this chapter);

(c) The Air-Ground Radiotelephone Service (part 22 of this chapter);

(d) The Cellular Radiotelephone Service (part 22 of this chapter);

(e) The Offshore Radiotelephone Service (part 22 of this chapter);

(f) The narrowband Personal Communications Service (part 24 of this chapter);

(g) The broadband Personal Communications Service (part 24 of this chapter);

(h) The Broadband Radio Service (part 27 of this chapter);

(i) The Educational Broadband Service (part 27 of this chapter);

(j) The Wireless Communications Service in the 698–746 MHz band (part 27 of this chapter);

(k) The Wireless Communications Service in the 746–763 MHz, 775–793 MHz, and 805–806 MHz bands (part 27 of this chapter);

(l) The Wireless Communications Service in the 1390–1392 MHz band (part 27 of this chapter);

(m) The Wireless Communications Service in the paired 1392–1395 MHz and 1432–1435 MHz bands (part 27 of this chapter);

(n) The Wireless Communications Service in the 1670–1675 MHz band (part 27 of this chapter);

(o) The Wireless Communications Service in the 2305–2320 and 2345–2360 MHz bands (part 27 of this chapter);

(p) [Reserved]

(q) The Advanced Wireless Services (part 27 of this chapter);

(r) The VHF Public Coast Station service (part 80 of this chapter);

(s) The Automated Maritime Telecommunications Systems service (part 80 of this chapter);

(t) The Public Safety Radio Services (part 90 of this chapter);

(u) The 220 MHz Service (excluding public safety licensees) (part 90 of this chapter);

(v) The Specialized Mobile Radio Service in the 800 MHz and 900 MHz bands (including exclusive use SMR licenses in the General Category channels) (part 90 of this chapter);

(w) The Location and Monitoring Service (LMS) with regard to licenses for multilateration LMS systems (part 90 of this chapter);

(x) Paging operations under part 90 of this chapter;

(y) The Business and Industrial/Land Transportation (B/ILT) channels (part 90 of this chapter) (including all B/ILT channels above 512 MHz and those in the 470–512 MHz band where a licensee has achieved exclusivity, but excluding B/ILT channels in the 470–512 MHz band where a licensee has not achieved exclusivity and those channels below 470 MHz, including those licensed pursuant to 47 CFR 90.187(b)(2)(v));

(z) The 218–219 MHz band (part 95 of this chapter);

(aa) The Local Multipoint Distribution Service (part 101 of this chapter);

(bb) The 24 GHz Band (part 101 of this chapter);

(cc) The 39 GHz Band (part 101 of this chapter);

(dd) The Multiple Address Systems band (part 101 of this chapter);

(ee) The Local Television Transmission Service (part 101 of this chapter);

(ff) The Private-Operational Fixed Point-to-Point Microwave Service (part 101 of this chapter);

(gg) The Common Carrier Fixed Point-to-Point Microwave Service (part 101 of this chapter);

(hh) The Multipoint Video Distribution and Data Service (part 101 of this chapter); and,

(ii) The 700 MHz Guard Bands Service (part 27 of this chapter).

(jj) The ATC of a Mobile Satellite Service (part 25 of this chapter).

[69 FR 77551, Dec. 27, 2004, as amended at 71 FR 29815, May 24, 2006; 72 FR 27708, May 16, 2007; 72 FR 48843, Aug. 24, 2007; 76 FR 31259, May 31, 2011]

GENERAL POLICIES AND PROCEDURES

### § 1.9010 *De facto* control standard for spectrum leasing arrangements.

(a) Under the rules established for spectrum leasing arrangements in this subpart, the following standard is applied for purposes of determining whether a licensee retains *de facto* control under section 310(d) of the Communications Act with regard to spectrum that it leases to a spectrum lessee.

(b) A licensee will be deemed to have retained *de facto* control of leased spectrum if it enters into a spectrum leasing arrangement and acts as a spectrum manager with regard to portions of the licensed spectrum that it leases to a spectrum lessee, provided the licensee satisfies the following two conditions:

(1) *Licensee responsibility for lessee compliance with Commission policies and rules.* The licensee must remain fully responsible for ensuring the spectrum lessee's compliance with the Communications Act and all applicable policies and rules directly related to the use of the leased spectrum.

(i) Through contractual provisions and actual oversight and enforcement of such provisions, the licensee must act in a manner sufficient to ensure that the spectrum lessee operates in conformance with applicable technical and use rules governing the license authorization.

(ii) The licensee must maintain a reasonable degree of actual working knowledge about the spectrum lessee's activities and facilities that affect its ongoing compliance with the Commission's policies and rules. These responsibilities include: Coordinating operations and modifications of the spectrum lessee's system to ensure compliance with Commission rules regarding non-interference with co-channel and adjacent channel licensees (and any authorized spectrum user); making all determinations as to whether an application is required for any individual spectrum lessee stations (e.g., those that require frequency coordination, submission of an Environmental Assessment under § 1.1307 of subpart I of this part, those that require international or Interdepartment Radio Advisory Committee (IRAC) coordination, those that affect radio frequency quiet zones described in § 1.924 of subpart F of this part, or those that require notification to the Federal Aviation Administration under part 17 of this chapter); and, ensuring that the spectrum lessee complies with the Commission's safety guidelines relating to human exposure to radiofrequency (RF) radiation (e.g., § 1.1307(b) and related rules of subpart I of this part). The licensee is responsible for resolving all interference-related matters, including conflicts between its spectrum lessee and any other spectrum lessee or licensee (or authorized spectrum user). The licensee may use agents (e.g., counsel, engineering consultants) when carrying out these responsibilities, so long as the licensee exercises effective control over its agents' actions.

(iii) The licensee must be able to inspect the spectrum lessee's operations and must retain the right to terminate the spectrum leasing arrangement in the event the spectrum lessee fails to

comply with the terms of the arrangement and/or applicable Commission requirements. If the licensee or the Commission determines that there is any violation of the Commission's rules or that the spectrum lessee's system is causing harmful interference, the licensee must immediately take steps to remedy the violation, resolve the interference, suspend or terminate the operation of the system, or take other measures to prevent further harmful interference until the situation can be remedied. If the spectrum lessee refuses to resolve the interference, remedy the violation, or suspend or terminate operations, either at the direction of the licensee or by order of the Commission, the licensee must use all reasonable legal means necessary to enforce compliance.

(2) *Licensee responsibility for interactions with the Commission, including all filings, required under the license authorization and applicable service rules directly related to the leased spectrum.* The licensee remains responsible for the following interactions with the Commission:

(i) The licensee must file the necessary notification with the Commission, as required under § 1.9020(e).

(ii) The licensee is responsible for making all required filings (e.g., applications, notifications, correspondence) associated with the license authorization that are directly affected by the spectrum lessee's use of the licensed spectrum. The licensee may use agents (e.g., counsel, engineering consultants) to complete these filings, so long as the licensee exercises effective control over its agents' actions and complies with any signature requirements for such filings.

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 77551, Dec. 27, 2004]

### § 1.9020 Spectrum manager leasing arrangements.

(a) *Overview.* Under the provisions of this section, a licensee (in any of the included services) and a spectrum lessee may enter into a spectrum manager leasing arrangement, without the need for prior Commission approval, provided that the licensee retains *de jure* control of the license and *de facto* control, as defined and explained in this subpart, of the leased spectrum. The licensee must notify the Commission of the spectrum leasing arrangement pursuant to the rules set forth in this section. The term of a spectrum manager leasing arrangement may be no longer than the term of the license authorization.

(b) *Rights and responsibilities of the licensee.* (1) The licensee is directly and primarily responsible for ensuring the spectrum lessee's compliance with the Communications Act and applicable Commission policies and rules.

(2) The licensee retains responsibility for maintaining its compliance with applicable eligibility and ownership requirements imposed on it pursuant to the license authorization.

(3) The licensee must retain a copy of the spectrum leasing agreement and make it available upon request by the Commission.

(c) *Rights and responsibilities of the spectrum lessee.* (1) The spectrum lessee must comply with the Communications Act and with Commission requirements associated with the license.

(2) The spectrum lessee is responsible for establishing that it meets the eligibility and qualification requirements applicable to spectrum lessees under the rules set forth in this section.

(3) The spectrum lessee must comply with any obligations that apply directly to it as a result of its own status as a service provider (e.g., Title II obligations if the spectrum lessee acts as a telecommunications carrier or acts as a common carrier).

(4) In addition to the licensee being directly accountable to the Commission for ensuring the spectrum lessee's compliance with the Commission's operational rules and policies (as discussed in this subpart), the spectrum lessee is independently accountable to the Commission for complying with the Communications Act and Commission policies and rules, including those that apply directly to the spectrum lessee as a result of its own status as a service provider.

(5) In leasing spectrum from a licensee, the spectrum lessee must accept Commission oversight and enforcement consistent with the license authorization. The spectrum lessee

must cooperate fully with any investigation or inquiry conducted by either the Commission or the licensee, allow the Commission or the licensee to conduct on-site inspections of transmission facilities, and suspend operations at the direction of the Commission or the licensee and to the extent that such suspension would be consistent with the Commission's suspension policies.

(6) The spectrum lessee must retain a copy of the spectrum leasing agreement and make it available upon request by the Commission.

(d) *Applicability of particular service rules and policies.* Under a spectrum manager leasing arrangement, the service rules and policies apply in the following manner to the licensee and spectrum lessee:

(1) *Interference-related rules.* The interference and radiofrequency (RF) safety rules applicable to use of the spectrum by the licensee as a condition of its license authorization also apply to the use of the spectrum leased by the spectrum lessee.

(2) *General eligibility rules.*(i) The spectrum lessee must meet the same eligibility and qualification requirements that are applicable to the licensee under its license authorization, with the following exceptions. A spectrum lessee entering into a spectrum leasing arrangement involving a licensee in the Educational Broadband Service (*see* § 27.1201 of this chapter) is not required to comply with the eligibility requirements pertaining to such a licensee so long as the spectrum lessee meets the other eligibility and qualification requirements applicable to 47 CFR part 27 services (*see* § 27.12 of this chapter). A spectrum lessee entering into a spectrum leasing arrangement involving a licensee in the Public Safety Radio Services (*see* part 90, subpart B and § 90.311(a)(1)(i) of this chapter) is not required to comply with the eligibility requirements pertaining to such a licensee so long as the spectrum lessee is an entity providing communications in support of public safety operations (*see* § 90.523(b) of this chapter). A spectrum lessee entering into a spectrum leasing arrangement involving a licensee in the Mobile Satellite Service with ATC authority (see part 25) is not required to comply with the eligibility requirements pertaining to such a licensee so long as the spectrum lessee meets the other eligibility and qualification requirements of paragraphs (d)(2)(ii) and (d)(2)(iv) of this section.

(ii) The spectrum lessee must meet applicable foreign ownership eligibility requirements (*see* sections 310(a), 310(b) of the Communications Act).

(iii) The spectrum lessee must satisfy any qualification requirements, including character qualifications, applicable to the licensee under its license authorization.

(iv) The spectrum lessee must not be a person subject to the denial of Federal benefits under the Anti-Drug Abuse Act of 1988 (*see* § 1.2001 *et seq.* of subpart P of this part).

(v) The licensee may reasonably rely on the spectrum lessee's certifications that it meets the requisite eligibility and qualification requirements contained in the notification required by this section.

(3) *Use restrictions.* To the extent that the licensee is restricted from using the licensed spectrum to offer particular services under its license authorization, the use restrictions apply to the spectrum lessee as well.

(4) *Designated entity/entrepreneur rules.* A licensee that holds a license pursuant to small business and/or entrepreneur provisions (*see* § 1.2110 and § 24.709 of this chapter) and continues to be subject to unjust enrichment requirements (*see* § 1.2111 and § 24.714 of this chapter) and/or transfer restrictions (*see* § 24.839 of this chapter) may enter into a spectrum manager leasing arrangement with a spectrum lessee, regardless of whether the spectrum lessee meets the Commission's designated entity eligibility requirements (*see* § 1.2110) or its entrepreneur eligibility requirements to hold certain C and F block licenses in the broadband personal communications services (*see* § 1.2110 and § 24.709 of this chapter), so long as the spectrum manager leasing arrangement does not result in the spectrum lessee's becoming a ''controlling interest'' or ''affiliate'' (*see § 1.2110) of the licensee such that the licensee would* lose its eligibility as a designated entity or entrepreneur. To

the extent there is any conflict between the revised *de facto* control standard for spectrum leasing arrangements, as set forth in this subpart, and the definition of controlling interest (including its *de facto* control standard) set forth in § 1.2110, the latter definition governs for determining whether the licensee has maintained the requisite degree of ownership and control to allow it to remain eligible for the license or for other benefits such as bidding credits and installment payments.

(5) *Construction/performance requirements.* Any performance or build-out requirement applicable under a license authorization (e.g., a requirement that the licensee construct and operate one or more specific facilities, cover a certain percentage of geographic area, cover a certain percentage of population, or provide substantial service) always remains a condition of the license, and legal responsibility for meeting such obligation is not delegable to the spectrum lessee(s).

(i) The licensee may attribute to itself the build-out or performance activities of its spectrum lessee(s) for purposes of complying with any applicable performance or build-out requirement.

(ii) If a licensee relies on the activities of a spectrum lessee to meet the licensee's performance or build-out obligation, and the spectrum lessee fails to engage in those activities, the Commission will enforce the applicable performance or build-out requirements against the licensee, consistent with the applicable rules.

(iii) If there are rules applicable to the license concerning the discontinuance of operation, the licensee is accountable for any such discontinuance and the rules will be enforced against the licensee regardless of whether the licensee was relying on the activities of a lessee to meet particular performance requirements.

(6) *Regulatory classification.* If the regulatory status of the licensee (e.g., common carrier or non-common carrier status) is prescribed by rule, the regulatory status of the spectrum lessee is prescribed in the same manner, except that § 20.9(a) of this chapter shall not preclude a licensee in the services covered by that rule from entering into a spectrum leasing arrangement with a spectrum lessee that chooses to operate on a Private Mobile Radio Service (PMRS), private, or noncommercial basis.

(7) *Regulatory fees.* The licensee remains responsible for payment of the required regulatory fees that must be paid in advance of its license term (*see* § 1.1152). Where, however, regulatory fees are paid annually on a per-unit basis (such as for Commercial Mobile Radio Services (CMRS) pursuant to § 1.1152), the licensee and spectrum lessee are each required to pay fees for those units associated with its respective operations.

(8) *E911 requirements.* If E911 obligations apply to the licensee (*see* § 20.18 of this chapter), the licensee retains the obligations with respect to leased spectrum.

(e) *Notifications regarding spectrum manager leasing arrangements.* A licensee that seeks to enter into a spectrum manager leasing arrangement must notify the Commission of the arrangement in advance of the spectrum lessee's commencement of operations. The spectrum manager lease notification will be processed pursuant either to the general notification procedures or the immediate processing procedures, as set forth herein. The licensee must submit the notification to the Commission by electronic filing using the Universal Licensing System (ULS) and FCC Form 608, except that a licensee falling within the provisions of § 1.913(d) may file the notification either electronically or manually.

(1) *General notification procedures.* Notifications of spectrum manager leasing arrangements will be processed pursuant the general notification procedures set forth in this paragraph unless they are submitted and qualify for the immediate processing procedures set forth in paragraph (e)(2) of this section.

(i) To be accepted under these general notification procedures, the notification must be sufficiently complete and contain all information and certifications requested on the applicable form, FCC Form 608, including any information and certifications (including those of the spectrum lessee relating to eligibility, basic qualifications, and

foreign ownership) required by the rules in this chapter and any rules pertaining to the specific service for which the notification is filed. No application fees are required for the filing of a spectrum manager leasing notification.

(ii) The licensee must submit such notification at least 21 days in advance of commencing operations unless the arrangement is for a term of one year or less, in which case the licensee must provide notification to the Commission at least ten (10) days in advance of operation. If the licensee and spectrum lessee thereafter seek to extend this leasing arrangement for an additional term beyond the initial term, the licensee must provide the Commission with notification of the new spectrum leasing arrangement at least 21 days in advance of operation under the extended term.

(iii) A notification filed pursuant to these general notification procedures will be placed on an informational public notice on a weekly basis (*see* §1.933(a)) once accepted, and is subject to reconsideration (*see* §§1.106(f), 1.108, 1.113).

(2) *Immediate processing procedures.* Notifications that meet the requirements of paragraph (e)(2)(i) of this section qualify for the immediate processing procedures.

(i) To qualify for these immediate processing procedures, the notification must be sufficiently complete and contain all necessary information and certifications (including those relating to eligibility, basic qualifications, and foreign ownership) required for notifications processed under the general notification procedures set forth in paragraph (e)(1)(i) of this section, and also must establish, through certifications, that the following additional qualifications are met:

(A) The license does not involve spectrum that may be used to provide interconnected mobile voice and/or data services under the applicable service rules and that would, if the spectrum leasing arrangement were consummated, create a geographic overlap with spectrum in any licensed Wireless Radio Service (including the same service), or in the ATC of a Mobile Satellite Service, in which the proposed spectrum lessee already holds a direct or indirect interest of 10% or more (*see* §1.2112), either as a licensee or a spectrum lessee, and that could be used by the spectrum lessee to provide interconnected mobile voice and/or data services;

(B) The licensee is not a designated entity or entrepreneur subject to unjust enrichment requirements and/or transfer restrictions under applicable Commission rules (*see* §§1.2110 and 1.2111, and §§24.709, 24.714, and 24.839 of this chapter); and,

(C) The spectrum leasing arrangement does not require a waiver of, or declaratory ruling pertaining to, any applicable Commission rules.

(ii) Provided that the notification establishes that the proposed spectrum manager leasing arrangement meets all of the requisite elements to qualify for these immediate processing procedures, ULS will reflect that the notification has been accepted. If a qualifying notification is filed electronically, the acceptance will be reflected in ULS on the next business day after filing of the notification; if filed manually, the acceptance will be reflected in ULS on the next business day after the necessary data from the manually filed notification is entered into ULS. Once the notification has been accepted, as reflected in ULS, the spectrum lessee may commence operations under the spectrum leasing arrangement, consistent with the term of the arrangement.

(iii) A notification filed pursuant to these immediate processing procedures will be placed on an informational public notice on a weekly basis (*see* §1.933(a)) once accepted, and is subject to reconsideration (*see* §§1.106(f), 1.108, 1.113).

(f) *Effective date of a spectrum manager leasing arrangement.* The spectrum manager leasing arrangement will be deemed effective in the Commission's records, and for purposes of the application of the rules set forth in this section, as of the beginning date of the term as specified in the spectrum leasing notification.

(g) *Commission termination of a spectrum manager leasing arrangement.* The Commission retains the right to investigate and terminate any spectrum

manager leasing arrangement if it determines, post-notification, that the arrangement constitutes an unauthorized transfer of *de facto* control of the leased spectrum, is otherwise in violation of the rules in this chapter, or raises foreign ownership, competitive, or other public interest concerns. Information concerning any such termination will be placed on public notice.

(h) *Expiration, extension, or termination of a spectrum leasing arrangement.* (1) Absent Commission termination or except as provided in paragraph (h)(2) or (h)(3) of this section, a spectrum leasing arrangement entered into pursuant to this section will expire on the termination date set forth in the spectrum leasing notification.

(2) A spectrum leasing arrangement may be extended beyond the initial term set forth in the spectrum leasing notification provided that the licensee notifies the Commission of the extension in advance of operation under the extended term and does so pursuant to the general notification procedures or immediate processing procedures set forth in this section, whichever is applicable. If the general notification procedures are applicable, the licensee must notify the Commission at least 21 days in advance of operation under the extended term.

(3) If a spectrum leasing arrangement is terminated earlier than the termination date set forth in the notification, either by the licensee or by the parties' mutual agreement, the licensee must file a notification with the Commission, no later than ten (10) days after the early termination, indicating the date of the termination. If the parties fail to put the spectrum leasing arrangement into effect, they must so notify the Commission consistent with the provisions of this section.

(4) The Commission will place information concerning an extension or an early termination of a spectrum leasing arrangement on public notice.

(i) *Assignment of a spectrum leasing arrangement.* The spectrum lessee may assign its spectrum leasing arrangement to another entity provided that the licensee has agreed to such an assignment, is in privity with the assignee, and notifies the Commission before the consummation of the assignment, pursuant to the applicable notification procedures set forth in this section. In the case of a non-substantial (*pro forma*) assignment that falls within the class of *pro forma* transactions for which prior Commission approval would not be required under §1.948(c)(1), the licensee must file notification of the assignment with the Commission, using FCC Form 608 and providing any necessary updates of ownership information, within 30 days of its completion. The Commission will place information related to the assignment, whether substantial or *pro forma*, on public notice.

(j) *Transfer of control of a spectrum lessee.* The licensee must notify the Commission of any transfer of control of a spectrum lessee before the consummation of the transfer of control, pursuant to the applicable notification procedures of this section. In the case of a non-substantial (*pro forma*) transfer of control that falls within the class of *pro forma* transactions for which prior Commission approval would not be required under §1.948(c)(1), the licensee must file notification of the transfer of control with the Commission, using FCC Form 608 and providing any necessary updates of ownership information, within 30 days of its completion. The Commission will place information related to the transfer of control, whether substantial or *pro forma*, on public notice.

(k) *Revocation or automatic cancellation of a license or a spectrum lessee's operating authority.* (1) In the event an authorization held by a licensee that has entered into a spectrum leasing arrangement is revoked or cancelled, the spectrum lessee will be required to terminate its operations no later than the date on which the licensee ceases to have any authority to operate under the license, except as provided in paragraph (j)(2) of this section.

(2) In the event of a license revocation or cancellation, the Commission will consider a request by the spectrum lessee for special temporary authority (*see* §1.931) to provide the spectrum lessee with an opportunity to transition its users in order to minimize service disruption to business and other activities.

(3) In the event of a license revocation or cancellation, and the required termination of the spectrum lessee's operations, the former spectrum lessee does not, as a result of its former status, receive any preference over any other party should the spectrum lessee seek to obtain the revoked or cancelled license.

(l) *Subleasing*. A spectrum lessee may sublease the leased spectrum usage rights subject to the licensee's consent and the licensee's establishment of privity with the spectrum sublessee. The licensee must submit a notification regarding the spectrum subleasing arrangement in accordance with the applicable notification procedures set forth in this section.

(m) *Renewal*. Although the term of a spectrum manager leasing arrangement may not be longer than the term of a license authorization, a licensee and spectrum lessee that have entered into an arrangement whose term continues to the end of the current term of the license authorization may, contingent on the Commission's grant of the license renewal, renew the spectrum leasing arrangement to extend into the term of the renewed license authorization. The Commission must be notified of the renewal of the spectrum leasing arrangement at the same time that the licensee submits its application for license renewal (*see* §1.949). The spectrum lessee may operate under the extended term, without further action by the Commission, until such time as the Commission shall make a final determination with respect to the renewal of the license authorization and the extension of the spectrum leasing arrangement into the term of the renewed license authorization.

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 72027, Dec. 10, 2004; 69 FR 77551, Dec. 27, 2004; 76 FR 31259, May 31, 2011]

EFFECTIVE DATE NOTE: At 69 FR 77551, Dec. 27, 2004, §1.9020(e)(2) was revised. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.9030 Long-term *de facto* transfer leasing arrangements.

(a) *Overview*. Under the provisions of this section, a licensee (in any of the included services) and a spectrum lessee may enter into a long-term *de facto* transfer leasing arrangement in which the licensee retains *de jure* control of the license while *de facto* control of the leased spectrum is transferred to the spectrum lessee for the duration of the spectrum leasing arrangement, subject to prior Commission consent pursuant to the application procedures set forth in this section. A ''long-term'' *de facto* transfer leasing arrangement has an individual term, or series of combined terms, of more than one year. The term of a long-term *de facto* transfer leasing arrangement may be no longer than the term of the license authorization.

(b) *Rights and responsibilities of the licensee*. (1) Except as provided in paragraph (b)(2) of this section, the licensee is relieved of primary and direct responsibility for ensuring that the spectrum lessee's operations comply with the Communications Act and Commission policies and rules.

(2) The licensee is responsible for its own violations, including those related to its spectrum leasing arrangement with the spectrum lessee, and for ongoing violations or other egregious behavior on the part of the spectrum lessee about which the licensee has knowledge or should have knowledge.

(3) The licensee must retain a copy of the spectrum leasing agreement and make it available upon request by the Commission.

(c) *Rights and responsibilities of the spectrum lessee*. (1) The spectrum lessee assumes primary responsibility for complying with the Communications Act and applicable Commission policies and rules.

(2) The spectrum lessee is granted an instrument of authorization pertaining to the *de facto* transfer leasing arrangement that brings it within the scope of the Commission's direct forfeiture provisions under section 503(b) of the Communications Act.

(3) The spectrum lessee is responsible for interacting with the Commission regarding the leased spectrum and for making all related filings (e.g., all applications and notifications, submissions of any materials required to support a required Environmental Assessment, any reports required by Commission rules and applicable to the lessee,

information necessary to facilitate international or Interdepartment Radio Advisory Committee (IRAC) coordination).

(4) The spectrum lessee is required to maintain accurate information on file pursuant to Commission rules (*see* § 1.65 of subpart A of this part).

(5) The spectrum lessee must retain a copy of the spectrum leasing agreement and make it available upon request by the Commission.

(d) *Applicability of particular service rules and policies.* Under a long-term *de facto* transfer leasing arrangement, the service rules and policies apply in the following manner to the licensee and spectrum lessee:

(1) *Interference-related rules.* The interference and radiofrequency (RF) safety rules applicable to use of the spectrum by the licensee as a condition of its license authorization also apply to the use of the spectrum leased by the spectrum lessee.

(2) *General eligibility rules.* (i) The spectrum lessee must meet the same eligibility and qualification requirements that are applicable to the licensee under its license authorization. A spectrum lessee entering into a spectrum leasing arrangement involving a licensee in the Educational Broadband Service (*see* § 27.1201 of this chapter) is not required to comply with the eligibility requirements pertaining to such a licensee so long as the spectrum lessee meets the other eligibility and qualification requirements applicable to part 27 services (*see* § 27.12 of this chapter). A spectrum lessee entering into a spectrum leasing arrangement involving a licensee in the Public Safety Radio Services (*see* part 90, subpart B and § 90.311(a)(1)(i) of this chapter) is not required to comply with the eligibility requirements pertaining to such a licensee so long as the spectrum lessee is an entity providing communications in support of public safety operations (*see* § 90.523(b) of this chapter).

(ii) The spectrum lessee must meet applicable foreign ownership eligibility requirements (see sections 310(a), 310(b) of the Communications Act).

(iii) The spectrum lessee must satisfy any qualification requirements, including character qualifications, applicable to the licensee under its license authorization.

(iv) The spectrum lessee must not be a person subject to denial of Federal benefits under the Anti-Drug Abuse Act of 1988 (*see* § 1.2001 *et seq.* of subpart P of this part).

(3) *Use restrictions.* To the extent that the licensee is restricted from using the licensed spectrum to offer particular services under its license authorization, the use restrictions apply to the spectrum lessee as well.

(4) *Designated entity/entrepreneur rules.* (i) A licensee that holds a license pursuant to small business and/or entrepreneur provisions (*see* § 1.2110 and § 24.709 of this chapter) and continues to be subject to unjust enrichment requirements (*see* § 1.2111 and § 24.714 of this chapter) and/or transfer restrictions (*see* § 24.839 of this chapter) may enter into a long-term *de facto* transfer leasing arrangement with any entity under the streamlined processing procedures described in this section, subject to any applicable unjust enrichment payment obligations and/or transfer restrictions (*see* § 1.2111 and § 24.839 of this chapter).

(ii) A licensee holding a license won in closed bidding (*see* § 24.709 of this chapter) may, during the first five years of the license term, enter into a spectrum leasing arrangement with an entity not eligible to hold such a license pursuant to the requirements of § 24.709(a) of this chapter so long as it has met its five-year construction requirement (*see* §§ 24.203, 24.839(a)(6) of this chapter).

(iii) The amount of any unjust enrichment payment will be determined by the Commission as part of its review of the application under the same rules that apply in the context of a license assignment or transfer of control (*see* § 1.2111 and § 24.714 of this chapter). If the spectrum leasing arrangement involves only part of the license area and/or part of the bandwidth covered by the license, the unjust enrichment obligation will be apportioned as though the license were being partitioned and/or disaggregated (*see* § 1.2111(e) and § 24.714(c) of this chapter). A licensee will receive no reduction in

its unjust enrichment payment obligation for a spectrum leasing arrangement that ends prior to the end of the fifth year of the license term.

(iv) A licensee that participates in the Commission's installment payment program (*see* §1.2110(g) may enter into a long-term *de facto* transfer leasing arrangement without triggering unjust enrichment obligations provided that the lessee would qualify for as favorable a category of installment payments. A licensee using installment payment financing that seeks to lease to an entity not meeting the eligibility standards for as favorable a category of installment payments must make full payment of the remaining unpaid principal and any unpaid interest accrued through the effective date of the spectrum leasing arrangement (*see* §1.2111(c)). This requirement applies regardless of whether the licensee is leasing all or a portion of its bandwidth and/or license area.

(5) *Construction/performance requirements*. Any performance or build-out requirement applicable under a license authorization (e.g., a requirement that the licensee construct and operate one or more specific facilities, cover a certain percentage of geographic area, cover a certain percentage of population, or provide substantial service) always remains a condition of the license, and the legal responsibility for meeting such obligation is not delegable to the spectrum lessee(s).

(i) The licensee may attribute to itself the build-out or performance activities of its spectrum lessee(s) for purposes of complying with any applicable build-out or performance requirement.

(ii) If a licensee relies on the activities of a spectrum lessee to meet the licensee's performance or build-out obligation, and the spectrum lessee fails to engage in those activities, the Commission will enforce the applicable performance or build-out requirements against the licensee, consistent with the applicable rules.

(iii) If there are rules applicable to the license concerning the discontinuance of operation, the licensee is accountable for any such discontinuance and the rules will be enforced against the licensee regardless of whether the licensee was relying on the activities of a lessee to meet particular performance requirements.

(6) *Regulatory classification*. If the regulatory status of the licensee (e.g., common carrier or non-common carrier status) is prescribed by rule, the regulatory status of the spectrum lessee is prescribed in the same manner, except that §20.9(a) of this chapter shall not preclude a licensee in the services covered by that rule from entering into a spectrum leasing arrangement with a spectrum lessee that chooses to operate on a PMRS, private, or non-commercial basis.

(7) *Regulatory fees*. The licensee remains responsible for payment of the required regulatory fees that must be paid in advance of its license term (*see* §1.1152). Where, however, regulatory fees are paid annually on a per-unit basis (such as for CMRS services pursuant to §1.1152), the licensee and spectrum lessee each are required to pay fees for those units associated with its respective operations.

(8) *E911 requirements*. To the extent the licensee is required to meet E911 obligations (*see* §20.18 of this chapter), the spectrum lessee is required to meet those obligations with respect to the spectrum leased under the spectrum leasing arrangement insofar as the spectrum lessee's operations are encompassed within the E911 obligations.

(e) *Applications for long-term de facto transfer leasing arrangements*. Applications for long-term *de facto* transfer leasing arrangements will be processed either pursuant to the general approval procedures or the immediate approval procedures, as discussed herein. Spectrum leasing parties must submit the application by electronic filing using ULS and FCC Form 608, and obtain Commission consent prior to consummating the transfer of *de facto* control of the leased spectrum, except that parties falling within the provisions of §1.913(d) may file the application either electronically or manually.

(1) *General approval procedures*. Applications for long-term *de facto* transfer leasing arrangements will be processed pursuant to the general approval procedures set forth in this paragraph unless they are submitted and qualify for the

immediate approval procedures set forth in paragraph (e)(2) of this section.

(i) To be accepted for filing under these general approval procedures, the application must be sufficiently complete and contain all information and certifications requested on the applicable form, FCC Form 608, including any information and certifications (including those of the spectrum lessee relating to eligibility, basic qualifications, and foreign ownership) required by the rules in this chapter and any rules pertaining to the specific service for which the application is filed. In addition, the spectrum leasing application must include payment of the required application fee(s); for purposes of determining the applicable application fee(s), the application will be treated as a transfer of control (*see* §1.1102).

(ii) Once accepted for filing, the application will be placed on public notice, except no prior public notice will be required for applications involving authorizations in the Private Wireless Services, as specified in §1.933(d)(9).

(iii) Petitions to deny filed in accordance with section 309(d) of the Communications Act must comply with the provisions of §1.939, except that such petitions must be filed no later than 14 days following the date of the public notice listing the application as accepted for filing.

(iv) No later than 21 days following the date of the public notice listing an application as accepted for filing, the Wireless Telecommunications Bureau (Bureau) will affirmatively consent to the application, deny the application, or determine to subject the application to further review. For applications for which no prior public notice is required, the Bureau will affirmatively consent to the application, deny the application, or determine to subject the application to further review no later than 21 days following the date on which the application has been filed and any required application fee has been paid (*see* §1.1102).

(v) If the Bureau determines to subject the application to further review, it will issue a public notice so indicating. Within 90 days following the date of that public notice, the Bureau will either take action upon the application or provide public notice that an additional 90-day period for review is needed.

(vi) Consent to the application is not deemed granted until the Bureau affirmatively acts upon the application.

(vii) Grant of consent to the application will be reflected in a public notice (*see* §1.933(a)) promptly issued after the grant, and is subject to reconsideration (*see* §§1.106(f), 1.108, 1.113).

(viii) If any petition to deny is filed, and the Bureau grants the application, the Bureau will deny the petition(s) and issue a concise statement of the reason(s) for denial, disposing of all substantive issues raised in the petition(s).

(2) *Immediate approval procedures*. Applications that meet the requirements of paragraph (e)(2)(i) of this section qualify for the immediate approval procedures.

(i) To qualify for the immediate approval procedures, the application must be sufficiently complete, contain all necessary information and certifications (including those relating to eligibility, basic qualifications, and foreign ownership), and include payment of the requisite application fee(s), as required for an application processed under the general approval procedures set forth in paragraph (e)(1)(i) of this section, and also must establish, through certifications, that the following additional qualifications are met:

(A) The license does not involve spectrum licensed in a Wireless Radio Service that may be used to provide interconnected mobile voice and/or data services under the applicable service rules and that would, if the spectrum leasing arrangement were consummated, create a geographic overlap with spectrum in any licensed Wireless Service (including the same service) in which the proposed spectrum lessee already holds a direct or indirect interest of 10% or more (*see* §1.2112), either as a licensee or a spectrum lessee, and that could be used by the spectrum lessee to provide interconnected mobile voice and/or data services;

(B) The licensee is not a designated entity or entrepreneur subject to unjust enrichment requirements and/or transfer restrictions under applicable Commission rules (*see* §§1.2110 and

1.2111, and §§24.709, 24.714, and 24.839 of this chapter); and,

(C) The spectrum leasing arrangement does not require a waiver of, or declaratory ruling pertaining to, any applicable Commission rules.

(ii) Provided that the application establishes that it meets all of the requisite elements to qualify for these immediate approval procedures, consent to the *de facto* transfer spectrum leasing arrangement will be reflected in ULS. If the application is filed electronically, consent will be reflected in ULS on the next business day after filing of the application; if filed manually, consent will be reflected in ULS on the next business day after the necessary data from the manually filed application is entered into ULS. Consent to the application is not deemed granted until the Bureau affirmatively acts upon the application, as reflected in ULS.

(iii) Grant of consent to the application under these immediate approval procedures will be reflected in a public notice (*see* §1.933(a)) promptly issued after grant, and is subject to reconsideration (*see* §§1.106(f), 1.108, 1.113).

(f) *Effective date* of a *de facto transfer leasing arrangement*. If the Commission consents to the *de facto* transfer leasing arrangement, the *de facto* transfer leasing arrangement will be deemed effective in the Commission's records, and for purposes of the application of the rules set forth in this section, on the date set forth in the application. If the Commission consents to the arrangement after that specified date, the spectrum leasing application will become effective on the date of the Commission affirmative consent.

(g) *Expiration, extension, or termination of spectrum leasing arrangement*. (1) Except as provided in paragraph (g)(2) or (g)(3) of this section, a spectrum leasing arrangement entered into pursuant to this section will expire on the termination date set forth in the application. The Commission's consent to the *de facto* transfer leasing application includes consent to return the leased spectrum to the licensee at the end of the term of the spectrum leasing arrangement.

(2) A spectrum leasing arrangement may be extended beyond the initial term set forth in the spectrum leasing application pursuant to the applicable application procedures set forth in §1.9030(e). Where there is pending before the Commission at the date of termination of the spectrum leasing arrangement a proper and timely application seeking to extend the arrangement, the parties may continue to operate under the original spectrum leasing arrangement without further action by the Commission until such time as the Commission shall make a final determination with respect to the application.

(3) If a spectrum leasing arrangement is terminated earlier than the termination date set forth in the notification, either by the licensee or by the parties' mutual agreement, the licensee must file a notification with the Commission, no later than ten (10) days after the early termination, indicating the date of the termination. If the parties fail to put the spectrum leasing arrangement into effect, they must so notify the Commission consistent with the provisions of this section.

(4) The Commission will place information concerning an extension or an early termination of a spectrum leasing arrangement on public notice.

(h) *Assignment of spectrum leasing arrangement*. The spectrum lessee may assign its lease to another entity provided that the licensee has agreed to such an assignment, there is privity between the licensee and the assignee, and the assignment is approved by the Commission pursuant to the same application and approval procedures set forth in this section. In the case of a non-substantial (*pro forma*) assignment that falls within the class of *pro forma* transactions for which prior Commission approval would not be required under §1.948(c)(1), the parties involved in the assignment must file notification of the assignment with the Commission, using FCC Form 608 and providing any necessary updates of ownership information, within 30 days of its completion. The Commission will place information related to the assignment, whether substantial or *pro forma*, on public notice.

(i) *Transfer of control of a spectrum lessee*. A spectrum lessee seeking the

transfer of control must obtain Commission consent using the same application and Commission consent procedures set forth in this section. In the case of a non-substantial (*pro forma*) transfer of control that falls within the class of *pro forma* transactions for which prior Commission approval would not be required under § 1.948(c)(1), the parties involved in the transfer of control must file notification of the transfer of control with the Commission, using FCC Form 608 and providing any necessary updates of ownership information, within 30 days of its completion. The Commission will place information related to the transfer of control, whether substantial or *pro forma,* on public notice.

(j) *Revocation or automatic cancellation of a license or the spectrum lessee's operating authority.* (1) In the event an authorization held by a licensee that has entered into a spectrum leasing arrangement is revoked or cancelled, the spectrum lessee will be required to terminate its operations no later than the date on which the licensee ceases to have authority to operate under the license, except as provided in paragraph (i)(2) of this section.

(2) In the event of a license revocation or cancellation, the Commission will consider a request by the spectrum lessee for special temporary authority (*see* § 1.931) to provide the spectrum lessee with an opportunity to transition its users in order to minimize service disruption to business and other activities.

(3) In the event of a license revocation or cancellation, and the required termination of the spectrum lessee's operations, the former spectrum lessee does not, as a result of its former status, receive any preference over any other party should the spectrum lessee seek to obtain the revoked or cancelled license.

(k) *Subleasing.* A spectrum lessee may sublease spectrum usage rights subject to the following conditions. Parties entering into a spectrum subleasing arrangement are required to comply with the Commission's rules for obtaining approval for spectrum leasing arrangements provided in this subpart and are governed by those same policies. The application filed by parties to a spectrum subleasing arrangement must include written consent from the licensee to the proposed arrangement. Once a spectrum subleasing arrangement has been approved by the Commission, the sublessee becomes the party primarily responsible for compliance with Commission rules and policies.

(l) *Renewal.* Although the term of a long-term *de facto* transfer spectrum leasing arrangement may not be longer than the term of a license authorization, a licensee and spectrum lessee that have entered into an arrangement whose term continues to the end of the current term of the license authorization may, contingent on the Commission's grant of the license renewal, extend the spectrum leasing arrangement into the term of the renewed license authorization. The Commission must be notified of the renewal of the spectrum leasing arrangement at the same time that the licensee submits its application for license renewal (*see* § 1.949). The spectrum lessee may operate under the extended term, without further action by the Commission, until such time as the Commission shall make a final determination with respect to the renewal of the license authorization and the extension of the spectrum leasing arrangement into the term of the renewed license authorization.

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 72027, Dec. 10, 2004; 69 FR 77554, Dec. 27, 2004]

EFFECTIVE DATE NOTE: At 69 FR 77554, Dec. 27, 2004, § 1.9030(e) was revised. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 1.9035 Short-term *de facto* transfer leasing arrangements.

(a) *Overview.* Under the provisions of this section, a licensee (in any of the included services) and a spectrum lessee may enter into a short-term *de facto* transfer leasing arrangement in which the licensee retains *de jure* control of the license while *de facto* control of the leased spectrum is transferred to the spectrum lessee for the

duration of the spectrum leasing arrangement, subject to prior Commission consent pursuant to the application procedures set forth in this section. A ''short-term'' *de facto* transfer leasing arrangement has an individual or combined term of not longer than one year. The term of a short-term *de facto* transfer leasing arrangement may be no longer than the term of the license authorization.

(b) *Rights and responsibilities of licensee.* The rights and responsibilities applicable to a licensee that enters into a short-term *de facto* transfer leasing arrangement are the same as those applicable to a licensee that enters into a long-term *de facto* transfer leasing arrangement, as set forth in § 1.9030(b).

(c) *Rights and responsibilities of spectrum lessee.* The rights and responsibilities applicable to a spectrum lessee that enters into a short-term *de facto* transfer leasing arrangement are the same as those applicable to a spectrum lessee that enters into a long-term *de facto* transfer leasing arrangement, as set forth in § 1.9030(c).

(d) *Applicability of particular service rules and policies.* Under a short-term *de facto* leasing arrangement, the service rules and policies apply to the licensee and spectrum lessee in the same manner as under long-term *de facto* transfer leasing arrangements (*see* § 1.9030(d)), except as provided herein:

(1) *Use restrictions and regulatory classification.* Use restrictions applicable to the licensee also apply to the spectrum lessee except that § 20.9(a) of this chapter shall not preclude a licensee in the services covered by that rule from entering into a spectrum leasing arrangement with a spectrum lessee that chooses to operate on a PMRS, private, or non-commercial basis, and except that a licensee with an authorization that restricts use of spectrum to non-commercial uses may enter into a short-term *de facto* transfer leasing arrangement that allows the spectrum lessee to use the spectrum commercially.

(2) *Designated entity/entrepreneur rules.* Unjust enrichment provisions (*see* § 1.2111) and transfer restrictions (*see* § 24.839 of this chapter) do not apply with regard to a short-term *de facto* transfer leasing arrangement.

(3) *Construction/performance requirements.* The licensee is not permitted to attribute to itself the activities of its spectrum lessee when seeking to establish that performance or build-out requirements applicable to the licensee have been met.

(4) *E911 requirements.* If E911 obligations apply to the licensee (see § 20.18 of this chapter), the licensee retains the obligations with respect to leased spectrum. A spectrum lessee entering into a short-term *de facto* transfer leasing arrangement is not separately required to comply with any such obligations in relation to the leased spectrum.

(e) *Spectrum leasing application.* Short-term *de facto* transfer leasing arrangements will be processed pursuant to immediate approval procedures, as discussed herein. Parties entering into a short-term *de facto* transfer leasing arrangement are required to file an electronic application with the Commission, using FCC Form 608, and obtain Commission consent prior to consummating the transfer of *de facto* control of the leased spectrum, except that parties falling within the provisions of § 1.913(d) may file the application either electronically or manually.

(1) To be accepted for filing under these immediate approval procedures, the application must be sufficiently complete and contain all information and certifications requested on the applicable form, FCC Form 608, including any information and certifications (including those relating to the spectrum lessee relating to eligibility, basic qualifications, and foreign ownership) required by the rules of this chapter and any rules pertaining to the specific service for which the application is required. In addition, the application must include payment of the required application fee; for purposes of determining the applicable application fee, the application will be treated as a transfer of control (*see* § 1.1102). Finally, the spectrum leasing arrangement must not require a waiver of, or declaratory ruling, pertaining to any applicable Commission rules.

(2) Provided that the application establishes that it meets all of the requisite elements to qualify for these immediate approval procedures, consent to the short-term *de facto* transfer spectrum leasing arrangement will be reflected in ULS. If the application is filed electronically, consent will be reflected in ULS on the next business day after filing of the application; if filed manually, consent will be reflected in ULS on the next business day after the necessary data from the manually filed application is entered into ULS. Consent to the application is not deemed granted until the Bureau affirmatively acts upon the application, as reflected in ULS.

(3) Grant of consent to the application under these procedures will be reflected in a public notice (*see* §1.933(a)) promptly issued after grant, and is subject to reconsideration (*see* §§1.106(f), 1.108, 1.113).

(f) *Effective date of spectrum leasing arrangement*. The spectrum leasing arrangement will be deemed effective in the Commission's records, and for purposes of the application of the rules set forth in this section, on the date set forth in the application. If the Commission consents to the arrangement after that specified date, the spectrum leasing application will become effective on the date of the Commission affirmative consent.

(g) *Restrictions on the use of short-term de facto transfer leasing arrangements*. (1) The licensee and spectrum lessee are not permitted to use the special rules and expedited procedures applicable to short-term *de facto* transfer leasing arrangements for arrangements that in fact will exceed one year, or that the parties reasonably expect to exceed one year.

(2) The licensee and spectrum lessee must submit, in sufficient time prior to the expiration of the short-term *de facto* transfer spectrum leasing arrangement, the appropriate application under the rules and procedures applicable to long-term *de facto* leasing arrangements, and obtain Commission consent pursuant to those procedures.

(h) *Expiration, extension, or termination of the spectrum leasing arrangement*. (1) Except as provided in paragraph (h)(2) or (h)(3) of this section, a spectrum leasing arrangement entered into pursuant to this section will expire on the termination date set forth in the short-term *de facto* transfer leasing arrangement. The Commission's approval of the short-term *de facto* transfer leasing application includes consent to return the leased spectrum to the licensee at the end of the term of the spectrum leasing arrangement.

(2) Upon proper application (*see* paragraph (e) of this section), a short-term *de facto* transfer leasing arrangement may be extended beyond the initial term set forth in the application provided that the initial term and extension(s) together would not result in a leasing arrangement that exceeds a total of one year.

(3) If a spectrum leasing arrangement is terminated earlier than the termination date set forth in the notification, either by the licensee or by the parties' mutual agreement, the licensee must file a notification with the Commission, no later than ten (10) days after the early termination, indicating the date of the termination. If the parties fail to put the spectrum leasing arrangement into effect, they must so notify the Commission consistent with the provisions of this section.

(i) *Conversion of a short-term spectrum leasing arrangement into a long-term de facto transfer leasing arrangement*. (1) In the event the licensee and spectrum lessee involved in a short-term *de facto* transfer leasing arrangement seek to extend the spectrum leasing arrangement beyond the one-year limit for short-term *de facto* transfer leasing arrangements, the parties may do so provided that they meet the conditions set forth in paragraphs (i)(2) and (i)(3) of this section.

(2) If a licensee that holds a license that continues to be subject to transfer restrictions and/or requirements relating to unjust enrichment pursuant to the Commission's small business and/or entrepreneur provisions (*see* §1.2110 and §24.709 of this chapter) seeks to extend a short-term *de facto* transfer leasing arrangement with its spectrum lessee (or related entities, as determined pursuant to §1.2110(b)(2)) beyond one year, it may convert its arrangement into a long-term *de facto* transfer spectrum leasing arrangement provided that it

complies with the procedures for entering into a long-term *de facto* transfer leasing arrangement and that it pays any unjust enrichment that would have been owed had the licensee filed a long-term *de facto* transfer spectrum leasing application at the time it applied for the initial short-term *de facto* transfer leasing arrangement.

(3) The licensee and spectrum lessee are not permitted to convert a short-term *de facto* transfer leasing arrangement into a long-term *de facto* transfer leasing arrangement if the parties would have been restricted, in the first instance, from entering into a long-term *de facto* transfer leasing arrangement because of a transfer, use, or other restriction applicable to the particular service (*see* §1.9030).

(j) *Assignment of spectrum leasing arrangement*. The rule applicable to long-term *de facto* transfer leasing arrangements (*see* §1.9030(g)) applies in the same manner to short-term *de facto* transfer leasing arrangements.

(k) *Transfer of control of spectrum lessee*. The rule applicable to long-term *de facto* transfer leasing arrangements (*see* §1.9030(h)) applies in the same manner to short-term *de facto* transfer leasing arrangements.

(l) *Revocation or automatic cancellation of a license or the spectrum lessee's operating authority*. The rule applicable to long-term *de facto* transfer leasing arrangements (see §1.9030(i)) applies in the same manner to short-term *de facto* transfer leasing arrangements.

(m) *Subleasing*. A spectrum lessee that has entered into a short-term *de facto* transfer leasing arrangement is not permitted to enter into a spectrum subleasing arrangement.

(n) *Renewal*. The rule applicable with regard to long-term *de facto* transfer leasing arrangements (*see* §1.9030(l)) applies in the same manner to short-term *de facto* transfer leasing arrangements, except that the renewal of the short-term *de facto* transfer leasing arrangement to extend into the term of the renewed license authorization cannot enable the combined terms of the short-term *de facto* transfer leasing arrangements to exceed one year. The Commission must be notified of the renewal of the spectrum leasing arrangement at the same time that the licensee submits its application for license renewal (*see* §1.949).

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 77557, Dec. 27, 2004]

EFFECTIVE DATE NOTE: At 69 FR 77557, Dec. 27, 2004, §1.9035(e) was revised. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### §1.9040 Contractual requirements applicable to spectrum leasing arrangements.

(a) Agreements between licensees and spectrum lessees concerning spectrum leasing arrangements entered into pursuant to the rules of this subpart must contain the following provisions:

(1) The spectrum lessee must comply at all times with applicable rules set forth in this chapter and other applicable law, and the spectrum leasing arrangement may be revoked, cancelled, or terminated by the licensee or Commission if the spectrum lessee fails to comply with the applicable requirements;

(2) If the license is revoked, cancelled, terminated, or otherwise ceases to be in effect, the spectrum lessee has no continuing authority or right to use the leased spectrum unless otherwise authorized by the Commission;

(3) The spectrum leasing arrangement is not an assignment, sale, or transfer of the license itself;

(4) The spectrum leasing arrangement shall not be assigned to any entity that is ineligible or unqualified to enter into a spectrum leasing arrangement under the applicable rules as set forth in this subpart;

(5) The licensee shall not consent to an assignment of a spectrum leasing arrangement unless such assignment complies with applicable Commission rules and regulations.

(b) Agreements between licensees that hold licenses subject to the Commission's installment payment program (*see* §1.2110 of subpart Q of this part and related service-specific rules) and spectrum lesseeys must contain the following additional provisions:

(1) The express acknowledgement that the license remains subject to the Commission's priority lien and security interest in the license and related

proceeds, consistent with the provisions set forth in § 1.9045; and

(2) The agreement that the spectrum lessee shall not hold itself out to the public as the holder of the license and shall not hold itself out as a licensee by virtue of its having entered into a spectrum leasing arrangement.

### § 1.9045 Requirements for spectrum leasing arrangements entered into by licensees participating in the installment payment program.

(a) If a licensee that holds a license subject to the Commission's installment payment program (*see* § 1.2110 of subpart Q of this part and related service-specific rules) enters into a spectrum leasing arrangement pursuant to the rules in this subpart, the licensee remains fully and solely responsible for the outstanding debt amount owed to the Commission. Nothing in a spectrum leasing arrangement, or arising from a spectrum lessee's bankruptcy or receivership, can modify the licensee's sole responsibility for its obligation to repay its entire debt obligation under the installment payment program pursuant to applicable Commission rules and regulations and the associated note(s) and security agreement(s).

(b) If a licensee holds a license subject to the installment payment program rules (*see* § 1.2110 and related service-specific rules), the licensee and any spectrum lessee must execute the Commission-approved financing documents. No licensee or potential spectrum lessee may file a spectrum leasing notification or application without having first executed such Commission-approved financing documentation. In addition, they must certify in the spectrum leasing notification or application that they have both executed such documentation.

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 77558, Dec. 27, 2004]

### § 1.9047 Special provisions relating to leases of educational broadband service spectrum.

Licensees in the Educational Broadcasting Service may enter into spectrum leasing arrangements with spectrum lessees only insofar as such arrangements comply with the applicable requirements for spectrum leasing arrangements involving spectrum in that service as set forth in § 27.1214 of this chapter

[69 FR 72027, Dec. 10, 2004]

### § 1.9048 Special provisions relating to spectrum leasing arrangements involving licensees in the Public Safety Radio Services.

Licensees in the Public Safety Radio Services (*see* part 90, subpart B and § 90.311(a)(1)(i) of this chapter) may enter into spectrum leasing arrangements with other public safety entities eligible for such a license authorization as well as with entities providing communications in support of public safety operations (*see* § 90.523(b) of this chapter).

[69 FR 77558, Dec. 27, 2004]

### § 1.9049 Special provisions relating to spectrum leasing arrangements involving the ancillary terrestrial component of Mobile Satellite Services.

(a) A license issued under part 25 of the Commission's rules that provides authority for an ATC will be considered to provide ''exclusive use rights'' for purpose of this subpart of the rules.

(b) For the purpose of this subpart, a Mobile Satellite Service licensee with an ATC authorization may enter into a spectrum manager leasing arrangement with a spectrum lessee (*see* § 1.9020). Notwithstanding the provisions of §§ 1.9030 and 1.9035, a MSS licensee is not permitted to enter into a *de facto* transfer leasing arrangement with a spectrum lessee.

(c) For purposes of § 1.9020(d)(8), the Mobile Satellite Service licensee's obligation, if any, concerning the E911 requirements in § 20.18 of this chapter, will, with respect to an ATC, be specified in the licensing document for the ATC.

(d) The following provision shall apply, in lieu of § 1.9020(m), with respect to spectrum leasing of an ATC:

(1) Although the term of a spectrum manager leasing arrangement may not be longer than the term of the ATC license, a licensee and spectrum lessee that have entered into an arrangement, the term of which continues to the end of the current term of the license may, contingent on the Commission's grant

of a modification or renewal of the license to extend the license term, extend the spectrum leasing arrangement into the new license term. The Commission must be notified of the extension of the spectrum leasing arrangement at the same time that the licensee submits the application seeking an extended license term. In the event the parties to the arrangement agree to extend it into the new license term, the spectrum lessee may continue to operate consistent with the terms and conditions of the expired license, without further action by the Commission, until such time as the Commission makes a final determination with respect to the extension or renewal of the license.

(2) Reserved.

[76 FR 31259, May 31, 2011]

### § 1.9050 Who may sign spectrum leasing notifications and applications.

Under the rules set forth in this subpart, certain notifications and applications to the Commission must be filed by licensees and spectrum lessees that enter into spectrum leasing arrangements. In addition, the rules require that certain notifications and applications be filed by the licensee and/or the spectrum lessee after they have entered into such arrangements. Whether the signature of the licensee, the spectrum lessee, or both, is required will depend on the particular notification or application involved, and whether the leasing arrangement concerns a spectrum manager leasing arrangement or a *de facto* transfer leasing arrangement.

(a) Except as provided in paragraph (b) of this section, the notifications, applications, amendments, and related statements of fact required by the Commission (including certifications) must be signed as follows (either electronically or manually, *see* paragraph (d) of this section):

(1) By the licensee or spectrum lessee, if an individual;

(2) By one of the partners if the licensee or lessee is a partnership;

(3) By an officer, director, or duly authorized employee, if the licensee or lessee is a corporation; or

(4) By a member who is an officer, if the licensee or lessee is an unincorporated association.

(b) Notifications, applications, amendments, and related statements of fact required by the Commission may be signed by the licensee or spectrum lessee's attorney in case of the licensee's or lessee's physical disability or absence from the United States. The attorney shall, when applicable, separately set forth the reason why the application is not signed by the licensee or lessee. In addition, if any matter is stated on the basis of the attorney's belief only (rather than knowledge), the attorney shall separately set forth the reasons for believing that such statements are true. Only the original of notifications, applications, amendments, and related statements of fact need be signed.

(c) Notifications, applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment (*see* 18 U.S.C. section 1001), and by appropriate administrative sanctions, including revocation of license pursuant to section 312(a)(1) of the Communications Act of 1934 or revocation of the spectrum leasing arrangement.

(d) ''Signed,'' as used in this section, means, for manually filed notifications and applications only, an original hand-written signature or, for electronically filed notifications and applications only, an electronic signature. An electronic signature shall consist of the name of the licensee or spectrum lessee transmitted electronically via ULS and entered on the application as a signature.

### § 1.9055 Assignment of file numbers to spectrum leasing notifications and applications.

Spectrum leasing notifications or applications submitted pursuant to the rules of this subpart are assigned file numbers and service codes in order to facilitate processing in the manner in which applications in subpart F are assigned file numbers (*see* § 1.926 of subpart F of this part).

**§ 1.9060 Amendments, waivers, and dismissals affecting spectrum leasing notifications and applications.**

(a) Notifications and applications regarding spectrum leasing arrangements may be amended in accordance with the policies, procedures, and standards applicable to applications as set forth in subpart F of this part (*see* §§ 1.927 and 1.929 of subpart F of this part).

(b) The Commission may waive specific requirements of the rules affecting spectrum leasing arrangements and the use of leased spectrum, on its own motion or upon request, in accordance with the policies, procedures, and standards set forth in subpart F of this part (*see* § 1.925 of subpart F of this part).

(c) Notifications and pending applications regarding spectrum leasing arrangements may be dismissed in accordance with the policies, procedures, and standards applicable to applications as set forth in subpart F of this part (*see* § 1.935 of subpart F of this part).

**§ 1.9080 Private commons.**

(a) *Overview*. A ''private commons'' arrangement is an arrangement, distinct from a spectrum leasing arrangement but permitted in the same services for which spectrum leasing arrangements are allowed, in which a licensee or spectrum lessee makes certain spectrum usage rights under a particular license authorization available to a class of third-party users employing advanced communications technologies that involve peer-to-peer (device-to-device) communications and that do not involve use of the licensee's or spectrum lessee's end-to-end physical network infrastructure (e.g., base stations, mobile stations, or other related elements). In a private commons arrangement, the licensee or spectrum lessee authorizes users of certain communications devices employing particular technical parameters, as specified by the licensee or spectrum lessee, to operate under the license authorization. A private commons arrangement differs from a spectrum leasing arrangement in that, unlike spectrum leasing arrangements, a private commons arrangement does not involve individually negotiated spectrum access rights with entities that seek to provide network-based services to end-users. A private commons arrangement does not affect unlicensed operations in a particular licensed band to the extent that they are permitted pursuant to part 15.

(b) *Licensee/spectrum lessee responsibilities*. As the manager of any private commons, the licensee or spectrum lessee:

(1) Establishes the technical and operating terms and conditions of use by users of the private commons, including those relating to the types of communications devices that may be used within the private commons, consistent with the terms and conditions of the underlying license authorization;

(2) Retains *de facto* control of the use of spectrum by users within the private commons, including maintaining reasonable oversight over the users' use of the spectrum in the private commons so as to ensure that the use of the spectrum, and communications equipment employed, comply with all applicable technical and service rules (including requirements relating to radio-frequency radiation) and maintaining the ability to ensure such compliance; and,

(3) Retains direct responsibility for ensuring that the users of the private commons, and the equipment employed, comply with all applicable technical and service rules, including requirements relating to radio-frequency radiation and requirements relating to interference.

(c) *Notification requirements*. Prior to permitting users to commence operations within a private commons, the licensee or spectrum lessee must notify the Commission, using FCC Form 608, that it is establishing a private commons arrangement. This notification must include information that describes: the location(s) or coverage area(s) of the private commons under the license authorization; the term of the arrangement; the general terms and conditions for users that would be gaining spectrum access to the private commons; the technical requirements and equipment that the licensee or spectrum lessee has approved for use within the private commons; and, the

types of communications uses that are to be allowed within the private commons.

[69 FR 77558, Dec. 27, 2004]

EFFECTIVE DATE NOTE: At 69 FR 77558, Dec. 27, 2004, § 1.9080 was added. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

## Subpart Y—International Bureau Filing System

SOURCE: 69 FR 29895, May 26, 2004, unless otherwise noted. Redesignated at 69 FR 40327, July 2, 2004.

### § 1.10000 What is the purpose of these rules?

(a) These rules are issued under the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq.*, and the Submarine Cable Landing License Act, 47 U.S.C. 34–39.

(b) This subpart describes procedures for electronic filing of International and Satellite Services applications using the International Bureau Filing System.

(c) More licensing and application descriptions and directions, including but not limited to specifying which International and Satellite service applications must be filed electronically, are in parts 1, 25, 63, and 64 of this chapter.

[69 FR 47793, Aug. 6, 2004]

### § 1.10001 Definitions.

*All other applications.* We consider all other applications officially filed once you file the application in IBFS and applicable filing fees are received and approved by the FCC, unless the application is determined to be fee-exempt. We determine your official filing date based on one of the following situations:

| | |
|---|---|
| 1. You file your Satellite Space Station Application (other than DBS and DARS) or your Application for Earth Stations to Access a Non-U.S. Satellite Not Currently Authorized to provide the Proposed Service in the Proposed Frequencies in the United States in IBFS. | Your official filing date is the date and time (to the millisecond) you file your application and receive a confirmation of filing and submission ID. |
| 2. You file all other applications in IBFS and then do one of the following:. | Your official filing date is: |
| Send your payment (via check, bank draft, money order, credit card, or wire transfer) and FCC Form 159 to U.S. Bank. | The date U.S. Bank stamps your payment as received. |
| Pay by online credit card (through IBFS) ..... | The date your online credit card payment is approved. (Note: You will receive a remittance ID and an authorization number if your transaction is successful). |
| Determine your application type is fee-exempt or your application qualifies for exemption to charges as provided in Part 1 of the Commission's Rules. | The date you file in IBFS and receive a confirmation of filing and submission ID. |

*Application*. A request for an earth or space station radio station license, an international cable landing license, or an international service authorization, or a request to amend a pending application or to modify or renew licenses or authorizations. The term also includes the other requests that may be filed in IBFS such as transfers of control and assignments of license applications, earth station registrations, and foreign carrier affiliation notifications.

*Authorizations*. Generally, a written document or oral statement issued by us giving authority to operate or provide service.

*International Bureau Filing System*. The International Bureau Filing System (IBFS) is a database, application filing system, and processing system for all International and Satellite services. IBFS supports electronic filing of many applications and related documents in the International Bureau, and provides public access to this information.

*International Services*. All international services authorized under parts 1, 63 and 64 of this chapter.

*Official Filing Date*.

*Satellite Space Station Applications (other than DBS and DARS) and Applications for Earth Stations to Access a Non-U.S. Satellite Not Currently Authorized to Provide the Proposed Service in the Proposed Frequencies in the United States*. We consider a Satellite Space Station application (other than DBS and DARS) and an Application for an Earth Station to Access a Non-U.S. Satellite Not Currently Authorized to Provide the Proposed Service in the Proposed Frequencies in the United States officially filed the moment you file them through IBFS. The system tracks the date and time of filing (to the millisecond). For purposes of the queue discussed in § 25.158 of this chapter, we will base the order of the applications in the queue on the date and time the applications are filed, rather than the ''Official Filing Date'' as defined here.

*Satellite Services*. All satellite services authorized under part 25 of this chapter.

*Submission ID*. The Submission ID is the confirmation number you receive from IBFS once you have successfully filed your application. It is also the number we use to match your filing to your payment. Your IBFS Submission ID will always start with the letters ''IB'' and include the year in which you file as well as a sequential number, (e.g., IB2003000123).

*Us*. In this subpart, ''us'' refers to the Commission.

*We*. In this subpart, ''we'' refers to the Commission.

*You*. In this subpart, ''you'' refers to applicants, licensees, your representatives, or other entities authorized to provide services.

[69 FR 29895, May 26, 2004. Redesignated at 69 FR 40327, July 2, 2004, as amended at 73 FR 9029, Feb. 19, 2008]

### § 1.10002 What happens if the rules conflict?

The rules concerning parts 1, 25, 63 and 64 of this chapter govern over the electronic filing in this subpart.

### § 1.10003 When can I start operating?

You can begin operating your facility or providing services once we grant your application to do so, under the conditions set forth in your license or authorization.

### § 1.10004 What am I allowed to do if I am approved?

If you are approved and receive a license or authorization, you must operate in accordance with, and not beyond, your terms of approval.

### § 1.10005 What is IBFS?

(a) The International Bureau Filing System (IBFS) is a database, application filing system, and processing system for all International and Satellite Services. IBFS supports electronic filing of many applications and related documents in the International Bureau, and provides public access to this information.

(b) We maintain applications, notifications, correspondence, and other materials filed electronically with the International Bureau in IBFS.

### § 1.10006 Is electronic filing mandatory?

Electronic filing is mandatory for all applications for international and satellite services for which an International Bureau Filing System (IBFS)

form is available. Applications for which an electronic form is not available must be filed by paper until new forms are introduced. *See* §§ 63.20 and 63.53. As each new IBFS form becomes available for electronic filing, the Commission will issue a public notice announcing the availability of the new form and the effective date of mandatory filing for this particular type of filing. As each new form becomes effective, manual filings will not be accepted by the Commission and the filings will be returned to the applicant without processing. Mandatory electronic filing requirements for applications for international and satellite services are set forth in parts 1, 25, 63, and 64 of this chapter. A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000 through 1.10018 and the IBFS homepage at *http://www.fcc.gov/ibfs*.

[70 FR 38797, July 6, 2005]

### § 1.10007 What applications can I file electronically?

(a) For a complete list of applications or notifications that must be filed electronically, see the IBFS Web site at *http://www.fcc.gov/ibfs*.

(b) Many applications require exhibits or attachments. If attachments are required, you must attach documentation to your electronic application before filing. We accept attachments in the following formats: Word, Adobe Acrobat, Excel and Text.

(c) For paper filing rules and procedures, see parts 1, 25, 63 or 64.

[69 FR 29895, May 26, 2004. Redesignated at 69 FR 40327, July 2, 2004. Amended at 69 FR 47793, Aug. 6, 2004; 70 FR 38797, July 6, 2005]

### § 1.10008 What are IBFS file numbers?

(a) We assign file numbers to electronic applications in order to facilitate processing.

(b) We only assign file numbers for administrative convenience; they do not mean that an application is acceptable for filing.

(c) For a description of file number information, see The International Bureau Filing System File Number Format Public Notice, DA–04–568 (released February 27, 2004).

### § 1.10009 What are the steps for electronic filing?

(a) *Step 1: Register for an FCC Registration Number (FRN).* (See subpart W, §§ 1.8001 through 1.8004.)

(1) If you already have an FRN, go to Step 2.

(2) In order to process your electronic application, you must have an FRN. You may obtain an FRN either directly from the Commission Registration System (CORES) at *http://www.fcc.gov/e-file/*, or through IBFS as part of your filing process. If you need to know more about who needs an FRN, visit CORES at *http://www.fcc.gov/e-file/*.

(3) If you are a(n):

(i) Applicant,

(ii) Transferee and assignee,

(iii) Transferor and assignor,

(iv) Licensee/Authorization Holder, or

(v) Payer, you are required to have and use an FRN when filing applications and/or paying fees through IBFS.

(4) We use your FRN to give you secured access to IBFS and to pre-fill the application you file.

(b) *Step 2: Register with IBFS.*

(1) If you are already registered with IBFS, go to Step 3.

(2) In order to complete and file your electronic application, you must register in IBFS, located at *http://www.fcc.gov/ibfs*.

(3) You can register your account in:

(i) Your name,

(ii) Your company's name, or

(iii) Your client's name.

(4) IBFS will issue you an account number as part of the registration process. You will create your own password.

(5) If you forget your password, send an e-mail to the IBFS helpline at *ibfsinfo@fcc.gov* or contact the helpline at (202) 418–2222 for assistance.

(c) *Step 3: Log into IBFS, select the application you want to file, provide the required FRN(s) and password(s) and fill out your application.* You must completely fill out forms and provide all requested information as provided in parts 1, 25, 63 and 64 of this chapter.

(1) You must provide an address where you can receive mail delivery by

the United States Postal Service. You are also encouraged to provide an e-mail address. This information is used to contact you regarding your application and to request additional documentation, if necessary.

(2) *Reference to material on file.* You must answer questions on application forms that call for specific technical data, or that require yes or no answers or other short answers. However, if documents or other lengthy showings are already on file with us and contain the required information, you may incorporate the information by reference, as long as:

(i) The referenced information is filed in IBFS or, if manually filed, the information is more than one ''8½ inch by 11 inch'' page.

(ii) The referenced information is current and accurate in all material respects; and

(iii) The application states where we can find the referenced information as well as:

(A) The application file number, if the reference is to previously-filed applications

(B) The title of the proceeding, the docket number, and any legal citation, if the reference is to a docketed proceeding.

(d) *Step 4: File your application.* If you file your application successfully through IBFS, a confirmation screen will appear showing you the date and time of your filing and your submission ID. Print this verification for your records as proof of online filing.

(e) *Step 5: Pay for your application.*

(1) Most applications require that you pay a fee to us before we can begin processing your application. You can determine the amount of your fee in three ways:

(i) You can refer to § 1.1107,

(ii) You can refer to the International and Satellite Services fee guide located at *http://www.fcc.gov/fees/appfees.html*, or

(iii) You can run a draft Form 159 through IBFS, in association with a filed application, and the system will automatically enter your required fee on the form.

(2) A complete FCC Form 159 must accompany all fee payments. You must provide the FRN for both the applicant and the payer. You also must include your IBFS Submission ID number on your FCC Form 159 in the box labeled ''FCC Code 2.'' In addition, for applications for transfer of control or assignment of license, call signs involved in the transaction must be entered into the ''FCC Code 1'' box on the FCC Form 159. (This may require the use of multiple rows on the FCC Form 159 for a single application where more than one call sign is involved.)

(i) You may use a paper version of FCC Form 159, or

(ii) You can generate a pre-filled FCC Form 159 from IBFS using your IBFS Submission ID. For specific instructions on using IBFS to generate your FCC Form 159, go to the IBFS Web site (*http://www.fcc.gov/ibfs*) and click on the ''Getting Started'' button.

(3) You have 3 payment options:

(i) Pay by credit card (through IBFS or by regular mail),

(ii) Pay by check, bank draft or money order, or

(iii) Pay by wire transfer or other electronic payments.

(4) You have 14 calendar days from the date you file your application in IBFS to submit your fee payment to U.S. Bank. Your FCC Form 159 must be stamped ''received'' by U.S. Bank by the 14th day. If not, we will dismiss your application.

(5) If you send your Form 159 and payment to U.S. Bank in paper form, you should mail your completed Form 159 and payment to the address specified in § 1.1107 of the Commission's rules. If you file electronically, do not send copies of your application with your payment and Form 159.

(6) For more information on fee payments, refer to Payment Instructions found on the IBFS Internet site at *http://www.fcc.gov/ibfs*.

(7) Step 5 is not applicable if your application is fee exempt.

[73 FR 9029, Feb. 19, 2008]

### § 1.10010 Do I need to send paper copies with my electronic applications?

(a) If you file electronically through IBFS, the electronic record is the official record.

(b) If you file electronically, you do not need to submit paper copies of your application.

(c) If you submit paper copies of your application with your payment, we will consider them as copies and may not retain them.

### § 1.10011 Who may sign applications?

(a) ''Signed'' in this section refers to electronically filed applications. An electronic application is ''signed'' when there is an electronic signature. An electronic signature is the typed name of the person ''signing'' the application, which is then electronically transmitted via IBFS.

(b) For all electronically filed applications, you (or the signor) must actually sign a paper copy of the application, and keep the signed original in your files for future reference.

(c) You only need to sign the original of applications, amendments, and related statements of fact.

(d) Sign applications, amendments, and related statements of fact as follows (either electronically or manually):

(1) By you, if you are an individual;

(2) By one of the partners, if you are a partnership;

(3) By an officer, director, or duly authorized employee, if you are a corporation; or

(4) By a member who is an officer, if you are an unauthorized association.

(e) If you file applications, amendments, and related statements of fact on behalf of eligible government entities, an elected or appointed official who may sign under the laws of the applicable jurisdiction must sign the document. Eligible government entities are:

(1) States and territories of the United States,

(2) Political subdivisions of these states and territories,

(3) The District of Columbia, and

(4) Units of local government.

(f) If you are either physically disabled or absent from the United States, your attorney may sign applications, amendments and related statements of facts on your behalf.

(1) Your attorney must explain why you are not signing the documents.

(2) If your attorney states any matter based solely on his belief (rather than knowledge), your attorney must explain his reasons for believing that such statements are true.

(g) It is unnecessary to sign applications, amendments, and related statements of fact under oath. However, willful false statements are punishable by a fine and imprisonment, 18 U.S.C. 1001, and by administrative sanctions.

### § 1.10012 When can I file on IBFS?

IBFS is available 24 hours a day, seven (7) days a week for filing.

### § 1.10013 How do I check the status of my application after I file it?

You can check the status of your application through the ''Search Tools'' on the IBFS homepage. The IBFS homepage is located at *www.fcc.gov/ibfs*.

### § 1.10014 What happens after officially filing my application?

(a) We give you an IBFS file number.

(b) We electronically route your application to an analyst who conducts an initial review of your application. If your application is incomplete, we will either dismiss the application, or contact you by telephone, letter or email to ask for additional information within a specific time. In cases where we ask for additional information, if we do not receive it within the specified time, we will dismiss your application. In either case, we will dismiss your application without prejudice, so that you may file again with a complete application.

(c) If your application is complete, and we verify receipt of your payment, it will appear on an ''Accepted for Filing'' Public Notice, unless public notice is not required. An ''Accepted for Filing'' Public Notice gives the public a certain amount of time to comment on your filing. This period varies depending upon the type of application.

(1) Certain applications do not have to go on an ''Accepted for Filing'' Public Notice prior to initiation of service, but instead are filed as notifications to the Commission of prior actions by the carriers as authorized by the rules. Examples include pro forma notifications of transfer of control and assignment and certain foreign carrier notifications.

(2) Each ''Accepted for Filing'' Public Notice has a report number. Examples of various types of applications and their corresponding report number (the ''x'' represents a sequential number) follow.

| Type of application | Report No. |
|---|---|
| 325-C Applications | 325-xxxxx |
| Accounting Rate Change | ARC-xxxxx |
| Foreign Carrier Affiliation Notification | FCN-xxxxx |
| International High Frequency | IHF-xxxxx |
| International Public Fixed | IPF-xxxxx |
| Recognized Operating Agency | ROA-xxxxx |
| Satellite Space Station | SAT-xxxxx |
| Satellite Earth Station | SES-xxxxx |
| International Telecommunications: | |
| Streamlined | TEL-xxxxxS |
| Non-streamlined | TEL-xxxxxNS and/or DA |
| Submarine Cable Landing: | |
| Streamlined | SCL-xxxxxS |
| Non-streamlined | SCL-xxxxxNS and/or DA |

(d) After the Public Notice, your application may undergo legal, technical and/or financial review as deemed necessary. In addition, some applications require coordination with other government agencies.

(e) After review, we decide whether to grant or deny applications or whether to take other necessary action. Grants, denials and any other necessary actions are noted in the IBFS database. Some filings may not require any affirmative action, such as some Foreign Carrier Affiliation Notification Filings. Other filings, such as some International Section 214 Applications, International Accounting Rate Change Filings and Requests for assignment of Data Network Identification Codes, may be granted automatically on a specific date unless the applicant is notified otherwise prior to that date, as specified in the rules.

(f) We list most actions taken on public notices. Each ''Action Taken'' Public Notice has a report number. Examples of various types of applications and their corresponding report number (the ''x'' represents a sequential number) follow.

| Type of application | Report No. |
|---|---|
| 325-C Applications | 325-xxxxx |
| Accounting Rate Change | No action taken PN released |
| Foreign Carrier Affiliation Notification | No action taken PN released |
| International High Frequency | IHF-xxxxx |
| International Public Fixed | IPF-xxxxx |
| Recognized Operating Agency | No action taken PN released |
| Satellite Space Station | SAT-xxxxx (occasionally) |
| Satellite Earth Station | SES-xxxxx |
| International Telecommunications | TEL-xxxxx and DA |
| Submarine Cable Landing | TEL-xxxxx and DA |

(g) Other actions are taken by formal written Order, oral actions that are followed up with a written document, or grant stamp of the application. In all cases, the action dates are available online through the IBFS system.

(h) *Issuing and Mailing Licenses for Granted Applications*. Not all applications handled through IBFS and granted by the Commission result in the issuance of a paper license or authorization. A list of application types and their corresponding authorizations follows.

| Type of application | Type of license/authorization issued |
|---|---|
| 325–C Application | FCC permit mailed to permittee or contact, as specified in the application. |

| Type of application | Type of license/authorization issued |
|---|---|
| Accounting Rate Change | No authorizing document is issued by the Commission. In some cases, a Commission order may be issued related to an Accounting Rate Change filing. |
| Data Network Identification Code Filing | Letter confirming the grant of a new DNIC or the reassignment of an existing DNIC is mailed to the applicant or its designated representative. |
| Foreign Carrier Affiliation Notification | No authorizing document is issued by the Commission. In some cases, a Commission order may be issued related to a Foreign Carrier Affiliation Notification. |
| International High Frequency: | |
| Construction Permits, Licenses, Modifications, Renewals, and Transfers of Control/Assignment of License | For all applications, an original, stamped authorization is issued to the applicant and a copy of the authorization is sent to the specified contact. |
| International Public Fixed: | |
| 1. Construction Permits | 1. Once the operating license is granted, the construction period therein is specified as a condition on the license. |
| 2. Request for Special Temporary Authority | 2. Letter, grant-stamped request, or short order. |
| 3. New Authorization | 3. License issued and mailed to applicant (original) and specified contact (copy). |
| 4. Amendment | 4. If granted, the action is incorporated into the license for the underlying application. |
| 5. Modification | 5. License issued and mailed to applicant (original) and specified contact (copy). |
| 6. Renewal | 6. License issued and mailed to applicant (original) and specified contact (copy). |
| 7. Transfer of Control/Assignment of License | 7. If granted, Form A–732 authorization issued and mailed to applicant (original), parties to the transaction, and the applicant's specified contact (copy). |
| Recognized Operating Agency | The FCC sends a letter to the Department of State requesting grant or denial of recognized operating agency status. (The applicant is mailed a courtesy copy.) The Department of State issues a letter to both the Commission and the Applicant advising of their decision. |
| Satellite Space Station: | |
| 1. Request for Special Temporary Authority | 1. Letter, grant-stamped request, or short order. |
| 2. New Authorization | 2. Generally issued by Commission Order. |
| 3. Amendment | 3. Generally issued as part of a Commission Order acting upon the underlying application. |
| 4. Modification | 4. Generally issued by Commission Order. |
| 5. Transfer of Control/Assignment of License | 5. Generally issued by Commission Order or Public Notice. Also, Form A–732 authorization issued and mailed to applicant (original), parties to the transaction, and the applicant's specified contact (copy). |
| Satellite Earth Station: | |
| 1. Request for Special Temporary Authority | 1. Letter, grant-stamped request, or short order. |
| 2. New Authorization | 2. License issued and mailed to applicant (original) and specified contact (copy). |
| 3. Amendment | 3. If granted, the action is incorporated into the license for the underlying application. |
| 4. Modification | 4. License issued and mailed to applicant (original) and specified contact (copy). |
| 5. Renewal | 5. License issued and mailed to applicant (original) and specified contact (copy). |
| 6. Transfer of Control/Assignment of License | 6. If granted, Form A–732 authorization issued and mailed to applicant (original), parties to the transaction, and the applicant's specified contact (copy). |
| International Telecommunications—Section 214: | |
| 1. Streamlined (New, Transfer of Control, Assignment) | 1. Action Taken Public Notice serves as the authorization document. This notice is issued weekly and is available online both at IBFS (*http://www.fcc.gov/ibfs*) and the Electronic Document Management System (EDOCS) (*http://www.fcc.gov/e-file/*). |
| 2. Non-streamlined (New, Transfer of Control, Assignment). | 2. Decisions are generally issued by PN; some are done by Commission Order. |
| 3. Request for Special Temporary Authority | 3. Letter, grant-stamped request issued to applicant. |
| International Signaling Point Code Filing | Letter issued to applicant. |
| Submarine Cable Landing License Application: | |
| 1. Streamlined (New, Transfer of Control, Assignment) | 1. Action Taken Public Notice serves as the authorization document. This notice is issued weekly and is available online both at IBFS, which can be found at *http://www.fcc.gov/ibfs,* and the Electronic Document Management System (EDOCS), which can be found at *http://www.fcc.gov/e-file/.* |
| 2. Non-Streamlined (New, Transfer of Control, Assignment). | 2. Decisions are generally issued by PN; some are done by Commission Order. |

## § 1.10015 Are there exceptions for emergency filings?

(a) Sometimes we grant licenses, modifications or renewals even if no one files an application. Instances where this may occur include:

(1) If we find there is an emergency involving danger to life or property, or because equipment is damaged;

(2) If the President proclaims, or if Congress declares, a national emergency;

(3) During any war in which the United States is engaged and when grants, modifications or renewals are necessary for national defense, security or in furtherance of the war effort; or

(4) If there is an emergency where we find that it is not feasible to secure renewal applications from existing licensees or to follow normal licensing procedures.

(b) Emergency authorizations stop at the end of emergency periods or wars. After the emergency period or war, you must submit your request by filing the appropriate form either manually or electronically.

(c) The procedures for emergency requests, as described in this section, are as specified in §§ 25.120 and 63.25 of this chapter.

### § 1.10016 How do I apply for special temporary authority?

(a) Requests for Special Temporary Authority (STA) may be filed via IBFS for most services. We encourage you to file STA applications through IBFS as it will ensure faster receipt of your request.

(b) For specific information on the content of your request, refer to §§ 25.120 and 63.25 of this chapter.

### § 1.10017 How can I submit additional information?

In response to an official request for information from the International Bureau, you can submit additional information electronically directly to the requestor, or by mail to the Office of the Secretary, Attention: International Bureau.

### § 1.10018 May I amend my application?

(a) If the service rules allow, you may amend pending applications.

(b) If an electronic version of an amendment application is available in IBFS, you may file your amendment electronically through IBFS.

## Subpart Z—Communications Assistance for Law Enforcement Act

SOURCE: 71 FR 38108, July 5, 2006, unless otherwise noted.

### § 1.20000 Purpose.

Pursuant to the Communications Assistance for Law Enforcement Act (CALEA), Public Law 103–414, 108 Stat. 4279 (1994) (codified as amended in sections of 18 U.S.C. and 47 U.S.C.), this subpart contains rules that require a telecommunications carrier to:

(a) Ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with appropriate legal authorization, appropriate carrier authorization, and with the affirmative intervention of an individual officer or employee of the carrier acting in accordance with regulations prescribed by the Commission; and

(b) Implement the assistance capability requirements of CALEA section 103, 47 U.S.C. 1002, to ensure law enforcement access to authorized wire and electronic communications or call-identifying information.

### § 1.20001 Scope.

The definitions included in 47 CFR 1.20002 shall be used solely for the purpose of implementing CALEA requirements.

### § 1.20002 Definitions.

For purposes of this subpart:

(a) *Appropriate legal authorization.* The term *appropriate legal authorization* means:

(1) A court order signed by a judge or magistrate authorizing or approving interception of wire or electronic communications; or

(2) Other authorization, pursuant to 18 U.S.C. 2518(7), or any other relevant federal or state statute.

(b) *Appropriate carrier authorization.* The term *appropriate carrier authorization* means the policies and procedures adopted by telecommunications carriers to supervise and control officers and employees authorized to assist law

enforcement in conducting any interception of communications or access to call-identifying information.

(c) *Appropriate authorization*. The term *appropriate authorization* means both appropriate legal authorization and appropriate carrier authorization.

(d) *LEA*. The term *LEA* means law enforcement agency; e.g., the Federal Bureau of Investigation or a local police department.

(e) *Telecommunications carrier*. The term *telecommunications carrier* includes:

(1) A person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire;

(2) A person or entity engaged in providing commercial mobile service (as defined in sec. 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))); or

(3) A person or entity that the Commission has found is engaged in providing wire or electronic communication switching or transmission service such that the service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of CALEA.

### § 1.20003 Policies and procedures for employee supervision and control.

A telecommunications carrier shall:

(a) Appoint a senior officer or employee responsible for ensuring that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier.

(b) Establish policies and procedures to implement paragraph (a) of this section, to include:

(1) A statement that carrier personnel must receive appropriate legal authorization and appropriate carrier authorization before enabling law enforcement officials and carrier personnel to implement the interception of communications or access to call-identifying information;

(2) An interpretation of the phrase ''appropriate authorization'' that encompasses the definitions of appropriate legal authorization and appropriate carrier authorization, as used in paragraph (b)(1) of this section;

(3) A detailed description of how long it will maintain its records of each interception of communications or access to call-identifying information pursuant to § 1.20004;

(4) In a separate appendix to the policies and procedures document:

(i) The name and a description of the job function of the senior officer or employee appointed pursuant to paragraph (a) of this section; and

(ii) Information necessary for law enforcement agencies to contact the senior officer or employee appointed pursuant to paragraph (a) of this section or other CALEA points of contact on a seven days a week, 24 hours a day basis.

(c) Report to the affected law enforcement agencies, within a reasonable time upon discovery:

(1) Any act of compromise of a lawful interception of communications or access to call-identifying information to unauthorized persons or entities; and

(2) Any act of unlawful electronic surveillance that occurred on its premises.

### § 1.20004 Maintaining secure and accurate records.

(a) A telecommunications carrier shall maintain a secure and accurate record of each interception of communications or access to call-identifying information, made with or without appropriate authorization, in the form of single certification.

(1) This certification must include, at a minimum, the following information:

(i) The telephone number(s) and/or circuit identification numbers involved;

(ii) The start date and time that the carrier enables the interception of communications or access to call identifying information;

(iii) The identity of the law enforcement officer presenting the authorization;

(iv) The name of the person signing the appropriate legal authorization;

(v) The type of interception of communications or access to call-identifying information (e.g., pen register, trap and trace, Title III, FISA); and

(vi) The name of the telecommunications carriers' personnel who is responsible for overseeing the interception of communication or access to call-identifying information and who is acting in accordance with the carriers' policies established under § 1.20003.

(2) This certification must be signed by the individual who is responsible for overseeing the interception of communications or access to call-identifying information and who is acting in accordance with the telecommunications carrier's policies established under § 1.20003. This individual will, by his/her signature, certify that the record is complete and accurate.

(3) This certification must be compiled either contemporaneously with, or within a reasonable period of time after the initiation of the interception of the communications or access to call-identifying information.

(4) A telecommunications carrier may satisfy the obligations of paragraph (a) of this section by requiring the individual who is responsible for overseeing the interception of communication or access to call-identifying information and who is acting in accordance with the carriers' policies established under § 1.20003 to sign the certification and append the appropriate legal authorization and any extensions that have been granted. This form of certification must at a minimum include all of the information listed in paragraph (a) of this section.

(b) A telecommunications carrier shall maintain the secure and accurate records set forth in paragraph (a) of this section for a reasonable period of time as determined by the carrier.

(c) It is the telecommunications carrier's responsibility to ensure its records are complete and accurate.

(d) Violation of this rule is subject to the penalties of § 1.20008.

[71 FR 38108, July 5, 2006]

### § 1.20005 Submission of policies and procedures and Commission review.

(a) Each telecommunications carrier shall file with the Commission the policies and procedures it uses to comply with the requirements of this subchapter. These policies and procedures shall be filed with the Federal Communications Commission within 90 days of the effective date of these rules, and thereafter, within 90 days of a carrier's merger or divestiture or a carrier's amendment of its existing policies and procedures.

(b) The Commission shall review each telecommunications carrier's policies and procedures to determine whether they comply with the requirements of §§ 1.20003 and 1.20004.

(1) If, upon review, the Commission determines that a telecommunications carrier's policies and procedures do not comply with the requirements established under §§ 1.20003 and 1.20004, the telecommunications carrier shall modify its policies and procedures in accordance with an order released by the Commission.

(2) The Commission shall review and order modification of a telecommunications carrier's policies and procedures as may be necessary to insure compliance by telecommunications carriers with the requirements of the regulations prescribed under §§ 1.20003 and 1.20004.

[71 FR 38108, July 5, 2006]

### § 1.20006 Assistance capability requirements.

(a) Telecommunications carriers shall provide to a Law Enforcement Agency the assistance capability requirements of CALEA regarding wire and electronic communications and call-identifying information, see 47 U.S.C. 1002. A carrier may satisfy these requirements by complying with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, such as J–STD–025 (current version), or by the Commission.

(b) Telecommunications carriers shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of ensuring that current and planned equipment, facilities, and services comply with the assistance capability requirements of 47 U.S.C. 1002.

(c) A manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support service shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment, facilities, or services such features or modifications as are necessary to permit such carriers to comply with the assistance capability requirements of 47 U.S.C. 1002.

**§ 1.20007 Additional assistance capability requirements for wireline, cellular, and PCS telecommunications carriers.**

(a) *Definition*—(1) *Call-identifying information*. Call identifying information means dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier. Call-identifying information is ''reasonably available'' to a carrier if it is present at an intercept access point and can be made available without the carrier being unduly burdened with network modifications.

(2) *Collection function*. The location where lawfully authorized intercepted communications and call-identifying information is collected by a law enforcement agency (LEA).

(3) *Content of subject-initiated conference calls*. Capability that permits a LEA to monitor the content of conversations by all parties connected via a conference call when the facilities under surveillance maintain a circuit connection to the call.

(4) *Destination*. A party or place to which a call is being made (e.g., the called party).

(5) *Dialed digit extraction*. Capability that permits a LEA to receive on the call data channel a digits dialed by a subject after a call is connected to another carrier's service for processing and routing.

(6) *Direction*. A party or place to which a call is re-directed or the party or place from which it came, either incoming or outgoing (e.g., a redirected-to party or redirected-from party).

(7) *IAP*. Intercept access point is a point within a carrier's system where some of the communications or call-identifying information of an intercept subject's equipment, facilities, and services are accessed.

(8) *In-band and out-of-band signaling*. Capability that permits a LEA to be informed when a network message that provides call identifying information (e.g., ringing, busy, call waiting signal, message light) is generated or sent by the IAP switch to a subject using the facilities under surveillance. Excludes signals generated by customer premises equipment when no network signal is generated.

(9) *J–STD–025*. The standard, including the latest version, developed by the Telecommunications Industry Association (TIA) and the Alliance for Telecommunications Industry Solutions (ATIS) for wireline, cellular, and broadband PCS carriers. This standard defines services and features to support lawfully authorized electronic surveillance, and specifies interfaces necessary to deliver intercepted communications and call-identifying information to a LEA. Subsequently, TIA and ATIS published J–STD–025–A and J–STD–025–B.

(10) *Origin*. A party initiating a call (e.g., a calling party), or a place from which a call is initiated.

(11) *Party hold, join, drop on conference calls*. Capability that permits a LEA to identify the parties to a conference call conversation at all times.

(12) *Subject-initiated dialing and signaling information*. Capability that permits a LEA to be informed when a subject using the facilities under surveillance uses services that provide call identifying information, such as call forwarding, call waiting, call hold, and three-way calling. Excludes signals generated by customer premises equipment when no network signal is generated.

(13) *Termination*. A party or place at the end of a communication path (e.g. the called or call-receiving party, or the switch of a party that has placed another party on hold).

(14) *Timing information*. Capability that permits a LEA to associate call-

identifying information with the content of a call. A call-identifying message must be sent from the carrier's IAP to the LEA's Collection Function within eight seconds of receipt of that message by the IAP at least 95% of the time, and with the call event timestamped to an accuracy of at least 200 milliseconds.

(b) In addition to the requirements in § 1.20006, wireline, cellular, and PCS telecommunications carriers shall provide to a LEA the assistance capability requirements regarding wire and electronic communications and call identifying information covered by J–STD–025 (current version), and, subject to the definitions in this section, may satisfy these requirements by complying with J–STD–025 (current version), or by another means of their own choosing. These carriers also shall provide to a LEA the following capabilities:

(1) Content of subject-initiated conference calls;

(2) Party hold, join, drop on conference calls;

(3) Subject-initiated dialing and signaling information;

(4) In-band and out-of-band signaling;

(5) Timing information;

(6) Dialed digit extraction, with a toggle feature that can activate/deactivate this capability.

### § 1.20008 Penalties.

In the event of a telecommunications carrier's violation of this subchapter, the Commission shall enforce the penalties articulated in 47 U.S.C. 503(b) of the Communications Act of 1934 and 47 CFR 1.80.

## APPENDIX A TO PART 1—A PLAN OF COOPERATIVE PROCEDURE IN MATTERS AND CASES UNDER THE PROVISIONS OF SECTION 410 OF THE COMMUNICATIONS ACT OF 1934

(Approved by the Federal Communications Commission October 25, 1938, and approved by the National Association of Railroad and Utilities Commissioners on November 17, 1938.)

### PRELIMINARY STATEMENT CONCERNING THE PURPOSE AND EFFECT OF THE PLAN

Section 410 of the Communications Act of 1934 authorizes cooperation between the Federal Communications Commission, hereinafter called the Federal Commission, and the State commissions of the several States, in the administration of said Act. Subsection (a) authorizes the reference of any matter arising in the administration of said Act to a board to be composed of a member or members from each of the States in which the wire, or radio communication affected by or involved in the proceeding takes place, or is proposed. Subsection (b) authorizes conferences by the Federal Commission with State commissions regarding the relationship between rate structures, accounts, charges, practices, classifications, and regulations of carriers subject to the jurisdiction of such State commissions and of said Federal Commission and joint hearings with State commissions in connection with any matter with respect to which the Federal Commission is authorized to act.

Obviously, it is impossible to determine in advance what matters should be the subject of a conference, what matters should be referred to a board, and what matters should be heard at a joint hearing of State commissions and the Federal Commission. It is understood, therefore, that the Federal Commission or any State commission will freely suggest cooperation with respect to any proceedings or matter affecting any carrier subject to the jurisdiction of said Federal Commission and of a State commission, and concerning which it is believed that cooperation will be in the public interest.

To enable this to be done, whenever a proceeding shall be instituted before any commission, Federal or State, in which another commission is believed to be interested, notice should be promptly given each such interested commission by the commission before which the proceeding has been instituted. Inasmuch, however, as failure to give notice as contemplated by the provisions of this plan will sometimes occur purely through inadvertence, any such failure should not operate to deter any commission from suggesting that any such proceeding be made the subject matter of cooperative action, if cooperation therein is deemed desirable.

It is understood that each commission whether or not represented in the National Association of Railroad and Utilities Commissioners, must determine its own course of action with respect to any proceeding in the light of the law under which, at any given time, it is called upon to act, and must be guided by its own views of public policy; and that no action taken by such Association can in any respect prejudice such freedom of action. The approval by the Association of this plan of cooperative procedure, which was jointly prepared by the Association's standing Committee on Cooperation between Federal and State commissions and said Federal Commission, is accordingly recommendatory only; but such plan is designed to be, and it is believed that it will be, a

helpful step in the promotion of cooperative relations between the State commissions and said Federal Commission.

NOTICE OF INSTITUTION OF PROCEEDING

Whenever there shall be instituted before the Federal Commission any proceeding involving the rates of any telephone or telegraph carrier, the State commissions of the States affected thereby will be notified immediately thereof by the Federal Commission, and each notice given a State commission will advise such commission that, if it deems the proceeding one which should be considered under the cooperative provisions of the Act, it should either directly or through the National Association of Railroad and Utilities Commissioners, notify the Federal Commission as to the nature of its interest in said matter and request a conference, the creation of a joint board, or a joint hearing as may be desired, indicating its preference and the reasons therefor. Upon receipt of such request the Federal Commission will consider the same and may confer with the commission making the request and with other interested commission, or with representatives of the National Association of Railroad and Utilities Commissioners, in such manner as may be most suitable; and if cooperation shall appear to be practicable and desirable, shall so advise each interested State commission, directly, when such cooperation will be by joint conference or by reference to a joint board appointed under said sec. 410 (a), and, as hereinafter provided, when such cooperation will be by a joint hearing under said sec. 410(b).

Each State commission should in like manner notify the Federal Commission of any proceeding instituted before it involving the toll telephone rates or the telegraph rates of any carrier subject to the jurisdiction of the Federal Commission.

PROCEDURE GOVERNING JOINT CONFERENCES

The Federal Commission, in accordance with the indicated procedure, will confer with any State commission regarding any matter relating to the regulation of public utilities subject to the jurisdiction of either commission. The commission desiring a conference upon any such matter should notify the other without delay, and thereupon the Federal Commission will promptly arrange for a conference in which all interested State commissions will be invited to be present.

PROCEDURE GOVERNING MATTERS REFERRED TO A BOARD

Whenever the Federal Commission, either upon its own motion or upon the suggestion of a State commission, or at the request of any interested party, shall determine that it is desirable to refer a matter arising in the administration of the Communications Act of 1934 to a board to be composed of a member or members from the State or States affected or to be affected by such matter, the procedure shall be as follows:

The Federal Commission will send a request to each interested State commission to nominate a specified number of members to serve on such board.

The representation of each State concerned shall be equal, unless one or more of the States affected chooses to waive such right of equal representation. When the member or members of any board have been nominated and appointed, in accordance with the provisions of the Communications Act of 1934, the Federal Commission will make an order referring the particular matter to such board, and such order shall fix the time and place of hearing, define the force and effect the action of the board shall have, and the manner in which its proceedings shall be conducted. The rules of practice and procedure, as from time to time adopted or prescribed by the Federal Commission, shall govern such board, as far as applicable.

PROCEDURE GOVERNING JOINT HEARINGS

Whenever the Federal Commission, either upon its own motion or upon suggestions made by or on behalf of any interested State commission or commissions, shall determine that a joint hearing under said sec. 410(b) is desirable in connection with any matter pending before said Federal Commission, the procedure shall be as follows:

(a) The Federal Commission will notify the general solicitor of the National Association of Railroad and Utilities Commissioners that said Association, or, if not more than eight States are within the territory affected by the proceeding, the State commissions interested, are invited to name Cooperating Commissioners to sit with the Federal Commission for the hearing and consideration of said proceeding.

(b) Upon receipt of any notice from said Federal Commission inviting cooperation, if not more than eight States are involved, the general solicitor shall at once advise the State commissions of said States, they being represented in the membership of the association, of the receipt of such notice, and shall request each such commission to give advice to him in writing, before a date to be indicated by him in his communication requesting such advice (1) whether such commission will cooperate in said proceeding, (2) if it will, by what commissioner it will be represented therein.

(c) Upon the basis of replies received, the general solicitor shall advise the Federal Commission what States, if any, are desirous of making the proceeding cooperative and by what commissioners they will be represented, and he shall give like advice to each State commission interested therein.

(d) If more than eight States are interested in the proceeding, because within territory for which rates will be under consideration therein, the general solicitor shall advise the president of the association that the association is invited to name a cooperating committee of State commissioners representing the States interested in said proceeding.

The president of the association shall thereupon advise the general solicitor in writing (1) whether the invitation is accepted on behalf of the association, and (2) the names of commissioners selected to sit as a cooperating committee. The president of the association shall have the authority to accept or to decline said invitation for the association, and to determine the number of commissioners who shall be named on the cooperating committee, provided that his action shall be concurred in by the chairman of the association's executive committee. In the event of any failure of the president of the association and chairman of its executive committee to agree, the second vice president of the association (or the chairman of its committee on cooperation between State and Federal commissions, if there shall be no second vice president) shall be consulted, and the majority opinion of the three shall prevail. Consultations and expressions of opinion may be by mail or telegraph.

(e) If any proceeding, involving more than eight States, is pending before the Federal Commission, in which cooperation has not been invited by that Commission, which the association's president and the first and second vice presidents, or any two of them, consider should be made a cooperating proceeding, they may instruct the general solicitor to suggest to the Federal Commission that the proceeding be made a cooperative proceeding; and any State commission considering that said proceeding should be made cooperative may request the president of the association or the chairman of its executive committee to make such suggestion after consideration with the executive officers above named. If said Federal Commission shall assent to the suggestion, made as aforesaid, the president of the association shall have the same authority to proceed, and shall proceed in the appointment of a cooperating committee, as is provided in other cases involving more than eight States, wherein the Federal Commission has invited cooperation, and the invitation has been accepted.

(f) Whenever any case is pending before the Federal Commission involving eight States or less, which a commission of any of said States considers should be made cooperative, such commission, either directly or through the general solicitor of the association, may suggest to the Federal Commission that the proceeding be made cooperative. If said Federal Commission accedes to such suggestion, it will notify the general solicitor of the association to that effect and thereupon the general solicitor shall proceed as is provided in such case when the invitation has been made by the Federal Commission without State commission suggestion.

APPOINTMENT OF COOPERATING COMMISSIONERS BY THE PRESIDENT

In the appointment of any cooperating committee, the president of the association shall make appointments only from commissions of the States interested in the particular proceeding in which the committee is to serve. He shall exercise his best judgment to select cooperating commissioners who are especially qualified to serve upon cooperating committees by reason of their ability and fitness; and in no case shall he appoint a commissioner upon a cooperating committee until he shall have been advised by such commissioner that it will be practicable for him to attend the hearings in the proceeding in which the committee is to serve, including the arguments therein, and the cooperative conferences, which may be held following the submission of the proceeding, to an extent that will reasonably enable him to be informed upon the issues in the proceeding and to form a reasonable judgment in the matters to be determined.

TENURE OF COOPERATORS

(a) No State commissioner shall sit in a cooperative proceeding under this plan except a commissioner who has been selected by his commission to represent it in a proceeding involving eight States or less, or has been selected by the president of the association to sit in a case involving more than eight States, in the manner hereinbefore provided.

(b) A commissioner who has been selected, as hereinbefore provided, to serve as a member of a cooperating committee in any proceeding, shall without further appointment, and without regard to the duration of time involved, continue to serve in said proceeding until the final disposition thereof, including hearings and conferences after any order or reopening, provided that he shall continue to be a State commissioner.

(c) No member of a cooperating committee shall have any right or authority to designate another commissioner to serve in his place at any hearing or conference in any proceeding in which he has been appointed to serve.

(d) Should a vacancy occur upon any cooperating committee, in a proceeding involving more than eight States, by reason of the death of any cooperating commissioner, or of his ceasing to be a State commissioner, or of other inability to serve, it shall be the duty of the president of the association to fill the

vacancy by appointment, if, after communication with the chairman of the cooperating committee, it be deemed necessary to fill such vacancy.

(e) In the event of any such vacancy occurring upon a cooperating committee involving not more than eight States, the vacancy shall be filled by the commission from which the vacancy occurs.

COOPERATING COMMITTEE TO DETERMINE RESPECTING ANY REPORT OF STATEMENT OF ITS ATTITUDE

(a) Whenever a cooperating committee shall have concluded its work, or shall deem such course advisable, the committee shall consider whether it is necessary and desirable to make a report to the interested State commissions, and, if it shall determine to make a report, it shall cause the same to be distributed through the secretary of the association, or through the general solicitor to all interested commissions.

(b) If a report of the Federal Commission will accompany any order to be made in said proceeding, the Federal Commission will state therein the concurrence or nonconcurrence of said cooperating committee in the decision or order of said Federal Commission.

CONSTRUCTION HEREOF IN CERTAIN RESPECTS EXPRESSLY PROVIDED

It is understood and provided that no State or States shall be deprived of the right of participation and cooperation as hereinbefore provided because of nonmembership in the association. With respect to any such State or States, all negotiations herein specified to be carried on between the Federal Commission and any officer of such association shall be conducted by the Federal Commission directly with the chairman of the commission of such State or States.

[28 FR 12462, Nov. 22, 1963, as amended at 29 FR 4801, Apr. 4, 1964]

## APPENDIX B TO PART 1—NATIONWIDE PROGRAMMATIC AGREEMENT FOR THE COLLOCATION OF WIRELESS ANTENNAS

### NATIONWIDE PROGRAMMATIC AGREEMENT FOR THE COLLOCATION OF WIRELESS ANTENNAS

EXECUTED BY THE FEDERAL COMMUNICATIONS COMMISSION, THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

*Whereas,* the Federal Communications Commission (FCC) establishes rules and procedures for the licensing of wireless communications facilities in the United States and its Possessions and Territories; and,

*Whereas,* the FCC has largely deregulated the review of applications for the construction of individual wireless communications facilities and, under this framework, applicants are required to prepare an Environmental Assessment (EA) in cases where the applicant determines that the proposed facility falls within one of certain environmental categories described in the FCC's rules (47 CFR 1.1307), including situations which may affect historical sites listed or eligible for listing in the National Register of Historic Places (''National Register''); and,

*Whereas,* Section 106 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) (''the Act'') requires federal agencies to take into account the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment; and,

*Whereas,* Section 800.14(b) of the Council's regulations, ''Protection of Historic Properties'' (36 CFR 800.14(b)), allows for programmatic agreements to streamline and tailor the Section 106 review process to particular federal programs; and,

*Whereas,* in August 2000, the Council established a Telecommunications Working Group to provide a forum for the FCC, Industry representatives, State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs), and the Council to discuss improved coordination of Section 106 compliance regarding wireless communications projects affecting historic properties; and,

*Whereas,* the FCC, the Council and the Working Group have developed this Collocation Programmatic Agreement in accordance with 36 CFR 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas (collocation being defined in Stipulation I.A below); and,

*Whereas,* the FCC encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction; and,

*Whereas,* the parties hereto agree that the effects on historic properties of collocations of antennas on towers, buildings and structures are likely to be minimal and not adverse, and that in the cases where an adverse effect might occur, the procedures provided and referred to herein are proper and sufficient, consistent with Section 106, to assure that the FCC will take such effects into account; and

*Whereas,* the execution of this Nationwide Collocation Programmatic Agreement will streamline the Section 106 review of collocation proposals and thereby reduce the need for the construction of new towers, thereby reducing potential effects on historic properties that would otherwise result from the construction of those unnecessary new towers; and,

*Whereas,* the FCC and the Council have agreed that these measures should be incorporated into a Nationwide Programmatic Agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

*Whereas,* since collocations reduce both the need for new tower construction and the potential for adverse effects on historic properties, the parties hereto agree that the terms of this Agreement should be interpreted and implemented wherever possible in ways that encourage collocation; and

*Whereas,* the parties hereto agree that the procedures described in this Agreement are, with regard to collocations as defined herein, a proper substitute for the FCC's compliance with the Council's rules, in accordance and consistent with Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR part 800; and

*Whereas,* the FCC has consulted with the National Conference of State Historic Preservation Officers (NCSHPO) and requested the President of NCSHPO to sign this Nationwide Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b)(2)(iii); and,

*Whereas,* the FCC sought comment from Indian tribes and Native Hawaiian Organizations regarding the terms of this Nationwide Programmatic Agreement by letters of January 11, 2001 and February 8, 2001; and,

*Whereas,* the terms of this Programmatic Agreement do not apply on ''tribal lands'' as defined under Section 800.16(x) of the Council's regulations, 36 CFR 800.16(x) (''Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.''); and,

*Whereas,* the terms of this Programmatic Agreement do not preclude Indian tribes or Native Hawaiian Organizations from consulting directly with the FCC or its licensees, tower companies and applicants for antenna licenses when collocation activities off tribal lands may affect historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations; and,

*Whereas,* the execution and implementation of this Nationwide Collocation Programmatic Agreement will not preclude members of the public from filing complaints with the FCC or the Council regarding adverse effects on historic properties from any existing tower or any activity covered under the terms of this Programmatic Agreement.

*Now therefore,* the FCC, the Council, and NCSHPO agree that the FCC will meet its Section 106 compliance responsibilities for the collocation of antennas as follows.

## STIPULATIONS

The FCC, in coordination with licensees, tower companies and applicants for antenna licenses, will ensure that the following measures are carried out.

### I. DEFINITIONS

For purposes of this Nationwide Programmatic Agreement, the following definitions apply.

A. ''Collocation'' means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

B. ''Tower'' is any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

*C.''Substantial increase in the size of the tower'' means:*

(1) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(4) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

### II. APPLICABILITY

A. This Nationwide Collocation Programmatic Agreement applies only to the collocation of antennas as defined in Stipulation I.A, above.

B. This Nationwide Collocation Programmatic Agreement does not cover any Section 106 responsibilities that federal agencies other than the FCC may have with regard to the collocation of antennas.

III. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED ON OR BEFORE MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed on or before March 16, 2001 without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The mounting of the antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.C, above; or

2. The tower has been determined by the FCC to have an effect on one or more historic properties, unless such effect has been found to be not adverse through a no adverse effect finding, or if found to be adverse or potentially adverse, has been resolved, such as through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or otherwise in compliance with Section 106 and Subpart B of 36 CFR Part 800; or

3. The tower is the subject of a pending environmental review or related proceeding before the FCC involving compliance with Section 106 of the National Historic Preservation Act; or

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

IV. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED AFTER MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed after March 16, 2001 without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The Section 106 review process for the tower set forth in 36 CFR Part 800 and any associated environmental reviews required by the FCC have not been completed; or

2. The mounting of the new antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.C, above; or

3. The tower as built or proposed has been determined by the FCC to have an effect on one or more historic properties, unless such effect has been found to be not adverse through a no adverse effect finding, or if found to be adverse or potentially adverse, has been resolved, such as through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or otherwise in compliance with Section 106 and Subpart B of 36 CFR Part 800; or

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

V. COLLOCATION OF ANTENNAS ON BUILDINGS AND NON-TOWER STRUCTURES OUTSIDE OF HISTORIC DISTRICTS

A. An antenna may be mounted on a building or non-tower structure without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The building or structure is over 45 years old;[1] or

2. The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of the historic district, the building or structure is within 250 feet of the boundary of the historic district; or

3. The building or non-tower structure is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places based upon the review of the licensee, tower company or applicant for an antenna license; or

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

B. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation V has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the

[1] Suitable methods for determining the age of a building include, but are not limited to: (1) obtaining the opinon of a consultant who meets the Secretary of Interior's Professional Qualifications Standards (36 CFR Part 61) or (2) consulting public records.

requirements of Section 106 and 36 CFR Part 800 for this particular collocation.

VI. RESERVATION OF RIGHTS

Neither execution of this Agreement, nor implementation of or compliance with any term herein shall operate in any way as a waiver by any party hereto, or by any person or entity complying herewith or affected hereby, of a right to assert in any court of law any claim, argument or defense regarding the validity or interpretation of any provision of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) or its implementing regulations contained in 36 CFR Part 800.

VII. MONITORING

A. FCC licensees shall retain records of the placement of all licensed antennas, including collocations subject to this Nationwide Programmatic Agreement, consistent with FCC rules and procedures.

B. The Council will forward to the FCC and the relevant SHPO any written objections it receives from members of the public regarding a collocation activity or general compliance with the provisions of this Nationwide Programmatic Agreement within thirty (30) days following receipt of the written objection. The FCC will forward a copy of the written objection to the appropriate licensee or tower owner.

VIII. AMENDMENTS

If any signatory to this Nationwide Collocation Programmatic Agreement believes that this Agreement should be amended, that signatory may at any time propose amendments, whereupon the signatories will consult to consider the amendments. This agreement may be amended only upon the written concurrence of the signatories.

IX. TERMINATION

A. If the FCC determines that it cannot implement the terms of this Nationwide Collocation Programmatic Agreement, or if the FCC, NCSHPO or the Council determines that the Programmatic Agreement is not being properly implemented by the parties to this Programmatic Agreement, the FCC, NCSHPO or the Council may propose to the other signatories that the Programmatic Agreement be terminated.

B. The party proposing to terminate the Programmatic Agreement shall notify the other signatories in writing, explaining the reasons for the proposed termination and the particulars of the asserted improper implementation. Such party also shall afford the other signatories a reasonable period of time of no less than thirty (30) days to consult and remedy the problems resulting in improper implementation. Upon receipt of such notice, the parties shall consult with each other and notify and consult with other entities that are either involved in such implementation or that would be substantially affected by termination of this Agreement, and seek alternatives to termination. Should the consultation fail to produce within the original remedy period or any extension, a reasonable alternative to termination, a resolution of the stated problems, or convincing evidence of substantial implementation of this Agreement in accordance with its terms , this Programmatic Agreement shall be terminated thirty days after notice of termination is served on all parties and published in the FEDERAL REGISTER.

C. In the event that the Programmatic Agreement is terminated, the FCC shall advise its licensees and tower construction companies of the termination and of the need to comply with any applicable Section 106 requirements on a case-by-case basis for collocation activities.

X. ANNUAL MEETING OF THE SIGNATORIES

The signatories to this Nationwide Collocation Programmatic Agreement will meet on or about September 10, 2001, and on or about September 10 in each subsequent year, to discuss the effectiveness of this Agreement, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

XI. DURATION OF THE PROGRAMMATIC AGREEMENT

This Programmatic Agreement for collocation shall remain in force unless the Programmatic Agreement is terminated or superseded by a comprehensive Programmatic Agreement for wireless communications antennas.

Execution of this Nationwide Programmatic Agreement by the FCC, NCSHPO and the Council, and implementation of its terms, evidence that the FCC has afforded the Council an opportunity to comment on the collocation as described herein of antennas covered under the FCC's rules, and that the FCC has taken into account the effects of these collocations on historic properties in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800.

Federal Communications Commission

_____

Date: _____

Advisory Council on Historic Preservation

_____

Date: _____

National Conference of State Historic Preservation Officers

_____

Date: _____

[70 FR 578, Jan. 4, 2005]

# APPENDIX C TO PART 1—NATIONWIDE PROGRAMMATIC AGREEMENT REGARDING THE SECTION 106 NATIONAL HISTORIC PRESERVATION ACT REVIEW PROCESS

## NATIONWIDE PROGRAMMATIC AGREEMENT FOR REVIEW OF EFFECTS ON HISTORIC PROPERTIES FOR CERTAIN UNDERTAKINGS APPROVED BY THE FEDERAL COMMUNICATIONS COMMISSION

EXECUTED BY THE FEDERAL COMMUNICATIONS COMMISSION, THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

September 2004

*Introduction*

*Whereas,* Section 106 of the National Historic Preservation Act of 1966, as amended (''NHPA'') (codified at 16 U.S.C. 470f), requires federal agencies to take into account the effects of certain of their Undertakings on Historic Properties (see Section II, below), included in or eligible for inclusion in the National Register of Historic Places (''National Register''), and to afford the Advisory Council on Historic Preservation (''Council'') a reasonable opportunity to comment with regard to such Undertakings; and

*Whereas,* under the authority granted by Congress in the Communications Act of 1934, as amended (47 U.S.C. 151 *et seq.*), the Federal Communications Commission (''Commission'') establishes rules and procedures for the licensing of non-federal government communications services, and the registration of certain antenna structures in the United States and its Possessions and Territories; and

*Whereas,* Congress and the Commission have deregulated or streamlined the application process regarding the construction of individual Facilities in many of the Commission's licensed services; and

*Whereas,* under the framework established in the Commission's environmental rules, 47 CFR 1.1301–1.1319, Commission licensees and applicants for authorizations and antenna structure registrations are required to prepare, and the Commission is required to independently review and approve, a pre-construction Environmental Assessment (''EA'') in cases where a proposed tower or antenna may significantly affect the environment, including situations where a proposed tower or antenna may affect Historic Properties that are either listed in or eligible for listing in the National Register, including properties of religious and cultural importance to an Indian tribe or Native Hawaiian organization (''NHO'') that meet the National Register criteria; and

*Whereas,* the Council has adopted rules implementing Section 106 of the NHPA (codified at 36 CFR Part 800) and setting forth the process, called the ''Section 106 process,'' for complying with the NHPA; and

*Whereas,* pursuant to the Commission's rules and the terms of this Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (''Nationwide Agreement''), Applicants (*see* Section II.A.2) have been authorized, consistent with the terms of the memorandum from the Council to the Commission, titled ''Delegation of Authority for the Section 106 Review of Telecommunications Projects,'' dated September 21, 2000, to initiate, coordinate, and assist the Commission with compliance with many aspects of the Section 106 review process for their Facilities; and

*Whereas,* in August 2000, the Council established a Telecommunications Working Group (the ''Working Group'') to provide a forum for the Commission, the Council, the National Conference of State Historic Preservation Officers (''Conference''), individual State Historic Preservation Officers (''SHPOs''), Tribal Historic Preservation Officers (''THPOs''), other tribal representatives, communications industry representatives, and other interested members of the public to discuss improved Section 106 compliance and to develop methods of streamlining the Section 106 review process; and

*Whereas,* Section 214 of the NHPA (16 U.S.C. 470v) authorizes the Council to promulgate regulations implementing exclusions from Section 106 review, and Section 800.14(b) of the Council's regulations (36 CFR 800.14(b)) allows for programmatic agreements to streamline and tailor the Section 106 review process to particular federal programs, if they are consistent with the Council's regulations; and

*Whereas,* the Commission, the Council, and the Conference executed on March 16, 2001, the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (the ''Collocation Agreement''), in order to streamline review for the collocation of antennas on existing towers and other structures and thereby reduce the need for the construction of new towers (Attachment 1 to this Nationwide Agreement); and

*Whereas,* the Council, the Conference, and the Commission now agree it is desirable to further streamline and tailor the Section 106 review process for Facilities that are not excluded from Section 106 review under the Collocation Agreement while protecting Historic Properties that are either listed in or eligible for listing in the National Register; and

*Whereas,* the Working Group agrees that a nationwide programmatic agreement is a desirable and effective way to further streamline and tailor the Section 106 review process as it applies to Facilities; and

*Whereas,* this Nationwide Agreement will, upon its execution by the Council, the Conference, and the Commission, constitute a substitute for the Council's rules with respect to certain Commission Undertakings; and

*Whereas,* the Commission sought public comment on a draft of this Nationwide Agreement through a Notice of Proposed Rulemaking released on June 9, 2003;

*Whereas,* the Commission has actively sought and received participation and comment from Indian tribes and NHOs regarding this Nationwide Agreement; and

*Whereas,* the Commission has consulted with federally recognized Indian tribes regarding this Nationwide Agreement (*see* Report and Order, FCC 04–222, at ¶31); and

*Whereas,* this Nationwide Agreement provides for appropriate public notification and participation in connection with the Section 106 process; and

*Whereas,* Section 101(d)(6) of the NHPA provides that federal agencies ''shall consult with any Indian tribe or Native Hawaiian organization'' that attaches religious and cultural significance to properties of traditional religious and cultural importance that may be determined to be eligible for inclusion in the National Register and that might be affected by a federal undertaking (16 U.S.C. 470a(d)(6)); and

*Whereas,* the Commission has adopted a ''Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes'' dated June 23, 2000, pursuant to which the Commission: recognizes the unique legal relationship that exists between the federal government and Indian tribal governments, as reflected in the Constitution of the United States, treaties, federal statutes, Executive orders, and numerous court decisions; affirms the federal trust relationship with Indian tribes, and recognizes that this historic trust relationship requires the federal government to adhere to certain fiduciary standards in its dealings with Indian tribes; commits to working with Indian tribes on a government-to-government basis consistent with the principles of tribal self-governance; commits, in accordance with the federal government's trust responsibility, and to the extent practicable, to consult with tribal governments prior to implementing any regulatory action or policy that will significantly or uniquely affect tribal governments, their land and resources; strives to develop working relationships with tribal governments, and will endeavor to identify innovative mechanisms to facilitate tribal consultations in the Commission's regulatory processes; and endeavors to streamline its administrative process and procedures to remove undue burdens that its decisions and actions place on Indian tribes; and

*Whereas,* the Commission does not delegate under this Programmatic Agreement any portion of its responsibilities to Indian tribes and NHOs, including its obligation to consult under Section 101(d)(6) of the NHPA; and

*Whereas,* the terms of this Nationwide Agreement are consistent with and do not attempt to abrogate the rights of Indian tribes or NHOs to consult directly with the Commission regarding the construction of Facilities; and

*Whereas,* the execution and implementation of this Nationwide Agreement will not preclude Indian tribes or NHOs, SHPO/THPOs, local governments, or members of the public from filing complaints with the Commission or the Council regarding effects on Historic Properties from any Facility or any activity covered under the terms of the Nationwide Agreement; and

*Whereas,* Indian tribes and NHOs may request Council involvement in Section 106 cases that present issues of concern to Indian tribes or NHOs (*see* 36 CFR Part 800, Appendix A, Section (c)(4)); and

*Whereas,* the Commission, after consulting with federally recognized Indian tribes, has developed an electronic Tower Construction Notification System through which Indian tribes and NHOs may voluntarily identify the geographic areas in which Historic Properties to which they attach religious and cultural significance may be located, Applicants may ascertain which participating Indian tribes and NHOs have identified such an interest in the geographic area in which they propose to construct Facilities, and Applicants may voluntarily provide electronic notification of proposed Facilities construction for the Commission to forward to participating Indian tribes, NHOs, and SHPOs/THPOs; and

*Whereas,* the Council, the Conference and the Commission recognize that Applicants' use of qualified professionals experienced with the NHPA and Section 106 can streamline the review process and minimize potential delays; and

*Whereas,* the Commission has created a position and hired a cultural resources professional to assist with the Section 106 process; and

*Whereas,* upon execution of this Nationwide Agreement, the Council may still provide advisory comments to the Commission regarding the coordination of Section 106 reviews; notify the Commission of concerns raised by consulting parties and the public regarding an Undertaking; and participate in the resolution of adverse effects for complex, controversial, or other non-routine projects;

*Now Therefore,* in consideration of the above provisions and of the covenants and agreements contained herein, the Council,

the Conference and the Commission (the ''Parties'') agree as follows:

I. APPLICABILITY AND SCOPE OF THIS NATIONWIDE AGREEMENT

A. This Nationwide Agreement (1) Excludes from Section 106 review certain Undertakings involving the construction and modification of Facilities, and (2) streamlines and tailors the Section 106 review process for other Undertakings involving the construction and modification of Facilities. An illustrative list of Commission activities in relation to which Undertakings covered by this Agreement may occur is provided as Attachment 2 to this Agreement.

B. This Nationwide Agreement applies only to federal Undertakings as determined by the Commission (''Undertakings''). The Commission has sole authority to determine what activities undertaken by the Commission or its Applicants constitute Undertakings within the meaning of the NHPA. Nothing in this Agreement shall preclude the Commission from revisiting or affect the existing ability of any person to challenge any prior determination of what does or does not constitute an Undertaking. Maintenance and servicing of Towers, Antennas, and associated equipment are not deemed to be Undertakings subject to Section 106 review.

C. This Agreement does not apply to Antenna Collocations that are exempt from Section 106 review under the Collocation Agreement (*see* Attachment 1). Pursuant to the terms of the Collocation Agreement, such Collocations shall not be subject to the Section 106 review process and shall not be submitted to the SHPO/THPO for review. This Agreement does apply to collocations that are not exempt from Section 106 review under the Collocation Agreement.

D. This Agreement does not apply on ''tribal lands'' as defined under Section 800.16(x) of the Council's regulations, 36 CFR § 800.16(x) (''Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.''). This Nationwide Agreement, however, will apply on tribal lands should a tribe, pursuant to appropriate tribal procedures and upon reasonable notice to the Council, Commission, and appropriate SHPO/THPO, elect to adopt the provisions of this Nationwide Agreement. Where a tribe that has assumed SHPO functions pursuant to Section 101(d)(2) of the NHPA (16 U.S.C. 470(d)(2)) has agreed to application of this Nationwide Agreement on tribal lands, the term SHPO/THPO denotes the Tribal Historic Preservation Officer with respect to review of proposed Undertakings on those tribal lands. Where a tribe that has not assumed SHPO functions has agreed to application of this Nationwide Agreement on tribal lands, the tribe may notify the Commission of the tribe's intention to perform the duties of a SHPO/THPO, as defined in this Nationwide Agreement, for proposed Undertakings on its tribal lands, and in such instances the term SHPO/THPO denotes both the State Historic Preservation Officer and the tribe's authorized representative. In all other instances, the term SHPO/THPO denotes the State Historic Preservation Officer.

E. This Nationwide Agreement governs only review of Undertakings under Section 106 of the NHPA. Applicants completing the Section 106 review process under the terms of this Nationwide Agreement may not initiate construction without completing any environmental review that is otherwise required for effects other than historic preservation under the Commission's rules (*See* 47 CFR 1.1301–1.1319). Completion of the Section 106 review process under this Nationwide Agreement satisfies an Applicant's obligations under the Commission's rules with respect to Historic Properties, except for Undertakings that have been determined to have an adverse effect on Historic Properties and that therefore require preparation and filing of an Environmental Assessment (*See* 47 CFR 1.1307(a)(4)).

F. This Nationwide Agreement does not govern any Section 106 responsibilities that agencies other than the Commission may have with respect to those agencies' federal Undertakings.

II. DEFINITIONS

A. The following terms are used in this Nationwide Agreement as defined below:

1. Antenna. An apparatus designed for the purpose of emitting radio frequency (''RF'') radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a Tower, structure, or building as part of the original installation of the antenna. For most services, an Antenna will be mounted on or in, and is distinct from, a supporting structure such as a Tower, structure or building. However, in the case of AM broadcast stations, the entire Tower or group of Towers constitutes the Antenna for that station. For purposes of this Nationwide Agreement, the term Antenna does not include unintentional radiators, mobile stations, or devices authorized under Part 15 of the Commission's rules.

2. Applicant. A Commission licensee, permittee, or registration holder, or an applicant or prospective applicant for a wireless or broadcast license, authorization or antenna structure registration, and the duly authorized agents, employees, and contractors of any such person or entity.

3. Area of Potential Effects (''APE''). The geographic area or areas within which an Undertaking may directly or indirectly cause alterations in the character or use of Historic Properties, if any such properties exist.

4. Collocation. The mounting or installation of an Antenna on an existing Tower, building, or structure for the purpose of transmitting radio frequency signals for telecommunications or broadcast purposes.

5. Effect. An alteration to the characteristics of a Historic Property qualifying it for inclusion in or eligibility for the National Register.

6. Experimental Authorization. An authorization issued to conduct experimentation utilizing radio waves for gathering scientific or technical operation data directed toward the improvement or extension of an established service and not intended for reception and use by the general public. ''Experimental Authorization'' does not include an ''Experimental Broadcast Station'' authorized under Part 74 of the Commission's rules.

7. Facility. A Tower or an Antenna. The term Facility may also refer to a Tower and its associated Antenna(s).

8. Field Survey. A research strategy that utilizes one or more visits to the area where construction is proposed as a means of identifying Historic Properties.

9. Historic Property. Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or NHO that meet the National Register criteria.

10. National Register. The National Register of Historic Places, maintained by the Secretary of the Interior's office of the Keeper of the National Register.

11. SHPO/THPO Inventory. A set of records of previously gathered information, authorized by state or tribal law, on the absence, presence and significance of historic and archaeological resources within the state or tribal land.

12. Special Temporary Authorization. Authorization granted to a permittee or licensee to allow the operation of a station for a limited period at a specified variance from the terms of the station's permanent authorization or requirements of the Commission's rules applicable to the particular class or type of station.

13. Submission Packet. The document to be submitted initially to the SHPO/THPO to facilitate review of the Applicant's findings and any determinations with regard to the potential impact of the proposed Undertaking on Historic Properties in the APE. There are two Submission Packets: (a) The New Tower Submission Packet (FCC Form 620) (*See* Attachment 3) and (b) The Collocation Submission Packet (FCC Form 621) (*See* Attachment 4). Any documents required to be submitted along with a Form are part of the Submission Packet.

14. Tower. Any structure built for the sole or primary purpose of supporting Commission-licensed or authorized Antennas, including the on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that Tower but not installed as part of an Antenna as defined herein.

B. All other terms not defined above or elsewhere in this Nationwide Agreement shall have the same meaning as set forth in the Council's rules section on Definitions (36 CFR 800.16) or the Commission's rules (47 CFR Chapter I).

C. For the calculation of time periods under this Agreement, ''days'' mean ''calendar days.'' Any time period specified in the Agreement that ends on a weekend or a Federal or State holiday is extended until the close of the following business day.

D. Written communications include communications by e-mail or facsimile.

## III. Undertakings Excluded From Section 106 Review

Undertakings that fall within the provisions listed in the following sections III.A. through III.F. are excluded from Section 106 review by the SHPO/THPO, the Commission, and the Council, and, accordingly, shall not be submitted to the SHPO/THPO for review. The determination that an exclusion applies to an Undertaking should be made by an authorized individual within the Applicant's organization, and Applicants should retain documentation of their determination that an exclusion applies. Concerns regarding the application of these exclusions from Section 106 review may be presented to and considered by the Commission pursuant to Section XI.

A. Enhancement of a tower and any associated excavation that does not involve a collocation and does not substantially increase the size of the existing tower, as defined in the Collocation Agreement. For towers constructed after March 16, 2001, this exclusion applies only if the tower has completed the Section 106 review process and any associated environmental reviews required by the Commission.

B. Construction of a replacement for an existing communications tower and any associated excavation that does not substantially increase the size of the existing tower under elements 1–3 of the definition as defined in the Collocation Agreement (*see* Attachment 1 to this Agreement, Stipulation 1.c.1–3) and that does not expand the boundaries of the leased or owned property surrounding the

tower by more than 30 feet in any direction or involve excavation outside these expanded boundaries or outside any existing access or utility easement related to the site. For towers constructed after March 16, 2001, this exclusion applies only if the tower has completed the Section 106 review process and any associated environmental reviews required by the Commission's rules.

C. Construction of any temporary communications Tower, Antenna structure, or related Facility that involves no excavation or where all areas to be excavated will be located in areas described in Section VI.D.2.c.i below, including but not limited to the following:

1. A Tower or Antenna authorized by the Commission for a temporary period, such as any Facility authorized by a Commission grant of Special Temporary Authority (''STA'') or emergency authorization;

2. A cell on wheels (COW) transmission Facility;

3. A broadcast auxiliary services truck, TV pickup station, remote pickup broadcast station (e.g., electronic newsgathering vehicle) authorized under Part 74 or temporary fixed or transportable earth station in the fixed satellite service (e.g., satellite newsgathering vehicle) authorized under Part 25;

4. A temporary ballast mount Tower;

5. Any Facility authorized by a Commission grant of an experimental authorization.

For purposes of this Section III.C, the term ''temporary'' means ''for no more than twenty-four months duration except in the case of those Facilities associated with national security.''

D. Construction of a Facility less than 200 feet in overall height above ground level in an existing industrial park,[1] commercial strip mall,[2] or shopping center[3] that occupies a total land area of 100,000 square feet or more, provided that the industrial park, strip mall, or shopping center is not located within the boundaries of or within 500 feet of a Historic Property, as identified by the Applicant after a preliminary search of relevant records. Proposed Facilities within this exclusion must complete the process of participation of Indian tribes and NHOs pursuant to Section IV of this Agreement. If as a result of this process the Applicant or the Commission identifies a Historic Property that may be affected, the Applicant must complete the Section 106 review process pursuant to this Agreement notwithstanding the exclusion.

E. Construction of a Facility in or within 50 feet of the outer boundary of a right-of-way designated by a Federal, State, local, or Tribal government for the location of communications Towers or above-ground utility transmission or distribution lines and associated structures and equipment and in active use for such purposes, provided:

1. The proposed Facility would not constitute a substantial increase in size, under elements 1–3 of the definition in the Collocation Agreement, over existing structures located in the right-of-way within the vicinity of the proposed Facility, and;

2. The proposed Facility would not be located within the boundaries of a Historic Property, as identified by the Applicant after a preliminary search of relevant records.

Proposed Facilities within this exclusion must complete the process of participation of Indian tribes and NHOs pursuant to Section IV of this Agreement. If as a result of this process the Applicant or the Commission identifies a Historic Property that may be affected, the Applicant must complete the Section 106 review process pursuant to this Agreement notwithstanding the exclusion.

F. Construction of a Facility in any area previously designated by the SHPO/THPO at its discretion, following consultation with appropriate Indian tribes and NHOs, as having limited potential to affect Historic Properties. Such designation shall be documented by the SHPO/THPO and made available for public review.

IV. Participation of Indian Tribes and Native Hawaiian Organizations in Undertakings Off Tribal Lands

A. The Commission recognizes its responsibility to carry out consultation with any Indian tribe or NHO that attaches religious and cultural significance to a Historic Property if the property may be affected by a Commission undertaking. This responsibility is founded in Sections 101(d)(6)(a–b) and 106 of the NHPA (16 U.S.C. 470a(d)(6)(a–b) and 470f), the regulations of the Council (36 CFR Part 800), the Commission's environmental regulations (47 CFR 1.1301–1.1319), and the unique legal relationship that exists between the federal government and Indian Tribal

[1] A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with consideration to transportation facilities, circulation, parking, utility needs, aesthetics and compatibility.

[2] A structure or grouping of structures, housing retail business, set back far enough from the street to permit parking spaces to be placed between the building entrances and the public right of way.

[3] A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

governments, as reflected in the Constitution of the United States, treaties, federal statutes, Executive orders, and numerous court decisions. This historic trust relationship requires the federal government to adhere to certain fiduciary standards in its dealings with Indian Tribes. (Commission Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes).

B. As an initial step to enable the Commission to fulfill its duty of consultation, Applicants shall use reasonable and good faith efforts to identify any Indian tribe or NHO that may attach religious and cultural significance to Historic Properties that may be affected by an Undertaking. Applicants should be aware that frequently, Historic Properties of religious and cultural significance to Indian tribes and NHOs are located on ancestral, aboriginal, or ceded lands of such tribes and organizations and Applicants should take this into account when complying with their responsibilities. Where an Indian tribe or NHO has voluntarily provided information to the Commission's Tower Construction Notification System regarding the geographic areas in which Historic Properties of religious and cultural significance to that Indian tribe or NHO may be located, reference to the Tower Construction Notification System shall constitute a reasonable and good faith effort at identification with respect to that Indian tribe or NHO. In addition, such reasonable and good faith efforts may include, but are not limited to, seeking relevant information from the relevant SHPO/THPO, Indian tribes, state agencies, the U.S. Bureau of Indian Affairs (''BIA''), or, where applicable, any federal agency with land holdings within the state (e.g., the U.S. Bureau of Land Management). Although these agencies can provide useful information in identifying potentially affected Indian tribes, contacting BIA, the SHPO or other federal and state agencies is not a substitute for seeking information directly from Indian tribes that may attach religious and cultural significance to a potentially affected Historic Property, as described below.

C. After the Applicant has identified Indian tribes and NHOs that may attach religious and cultural significance to potentially affected Historic Properties, the Commission has the responsibility, and the Commission imposes on the Applicant the obligation, to ensure that contact is made at an early stage in the planning process with such Indian tribes and NHOs in order to begin the process of ascertaining whether such Historic Properties may be affected. This initial contact shall be made by the Commission or the Applicant, in accordance with the wishes of the Indian tribe or NHO. This contact shall constitute only an initial effort to contact the Indian tribe or NHO, and does not in itself fully satisfy the Applicant's obligations or substitute for government-to-government consultation unless the Indian tribe or NHO affirmatively disclaims further interest or the Indian tribe or NHO has otherwise agreed that such contact is sufficient. Depending on the preference of the Indian tribe or NHO, the means of initial contact may include, without limitation:

1. Electronic notification through the Commission's Tower Construction Notification System;

2. Written communication from the Commission at the request of the Applicant;

3. Written, e-mail, or telephonic notification directly from the Applicant to the Indian tribe or NHO;

4. Any other means that the Indian Tribe or NHO has informed the Commission are acceptable, including through the adoption of best practices pursuant to Section IV.J, below; or

5. Any other means to which an Indian tribe or NHO and an Applicant have agreed pursuant to Section IV.K, below.

D. The Commission will use its best efforts to ascertain the preferences of each Indian tribe and NHO for initial contact, and to make these preferences available to Applicants in a readily accessible format. In addition, the Commission will use its best efforts to ascertain, and to make available to Applicants, any locations or types of construction projects, within the broad geographic areas in which Historic Properties of religious and cultural significance to an Indian tribe or NHO may be located, for which the Indian tribe or NHO does not expect notification. To the extent they are comfortable doing so, the Commission encourages Indian tribes and NHOs to accept the Tower Construction Notification System as an efficient and thorough means of making initial contact.

E. In the absence of any contrary indication of an Indian tribe's or NHO's preference, where an Applicant does not have a pre-existing relationship with an Indian tribe or NHO, initial contact with the Indian tribe or NHO shall be made through the Commission. Unless the Indian tribe or NHO has indicated otherwise, the Commission may make this initial contact through the Tower Construction Notification System. An Applicant that has a pre-existing relationship with an Indian tribe or NHO shall make initial contact in the manner that is customary to that relationship or in such other manner as may be accepted by the Indian tribe or NHO. An Applicant shall copy the Commission on any initial written or electronic direct contact with an Indian tribe or NHO, unless the Indian tribe or NHO has agreed through a best practices agreement or otherwise that such copying is not necessary.

F. Applicants' direct contacts with Indian tribes and NHOs, where accepted by the Indian tribe or NHO, shall be made in a sensitive manner that is consistent with the

reasonable wishes of the Indian tribe or NHO, where such wishes are known or can be reasonably ascertained. In general, unless an Indian tribe or NHO has provided guidance to the contrary, Applicants shall follow the following guidelines:

1. All communications with Indian tribes shall be respectful of tribal sovereignty;

2. Communications shall be directed to the appropriate representative designated or identified by the tribal government or other governing body;

3. Applicants shall provide all information reasonably necessary for the Indian tribe or NHO to evaluate whether Historic Properties of religious and cultural significance may be affected. The parties recognize that it may be neither feasible nor desirable to provide complete information about the project at the time of initial contact, particularly when initial contact is made early in the process. Unless the Indian tribe or NHO affirmatively disclaims interest, however, it shall be provided with complete information within the earliest reasonable time frame;

4. The Applicant must ensure that Indian tribes and NHOs have a reasonable opportunity to respond to all communications. Ordinarily, 30 days from the time the relevant tribal or NHO representative may reasonably be expected to have received an inquiry shall be considered a reasonable time. Should a tribe or NHO request additional time to respond, the Applicant shall afford additional time as reasonable under the circumstances. However, where initial contact is made automatically through the Tower Construction Notification System, and where an Indian tribe or NHO has stated that it is not interested in reviewing proposed construction of certain types or in certain locations, the Applicant need not await a response to contact regarding proposed construction meeting that description;

5. Applicants should not assume that failure to respond to a single communication establishes that an Indian tribe or NHO is not interested in participating, but should make a reasonable effort to follow up.

G. The purposes of communications between the Applicant and Indian tribes or NHOs are: (1) To ascertain whether Historic Properties of religious and cultural significance to the Indian tribe or NHO may be affected by the undertaking and consultation is therefore necessary, and (2) where possible, with the concurrence of the Indian tribe or NHO, to reach an agreement on the presence or absence of effects that may obviate the need for consultation. Accordingly, the Applicant shall promptly refer to the Commission any request from a federally recognized Indian tribe for government-to-government consultation. The Commission will then carry out government-to-government consultation with the Indian tribe. Applicants shall also seek guidance from the Commission in the event of any substantive or procedural disagreement with an Indian tribe or NHO, or if the Indian tribe or NHO does not respond to the Applicant's inquiries. Applicants are strongly advised to seek guidance from the Commission in cases of doubt.

H. If an Indian tribe or NHO indicates that a Historic Property of religious and cultural significance to it may be affected, the Applicant shall invite the commenting tribe or organization to become a consulting party. If the Indian tribe or NHO agrees to become a consulting party, it shall be afforded that status and shall be provided with all of the information, copies of submissions, and other prerogatives of a consulting party as provided for in 36 CFR 800.2.

I. Information regarding Historic Properties to which Indian tribes or NHOs attach religious and cultural significance may be highly confidential, private, and sensitive. If an Indian tribe or NHO requests confidentiality from the Applicant, the Applicant shall honor this request and shall, in turn, request confidential treatment of such materials or information in accordance with the Commission's rules and Section 304 of the NHPA (16 U.S.C. 470w–3(a)) in the event they are submitted to the Commission. The Commission shall provide such confidential treatment consistent with its rules and applicable federal laws. Although the Commission will strive to protect the privacy interests of all parties, the Commission cannot guarantee its own ability or the ability of Applicants to protect confidential, private, and sensitive information from disclosure under all circumstances.

J. In order to promote efficiency, minimize misunderstandings, and ensure that communications among the parties are made in accordance with each Indian tribe or NHO's reasonable preferences, the Commission will use its best efforts to arrive at agreements regarding best practices with Indian tribes and NHOs and their representatives. Such best practices may include means of making initial contacts with Indian tribes and NHOs as well as guidelines for subsequent discussions between Applicants and Indian tribes or NHOs in fulfillment of the requirements of the Section 106 process. To the extent possible, the Commission will strive to achieve consistency among best practice agreements with Indian tribes and NHOs. Where best practices exist, the Commission encourages Applicants to follow those best practices.

K. Nothing in this Section shall be construed to prohibit or limit Applicants and Indian tribes or NHOs from entering into or continuing pre-existing arrangements or agreements governing their contacts, provided such arrangements or agreements are otherwise consistent with federal law and no modification is made in the roles of other parties to the process under this Nationwide

Agreement without their consent. Documentation of such alternative arrangements or agreements should be filed with the Commission.

V. PUBLIC PARTICIPATION AND CONSULTING PARTIES

A. On or before the date an Applicant submits the appropriate Submission Packet to the SHPO/THPO, as prescribed by Section VII, below, the Applicant shall provide the local government that has primary land use jurisdiction over the site of the planned Undertaking with written notification of the planned Undertaking.

B. On or before the date an Applicant submits the appropriate Submission Packet to the SHPO/THPO, as prescribed by Section VII, below, the Applicant shall provide written notice to the public of the planned Undertaking. Such notice may be accomplished (1) through the public notification provisions of the relevant local zoning or local historic preservation process for the proposed Facility; or (2) by publication in a local newspaper of general circulation. In the alternative, an Applicant may use other appropriate means of providing public notice, including seeking the assistance of the local government.

C. The written notice to the local government and to the public shall include: (1) The location of the proposed Facility including its street address; (2) a description of the proposed Facility including its height and type of structure; (3) instruction on how to submit comments regarding potential effects on Historic Properties; and (4) the name, address, and telephone number of a contact person.

D. A SHPO/THPO may make available lists of other groups, including Indian tribes, NHOs and organizations of Indian tribes or NHOs, which should be provided notice for Undertakings to be located in particular areas.

E. If the Applicant receives a comment regarding potentially affected Historic Properties, the Applicant shall consider the comment and either include it in the initial submission to the SHPO/THPO, or, if the initial submission has already been made, immediately forward the comment to the SHPO/THPO for review. An Applicant need not submit to the SHPO/THPO any comment that does not substantially relate to potentially affected Historic Properties.

F. The relevant SHPO/THPO, Indian tribes and NHOs that attach religious and cultural significance to Historic Properties that may be affected, and the local government are entitled to be consulting parties in the Section 106 review of an Undertaking. The Council may enter the Section 106 process for a given Undertaking, on Commission invitation or on its own decision, in accordance with 36 CFR Part 800, Appendix A. An Applicant shall consider all written requests of other individuals and organizations to participate as consulting parties and determine which should be consulting parties. An Applicant is encouraged to grant such status to individuals or organizations with a demonstrated legal or economic interest in the Undertaking, or demonstrated expertise or standing as a representative of local or public interest in historic or cultural resources preservation. Any such individual or organization denied consulting party status may petition the Commission for review of such denial. Applicants may seek assistance from the Commission in identifying and involving consulting parties. All entities granted consulting party status shall be identified to the SHPO/THPO as part of the Submission Packet.

G. Consulting parties are entitled to: (1) Receive notices, copies of submission packets, correspondence and other documents provided to the SHPO/THPO in a Section 106 review; and (2) be provided an opportunity to have their views expressed and taken into account by the Applicant, the SHPO/THPO and, where appropriate, by the Commission.

VI. IDENTIFICATION, EVALUATION, AND ASSESSMENT OF EFFECTS

A. In preparing the Submission Packet for the SHPO/THPO and consulting parties pursuant to Section VII of this Nationwide Agreement and Attachments 3 and 4, the Applicant shall: (1) Define the area of potential effects (APE); (2) identify Historic Properties within the APE; (3) evaluate the historic significance of identified properties as appropriate; and (4) assess the effects of the Undertaking on Historic Properties. The standards and procedures described below shall be applied by the Applicant in preparing the Submission Packet, by the SHPO/THPO in reviewing the Submission Packet, and where appropriate, by the Commission in making findings.

B. Exclusion of Specific Geographic Areas from Review.

The SHPO/THPO, consistent with relevant State or tribal procedures, may specify geographic areas in which no review is required for direct effects on archeological resources or no review is required for visual effects.

C. Area of Potential Effects.

1. The term ''Area of Potential Effects'' is defined in Section II.A.3 of this Nationwide Agreement. For purposes of this Nationwide Agreement, the APE for direct effects and the APE for visual effects are further defined and are to be established as described below.

2. The APE for direct effects is limited to the area of potential ground disturbance and any property, or any portion thereof, that will be physically altered or destroyed by the Undertaking.

3. The APE for visual effects is the geographic area in which the Undertaking has the potential to introduce visual elements

that diminish or alter the setting, including the landscape, where the setting is a character-defining feature of a Historic Property that makes it eligible for listing on the National Register.

4. Unless otherwise established through consultation with the SHPO/THPO, the presumed APE for visual effects for construction of new Facilities is the area from which the Tower will be visible:

a. Within a half mile from the tower site if the proposed Tower is 200 feet or less in overall height;

b. Within ¾ of a mile from the tower site if the proposed Tower is more than 200 but no more than 400 feet in overall height; or

c. Wthin 1 ½ miles from the proposed tower site if the proposed Tower is more than 400 feet in overall height.

5. In the event the Applicant determines, or the SHPO/THPO recommends, that an alternative APE for visual effects is necessary, the Applicant and the SHPO/THPO may mutually agree to an alternative APE.

6. If the Applicant and the SHPO/THPO, after using good faith efforts, cannot reach an agreement on the use of an alternative APE, either the Applicant or the SHPO/THPO may submit the issue to the Commission for resolution. The Commission shall make its determination concerning an alternative APE within a reasonable time.

D. Identification and Evaluation of Historic Properties.

1. Identification and Evaluation of Historic Properties Within the APE for Visual Effects.

a. Except to identify Historic Properties of religious and cultural significance to Indian tribes and NHOs, Applicants shall identify Historic Properties within the APE for visual effects by reviewing the following records. Applicants are required to review such records only to the extent they are available at the offices of the SHPO/THPO or can be found in publicly available sources identified by the SHPO/THPO. With respect to these properties, Applicants are not required to undertake a Field Survey or other measures other than reviewing these records in order to identify Historic Properties:

i. Properties listed in the National Register;

ii. Properties formally determined eligible for listing by the Keeper of the National Register;

iii. Properties that the SHPO/THPO certifies are in the process of being nominated to the National Register;

iv. Properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and

v. Properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory.

b. At an early stage in the planning process and in accordance with Section IV of this Nationwide Agreement, the Commission or the Applicant, as appropriate, shall gather information from Indian tribes or NHOs identified pursuant to Section IV.B to assist in identifying Historic Properties of religious and cultural significance to them within the APE for visual effects. Such information gathering may include a Field Survey where appropriate.

c. Based on the sources listed above and public comment received pursuant to Section V of this Nationwide Agreement, the Applicant shall include in its Submission Packet a list of properties it has identified as apparent Historic Properties within the APE for visual effects.

i. During the review period described in Section VII.A, the SHPO/THPO may identify additional properties included in the SHPO/THPO Inventory and located within the APE that the SHPO/THPO considers eligible for listing on the National Register, and notify the Applicant pursuant to Section VII.A.4.

ii. The SHPO/THPO may also advise the Applicant that previously identified properties on the list no longer qualify for inclusion in the National Register.

d. Applicants are encouraged at their discretion to use the services of professionals who meet the Secretary of the Interior's Professional Qualification Standards when identifying Historic Properties within the APE for visual effects.

e. Applicants are not required to evaluate the historic significance of properties identified pursuant to Section VI.D.1.a., but may rely on the previous evaluation of these properties. Applicants may, at their discretion, evaluate whether such properties are no longer eligible for inclusion in the National Register and recommend to the SHPO/THPO their removal from consideration. Any such evaluation shall be performed by a professional who meets the Secretary of the Interior's Professional Qualification Standards.

2. Identification and Evaluation of Historic Properties Within the APE for Direct Effects.

a. In addition to the properties identified pursuant to Section VI.D.1, Applicants shall make a reasonable good faith effort to identify other above ground and archeological Historic Properties, including buildings, structures, and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a Field Survey where appropriate.

b. Identification and evaluation of Historic Properties within the APE for direct effects, including any finding that an archeological

Field Survey is not required, shall be undertaken by a professional who meets the Secretary of the Interior's Professional Qualification Standards. Identification and evaluation relating to archeological resources shall be performed by a professional who meets the Secretary of the Interior's Professional Qualification Standards in archeology.

c. Except as provided below, the Applicant need not undertake a Field Survey for archeological resources where:

i. the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least 2 feet as documented in the Applicant's siting analysis; or

ii. geomorphological evidence indicates that cultural resource-bearing soils do not occur within the project area or may occur but at depths that exceed 2 feet below the proposed construction depth.

d. At an early stage in the planning process and in accordance with Section IV of this Nationwide Agreement, the Commission or the Applicant, as appropriate, shall gather information from Indian tribes or NHOs identified pursuant to Section IV.B to assist in identifying archeological Historic Properties of religious and cultural significance to them within the APE for direct effects. If an Indian tribe or NHO provides evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects, the Applicant shall conduct an archeological Field Survey notwithstanding Section VI.D.2.c.

e. Where the Applicant pursuant to Sections VI.D.2.c and VI.D.2.d finds that no archeological Field Survey is necessary, it shall include in its Submission Packet a report substantiating this finding. During the review period described in Section VII.A, the SHPO/THPO may, based on evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects, notify the Applicant that the Submission Packet is inadequate without an archeological Field Survey pursuant to Section VII.A.4.

f. The Applicant shall conduct an archeological Field Survey within the APE for direct effects if neither of the conditions in Section VI.D.2.c applies, or if required pursuant to Section VI.D.2.d or e. The Field Survey shall be conducted in consul-tation with the SHPO/THPO and consulting Indian tribes or NHOs.

g. The Applicant, in consultation with the SHPO/THPO and appropriate Indian tribes or NHOs, shall apply the National Register criteria (36 CFR Part 63) to properties identified within the APE for direct effects that have not previously been evaluated for National Register eligibility, with the exception of those identified pursuant to Section VI.D.1.a.

3. Dispute Resolution. Where there is a disagreement regarding the identification or eligibility of a property, and after attempting in good faith to resolve the issue the Applicant and the SHPO/THPO continue to disagree, the Applicant or the SHPO/THPO may submit the issue to the Commission. The Commission shall handle such submissions in accordance with 36 CFR 800.4(c)(2).

E. Assessment of Effects

1. Applicants shall assess effects of the Undertaking on Historic Properties using the Criteria of Adverse Effect (36 CFR 800.5(a)(1)).

2. In determining whether Historic Properties in the APE may be adversely affected by the Undertaking, the Applicant should consider factors such as the topography, vegetation, known presence of Historic Properties, and existing land use.

3. An Undertaking will have a visual adverse effect on a Historic Property if the visual effect from the Facility will noticeably diminish the integrity of one or more of the characteristics qualifying the property for inclusion in or eligibility for the National Register. Construction of a Facility will not cause a visual adverse effect except where visual setting or visual elements are character-defining features of eligibility of a Historic Property located within the APE.

4. For collocations not excluded from review by the Collocation Agreement or this Agreement, the assessment of effects will consider only effects from the newly added or modified Facilities and not effects from the existing Tower or Antenna.

5. Assessment pursuant to this Agreement shall be performed by professionals who meet the Secretary of the Interior's Professional Qualification Standards.

## VII. Procedures

### *A. Use of the Submission Packet*

1. For each Undertaking within the scope of this Nationwide Agreement, the Applicant shall initially determine whether there are no Historic Properties affected, no adverse effect on Historic Properties, or an adverse effect on Historic Properties. The Applicant shall prepare a Submission Packet and submit it to the SHPO/THPO and to all consulting parties, including any Indian tribe or NHO that is participating as a consulting party.

2. The SHPO/THPO shall have 30 days from receipt of the requisite documentation to review the Submission Packet.

3. If the SHPO/THPO receives a comment or objection, in accordance with Section V.E, more than 25 but less than 31 days following its receipt of the initial submission, the SHPO/THPO shall have five calendar days to consider such comment or objection before

the Section 106 process is complete or the matter may be submitted to the Commission.

4. If the SHPO/THPO determines the Applicant's Submission Packet is inadequate, or if the SHPO/THPO identifies additional Historic Properties within the APE, the SHPO/THPO will immediately notify the Applicant and describe any deficiencies. The SHPO/THPO may close its file without prejudice if the Applicant does not resubmit an amended Submission Packet within 60 days following the Applicant's receipt of the returned Submission Packet. Resubmission of the Submission Packet to the SHPO/THPO commences a new 30 day period for review.

*B. Determinations of No Historic Properties Affected*

1. If the SHPO/THPO concurs in writing with the Applicant's determination of no Historic Properties affected, it is deemed that no Historic Properties exist within the APE or the Undertaking will have no effect on any Historic Properties located within the APE. The Section 106 process is then complete, and the Applicant may proceed with the project, unless further processing for reasons other than Section 106 is required.

2. If the SHPO/THPO does not provide written notice to the Applicant that it agrees or disagrees with the Applicant's determination of no Historic Properties affected within 30 days following receipt of a complete Submission Packet, it is deemed that no Historic Properties exist within the APE or the Undertaking will have no effect on Historic Properties. The Section 106 process is then complete and the Applicant may proceed with the project, unless further processing for reasons other than Section 106 is required.

3. If the SHPO/THPO provides written notice within 30 days following receipt of the Submission Packet that it disagrees with the Applicant's determination of no Historic Properties affected, it should provide a short and concise explanation of exactly how the criteria of eligibility and/or criteria of Adverse Effect would apply. The Applicant and the SHPO/THPO should engage in further discussions and make a reasonable and good faith effort to resolve their disagreement.

4. If the SHPO/THPO and Applicant do not resolve their disagreement, the Applicant may at any time choose to submit the matter, together with all relevant documents, to the Commission, advising the SHPO/THPO accordingly.

*C. Determinations of No Adverse Effect*

1. If the SHPO/THPO concurs in writing with the Applicant's determination of no adverse effect, the Facility is deemed to have no adverse effect on Historic Properties. The Section 106 process is then complete and the Applicant may proceed with the project, unless further processing for reasons other than Section 106 is required.

2. If the SHPO/THPO does not provide written notice to the Applicant that it agrees or disagrees with the Applicant's determination of no adverse effect within thirty days following its receipt of a complete Submission Packet, the SHPO/THPO is presumed to have concurred with the Applicant's determination. The Applicant shall, pursuant to procedures to be promulgated by the Commission, forward a copy of its Submission Packet to the Commission, together with all correspondence with the SHPO/THPO and any comments or objections received from the public, and advise the SHPO/THPO accordingly. The Section 106 process shall then be complete unless the Commission notifies the Applicant otherwise within 15 days after the Commission receives the Submission Packet and accompanying material electronically or 25 days after the Commission receives this material by other means.

3. If the SHPO/THPO provides written notice within 30 days following receipt of the Submission Packet that it disagrees with the Applicant's determination of no adverse effect, it should provide a short and concise explanation of the Historic Properties it believes to be affected and exactly how the criteria of Adverse Effect would apply. The Applicant and the SHPO/THPO should engage in further discussions and make a reasonable and good faith effort to resolve their disagreement.

4. If the SHPO/THPO and Applicant do not resolve their dispute, the Applicant may at any time choose to submit the matter, together with all relevant documents, to the Commission, advising the SHPO/THPO accordingly.

5. Whenever the Applicant or the Commission concludes, or a SHPO/THPO advises, that a proposed project will have an adverse effect on a Historic Property, after applying the criteria of Adverse Effect, the Applicant and the SHPO/THPO are encouraged to investigate measures that would avoid the adverse effect and permit a conditional ''No Adverse Effect'' determination.

6. If the Applicant and SHPO/THPO mutually agree upon conditions that will result in no adverse effect, the Applicant shall advise the SHPO/THPO in writing that it will comply with the conditions. The Applicant can then make a determination of no adverse effect subject to its implementation of the conditions. The Undertaking is then deemed conditionally to have no adverse effect on Historic Properties, and the Applicant may proceed with the project subject to compliance with those conditions. Where the Commission has previously been involved in the matter, the Applicant shall notify the Commission of this resolution.

*D. Determinations of Adverse Effect*

1. If the Applicant determines at any stage in the process that an Undertaking would have an adverse effect on Historic Properties within the APE(s), or if the Commission so finds, the Applicant shall submit to the SHPO/THPO a plan designed to avoid, minimize, or mitigate the adverse effect.

2. The Applicant shall forward a copy of its submission with its mitigation plan and the entire record to the Council and the Commission. Within fifteen days following receipt of the Applicant's submission, the Council shall indicate whether it intends to participate in the negotiation of a Memorandum of Agreement by notifying both the Applicant and the Commission.

3. Where the Undertaking would have an adverse effect on a National Historic Landmark, the Commission shall request the Council to participate in consultation and shall invite participation by the Secretary of the Interior.

4. The Applicant, SHPO/THPO, and consulting parties shall negotiate a Memorandum of Agreement that shall be sent to the Commission for review and execution.

5. If the parties are unable to agree upon mitigation measures, they shall submit the matter to the Commission, which shall coordinate additional actions in accordance with the Council's rules, including 36 CFR 800.6(b)(1)(v) and 800.7.

*E. Retention of Information*

The SHPO/THPO shall, subject to applicable state or tribal laws and regulations, and in accordance with its rules and procedures governing historic property records, retain the information in the Submission Packet pertaining to the location and National Register eligibility of Historic Properties and make such information available to Federal agencies and Applicants in other Section 106 reviews, where disclosure is not prevented by the confidentiality standards in 36 CFR 800.11(c).

*F. Removal of Obsolete Towers*

Applicants that construct new Towers under the terms of this Nationwide Agreement adjacent to or within the boundaries of a Historic Property are encouraged to disassemble such Towers should they become obsolete or remain vacant for a year or more.

VIII. EMERGENCY SITUATIONS

Unless the Commission deems it necessary to issue an emergency authorization in accordance with its rules, or the Undertaking is otherwise excluded from Section 106 review pursuant to the Collocation Agreement or Section III of this Agreement, the procedures in this Agreement shall apply.

IX. INADVERTENT OR POST-REVIEW DISCOVERIES

A. In the event that an Applicant discovers a previously unidentified site within the APE that may be a Historic Property that would be affected by an Undertaking, the Applicant shall promptly notify the Commission, the SHPO/THPO and any potentially affected Indian tribe or NHO, and within a reasonable time shall submit to the Commission, the SHPO/THPO and any potentially affected Indian tribe or NHO, a written report evaluating the property's eligibility for inclusion in the National Register. The Applicant shall seek the input of any potentially affected Indian tribe or NHO in preparing this report. If found during construction, construction must cease until evaluation has been completed.

B. If the Applicant and SHPO/THPO concur that the discovered resource is eligible for listing in the National Register, the Applicant will consult with the SHPO/THPO, and Indian tribes or NHOs as appropriate, to evaluate measures that will avoid, minimize, or mitigate adverse effects. Upon agreement regarding such measures, the Applicant shall implement them and notify the Commission of its action.

C. If the Applicant and SHPO/THPO cannot reach agreement regarding the eligibility of a property, the matter will be referred to the Commission for review in accordance with Section VI.D.3. If the Applicant and the SHPO/THPO cannot reach agreement on measures to avoid, minimize, or mitigate adverse effects, the matter shall be referred to the Commission for appropriate action.

D. If the Applicant discovers any human or burial remains during implementation of an Undertaking, the Applicant shall cease work immediately, notify the SHPO/THPO and Commission, and adhere to applicable State and Federal laws regarding the treatment of human or burial remains.

X. CONSTRUCTION PRIOR TO COMPLIANCE WITH SECTION 106

A. The terms of Section 110(k) of the National Historic Preservation Act (16 U.S.C. 470h–2(k)) (''Section 110(k)'') apply to Undertakings covered by this Agreement. Any SHPO/THPO, potentially affected Indian tribe or NHO, the Council, or a member of the public may submit a complaint to the Commission alleging that a facility has been constructed or partially constructed after the effective date of this Agreement in violation of Section 110(k). Any such complaint must be in writing and supported by substantial evidence specifically describing how Section 110(k) has been violated. Upon receipt of such complaint the Commission will assume responsibility for investigating the applicability of Section 110(k) in accordance with the provisions herein.

B. If upon its initial review, the Commission concludes that a complaint on its face demonstrates a probable violation of Section 110(k), the Commission will immediately notify and provide the relevant Applicant with copies of the Complaint and order that all construction of a new tower or installation of any new collocations immediately cease and remain suspended pending the Commission's resolution of the complaint.

C. Within 15 days of receipt, the Commission will review the complaint and take appropriate action, which the Commission may determine, and which may include the following:

1. Dismiss the complaint without further action if the complaint does not establish a probable violation of Section 110(k) even if the allegations are taken as true;

2. Provide the Applicant with a copy of the complaint and request a written response within a reasonable time;

3. Request from the Applicant a background report which documents the history and chronology of the planning and construction of the Facility;

4. Request from the Applicant a summary of the steps taken to comply with the requirements of Section 106 as set forth in this Nationwide Agreement, particularly the application of the Criteria of Adverse Effect;

5. Request from the Applicant copies of any documents regarding the planning or construction of the Facility, including correspondence, memoranda, and agreements;

6. If the Facility was constructed prior to full compliance with the requirements of Section 106, request from the Applicant an explanation for such failure, and possible measures that can be taken to mitigate any resulting adverse effects on Historic Properties.

D. If the Commission concludes that there is a probable violation of Section 110(k) (*i.e.*, that ''with intent to avoid the requirements of Section 106, [an Applicant] has intentionally significantly adversely affected a Historic Property''), the Commission shall notify the Applicant and forward a copy of the documentation set forth in Section X.C. to the Council and, as appropriate, the SHPO/THPO and other consulting parties, along with the Commission's opinion regarding the probable violation of Section 110(k). The Commission will consider the views of the consulting parties in determining a resolution, which may include negotiating a Memorandum of Agreement (MOA) that will resolve any adverse effects. The Commission, SHPO/THPO, Council, and Applicant shall sign the MOA to evidence acceptance of the mitigation plan and conclusion of the Section 106 review process.

E. Nothing in Section X or any other provision of this Agreement shall preclude the Commission from continuing or instituting enforcement proceedings under the Communications Act and its rules against an Applicant that has constructed a Facility prior to completing required review under this Agreement. Sanctions for violations of the Commission's rules may include any sanctions allowed under the Communications Act and the Commission's rules.

F. The Commission shall provide copies of all concluding reports or orders for all Section 110(k) investigations conducted by the Commission to the original complainant, the Applicant, the relevant local government, and other consulting parties.

G. Facilities that are excluded from Section 106 review pursuant to the Collocation Agreement or Section III of this Agreement are not subject to review under this provision. Any parties who allege that such Facilities have violated Section 110(k) should notify the Commission in accordance with the provisions of Section XI, Public Comments and Objections.

## XI. Public Comments and Objections

Any member of the public may notify the Commission of concerns it has regarding the application of this Nationwide Agreement within a State or with regard to the review of individual Undertakings covered or excluded under the terms of this Agreement. Comments related to telecommunications activities shall be directed to the Wireless Telecommunications Bureau and those related to broadcast facilities to the Media Bureau. The Commission will consider public comments and following consultation with the SHPO/THPO, potentially affected Indian tribes and NHOs, or Council, where appropriate, take appropriate actions. The Commission shall notify the objector of the outcome of its actions.

## XII. Amendments

The signatories may propose modifications or other amendments to this Nationwide Agreement. Any amendment to this Agreement shall be subject to appropriate public notice and comment and shall be signed by the Commission, the Council, and the Conference.

## XIII. Termination

A. Any signatory to this Nationwide Agreement may request termination by written notice to the other parties. Within sixty (60) days following receipt of a written request for termination from a signatory, all other signatories shall discuss the basis for the termination request and seek agreement on amendments or other actions that would avoid termination.

B. In the event that this Agreement is terminated, the Commission and all Applicants shall comply with the requirements of 36 CFR Part 800.

XIV. ANNUAL REVIEW

The signatories to this Nationwide Agreement will meet annually on or about the anniversary of the effective date of the Agreement to discuss the effectiveness of this Agreement, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

XV. RESERVATION OF RIGHTS

Neither execution of this Agreement, nor implementation of or compliance with any term herein, shall operate in any way as a waiver by any party hereto, or by any person or entity complying herewith or affected hereby, of a right to assert in any court of law any claim, argument or defense regarding the validity or interpretation of any provision of the NHPA or its implementing regulations contained in 36 CFR Part 800.

XVI. SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase in this Agreement is, for any reason, held to be unconstitutional or invalid or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this Agreement.

*In witness whereof*, the Parties have caused this Agreement to be executed by their respective authorized officers as of the day and year first written above.

Federal Communications Commission

_____

Chairman

Date _____

Advisory Council on Historic Preservation

_____

Chairman

Date _____

National Conference of State Historic Preservation Officers

_____

Date _____

[70 FR 580, Jan. 4, 2005]

# PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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AUTHORITY: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

SOURCE: 28 FR 12465, Nov. 22, 1963, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 2 appear at 63 FR 54077, Oct. 8, 1998.

# Subpart A—Terminology

### § 2.1 Terms and definitions.

(a) Where a term or definition appears in this part of the Commission's Rules, it shall be the definitive term or definition and shall prevail throughout the Commission's Rules.

(b) The source of each definition is indicated as follows:

CS—Annex to the Constitution of the International Telecommunication Union (ITU)
CV—Annex to the Convention of the ITU
FCC—Federal Communications Commission
RR—ITU Radio Regulations

(c) The following terms and definitions are issued:

*Accepted Interference.*[1] Interference at a higher level than defined as permissible interference and which has been agreed upon between two or more administrations without prejudice to other administrations. (RR)

*Active Satellite.* A satellite carrying a station intended to transmit or retransmit radiocommunication signals. (RR)

*Active Sensor.* A measuring instrument in the earth exploration-satellite service or in the space research service by means of which information is obtained by transmission and reception of radio waves. (RR)

*Adaptive System.* A radiocommunication system which varies its radio characteristics according to channel quality. (RR)

*Administration.* Any governmental department or service responsible for discharging the obligations undertaken in the Constitution of the International Telecommunication Union, in the Convention of the International Telecommunication Union and in the Administrative Regulations. (CS)

*Aeronautical Earth Station.* An Earth station in the fixed-satellite service, or, in some cases, in the aeronautical mobile-satellite service, located at a specified fixed point on land to provide a feeder link for the aeronautical mobile-satellite service. (RR)

*Aeronautical Fixed Service.* A radiocommunication service between specified fixed points provided primarily for the safety of air navigation and for the regular, efficient and economical operation of air transport. (RR)

*Aeronautical Fixed Station.* A station in the aeronautical fixed service. (RR)

*Aeronautical Mobile Off-Route (OR) Service.* An aeronautical mobile service intended for communications, including those relating to flight coordination, primarily outside national or international civil air routes. (RR)

*Aeronautical Mobile Route (R) Service.* An aeronautical mobile service reserved for communications relating to

[1] The terms *permissible interference* and *accepted interference* are used in the coordination of frequency assignments between administrations.

safety and regularity of flight, primarily along national or international civil air routes. (RR)

*Aeronautical Mobile-Satellite Off-Route (OR) Service*. An aeronautical mobile-satellite service intended for communications, including those relating to flight coordination, primarily outside national and international civil air routes. (RR)

*Aeronautical Mobile-Satellite Route (R) Service*. An aeronautical mobile-satellite service reserved for communications relating to safety and regularity of flights, primarily along national or international civil air routes. (RR)

*Aeronautical Mobile-Satellite Service*. A mobile-satellite service in which mobile earth stations are located on board aircraft; survival craft stations and emergency position-indicating radiobeacon stations may also participate in this service. (RR)

*Aeronautical Mobile Service*. A mobile service between aeronautical stations and aircraft stations, or between aircraft stations, in which survival craft stations may participate; emergency position-indicating radiobeacon stations may also participate in this service on designated distress and emergency frequencies. (RR)

*Aeronautical Radionavigation-Satellite Service*. A radionavigation-satellite service in which earth stations are located on board aircraft. (RR)

*Aeronautical Radionavigation Service*. A radio-navigation service intended for the benefit and for the safe operation of aircraft. (RR)

*Aeronautical Station*. A land station in the aeronautical mobile service.

NOTE: In certain instances, an aeronautical station may be located, for example, on board ship or on a platform at sea. (RR)

*Aircraft Earth Station*. A mobile earth station in the aeronautical mobile-satellite service located on board an aircraft. (RR)

*Aircraft Station*. A mobile station in the aeronautical mobile service, other than a survival craft station, located on board an aircraft. (RR)

*Allocation (of a frequency band)*. Entry in the Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radiocommunication services or the radio astronomy service under specified conditions. This term shall also be applied to the frequency band concerned. (RR)

*Allotment (of a radio frequency or radio frequency channel)*. Entry of a designated frequency channel in an agreed plan, adopted by a competent conference, for use by one or more administrations for a terrestrial or space radiocommunication service in one or more identified countries or geographical area and under specified conditions. (RR)

*Altitude of the Apogee or Perigee*. The altitude of the apogee or perigee above a specified reference surface serving to represent the surface of the Earth. (RR)

*Amateur-Satellite Service*. A radiocommunication service using space stations on earth satellites for the same purposes as those of the amateur service. (RR)

*Amateur Service*. A radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest. (RR)

*Amateur Station*. A station in the amateur service. (RR)

*Assigned Frequency*. The centre of the frequency band assigned to a station. (RR)

*Assigned Frequency Band*. The frequency band within which the emission of a station is authorized; the width of the band equals the necessary bandwidth plus twice the absolute value of the frequency tolerance. Where space stations are concerned, the assigned frequency band includes twice the maximum Doppler shift that may occur in relation to any point of the Earth's surface. (RR)

*Assignment (of a radio frequency or radio frequency channel)*. Authorization given by an administration for a radio station to use a radio frequency or radio frequency channel under specified conditions. (RR)

*Base Earth Station*. An earth station in the fixed-satellite service or, in some cases, in the land mobile-satellite service, located at a specified fixed point or within a specified area on land

to provide a feeder link for the land mobile-satellite service. (RR)

*Base Station*. A land station in the land mobile service. (RR)

*Broadcasting-Satellite Service*. A radiocommunication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public.

NOTE: In the broadcasting-satellite service, the term *direct reception* shall encompass both individual reception and community reception. (RR)

*Broadcasting Service*. A radiocommunication service in which the transmissions are intended for direct reception by the general public. This service may include sound transmissions, television transmissions or other types of transmission. (CS)

*Broadcasting Station*. A station in the broadcasting service. (RR)

*Carrier Power (of a radio transmitter)*. The average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle taken under the condition of no modulation. (RR)

*Characteristic Frequency*. A frequency which can be easily identified and measured in a given emission.

NOTE: A carrier frequency may, for example, be designated as the characteristic frequency. (RR)

*Class of Emission*. The set of characteristics of an emission, designated by standard symbols, e.g., type of modulation, modulating signal, type of information to be transmitted, and also if appropriate, any additional signal characteristics. (RR)

*Coast Earth Station*. An earth station in the fixed-satellite service or, in some cases, in the maritime mobile-satellite service, located at a specified fixed point on land to provide a feeder link for the maritime mobile-satellite service. (RR)

*Coast Station*. A land station in the maritime mobile service. (RR)

*Community Reception (in the broadcasting-satellite service)*. The reception of emissions from a space station in the broadcasting-satellite service by receiving equipment, which in some cases may be complex and have antennae larger than those for individual reception, and intended for use: (1) by a group of the general public at one location; or (2) through a distribution system covering a limited area. (RR)

*Conterminous United States*. The contiguous 48 States and the District of Columbia. (FCC)

*Coordinated Universal Time (UTC)*. Time scale, based on the second (SI), as defined in Recommendation ITU–R TF.460–6.

NOTE: For most practical purposes associated with the ITU *Radio Regulations*, UTC is equivalent to mean solar time at the prime meridian (0° longitude), formerly expressed in GMT. (RR)

*Coordination Area*. When determining the need for coordination, the area surrounding an earth station sharing the same frequency band with terrestrial stations, or surrounding a transmitting earth station sharing the same bidirectionally allocated frequency band with receiving earth stations, beyond which the level of permissible interference will not be exceeded and coordination is therefore not required. (RR)

*Coordination Contour*. The line enclosing the coordination area. (RR)

*Coordination Distance*. When determining the need for coordination, the distance on a given azimuth from an earth station sharing the same frequency band with terrestrial stations, or from a transmitting earth station sharing the same bidirectionally allocated frequency band with receiving earth stations, beyond which the level of permissible interference will not be exceeded and coordination is therefore not required. (RR)

*Deep Space*. Space at distance from the Earth equal to, or greater than, $2\times10^6$ kilometers. (RR)

*Differential Global Positioning System (DGPS) Station*. A differential RNSS station for specific augmentation of GPS.

*Differential Radionavigation Satellite Service (Differential RNSS) Station*. A station used for the transmission of differential correction data and related information (such as ionospheric data and RNSS satellite integrity information) as an augmentation to an RNSS system for the purpose of improved navigation accuracy.

*Direct Sequence Systems*. A spread spectrum system in which the carrier

has been modulated by a high speed spreading code and an information data stream. The high speed code sequence dominates the ''modulating function'' and is the direct cause of the wide spreading of the transmitted signal.

*Duplex Operation*. Operating method in which transmission is possible simultaneously in both directions of a telecommunication channel.[3] (RR)

*Earth Exploration-Satellite Service*. A radiocommunication service between earth stations and one or more space stations, which may include links between space stations in which:

(1) Information relating to the characteristics of the Earth and its natural phenomena is obtained from active sensors or passive sensors on earth satellites;

(2) Similar information is collected from air-borne or earth-based platforms;

(3) Such information may be distributed to earth stations within the system concerned;

(4) Platform interrogation may be included.

NOTE: This service may also include feeder links necesary for its operation. (RR)

*Earth Station*. A station located either on the earth's surface or within the major portion of earth's atmosphere and intended for communication:

(1) With one or more space stations; or

(2) With one or more stations of the same kind by means of one or more reflecting satellites or other objects in space. (RR)

*Effective Radiated Power (e.r.p) (in a given direction)*. The product of the power supplied to the antenna and its gain relative to a half-wave dipole in a given direction. (RR)

*Emergency Position-Indicating Radiobeacon Station*. A station in the mobile service the emissions of which are intended to facilitate search and rescue operations. (RR)

*Emission*. Radiation produced, or the production of radiation, by a radio transmitting station.

NOTE: For example, the energy radiated by the local oscillator of a radio receiver would not be an emission but a radiation. (RR)

*Equivalent Isotropically Radiated Power (e.i.r.p.)*. The product of the power suppled to the antenna and the antenna gain in a given direction relative to an isotropic antenna. (RR)

*Equivalent Monopole Radiated Power (e.m.r.p.) (in a given direction)*. The product of the power supplied to the antenna and its gain relative to a short vertical antenna in a given direction. (RR)

*Equivalent Satellite Link Noise Temperature*. The noise temperature referred to the output of the receiving antenna of the earth station corresponding to the radio-frequency noise power which produces the total observed noise at the output of the satellite link excluding the noise due to interference coming from satellite links using other satellites and from terrestrial systems. (RR)

*Experimental Station*. A station utilizing radio waves in experiments with a view to the development of science or technique.

NOTE: This definition does not include amateur stations. (RR)

*Facsimile*. A form of telegraphy for the transmission of fixed images, with or without half-tones, with a view to their reproduction in a permanent form. (RR)

*Feeder Link*. A radio link from an earth station at a given location to a space station, or vice versa, conveying information for a space radiocommunication service other than for the fixed-satellite service. The given location may be at a specified fixed point, or at any fixed point within specified areas. (RR)

*Fixed-Satellite Service*. A radiocommunication service between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas; in some cases this service includes satellite-to-satellite links, which may also be operated in the inter-satellite service; the fixed-satellite service may also include feeder links for other space radiocommunication services. (RR)

[3] In general, duplex operation and semi-duplex operation require two frequencies in radiocommunication; simplex operation may use either one or two.

*Fixed Service*. A radiocommunication service between specified fixed points. (RR)

*Fixed Station*. A station in the fixed service. (RR)

*Frequency Assignment Subcommittee (FAS)*. A subcommittee of the Interdepartment Radio Advisory Committee (IRAC) within NTIA that develops and executes procedures for the assignment and coordination of Federal radio frequencies. (FCC)

*Frequency Hopping Systems*. A spread spectrum system in which the carrier is modulated with the coded information in a conventional manner causing a conventional spreading of the RF energy about the frequency carrier. The frequency of the carrier is not fixed but changes at fixed intervals under the direction of a coded sequence. The wide RF bandwidth needed by such a system is not required by spreading of the RF energy about the carrier but rather to accommodate the range of frequencies to which the carrier frequency can hop. The test of a frequency hopping system is that the near term distribution of hops appears random, the long term distribution appears evenly distributed over the hop set, and sequential hops are randomly distributed in both direction and magnitude of change in the hop set.

*Frequency-Shift Telegraphy*. Telegraphy by frequency modulation in which the telegraph signal shifts the frequency of the carrier between predetermined values. (RR)

*Frequency Tolerance*. The maximum permissible departure by the centre frequency of the frequency band occupied by an emission from the assigned frequency or, by the characteristic frequency of an emission from the reference frequency.

NOTE: The frequency tolerance is expressed in parts in $10^6$ or in hertz. (RR)

*Full Carrier Single-Sideband Emission*. A single-sideband emission without suppression of the carrier. (RR)

*Gain of an Antenna*. The ratio, usually expressed in decibels, of the power required at the input of a loss free reference antenna to the power supplied to the input of the given antenna to produce, in a given direction, the same field strength or the same power flux-density at the same distance. When not specified otherwise, the gain refers to the direction of maximum radiation. The gain may be considered for a specified polarization.

NOTE: Depending on the choice of the reference antenna a distinction is made between:

(1) Absolute or isotropic gain (Gi), when the reference antenna is an isotropic antenna isolated in space;

(2) Gain relative to a half-wave dipole (Gd), when the reference antenna is a half-wave dipole isolated in space whose equatorial plane contains the given direction;

(3) Gain relative to a short vertical antenna (Gv), when the reference antenna is a linear conductor, much shorter than one quarter of the wavelength, normal to the surface of a perfectly conducting plane which contains the given direction. (RR)

*General Purpose Mobile Service*. A mobile service that includes all mobile communications uses including those within the Aeronautical Mobile, Land Mobile, or the Maritime Mobile Services.

*Geostationary Satellite*. A geosynchronous satellite whose circular and direct orbit lies in the plane of the Earth's equator and which thus remains fixed relative to the Earth; by extension, a geosynchronous satellite which remains approximately fixed relative to the Earth. (RR)

*Geostationary Satellite Orbit*. The orbit in which a satellite must be placed to be a geostationary satellite. (RR)

*Geosynchronous Satellite*. An Earth satellite whose period of revolution is equal to the period of rotation of the Earth about its axis. (RR)

*Government Master File (GMF)*. NTIA's database of Federal assignments. It also includes non-Federal authorizations coordinated with NTIA for the bands allocated for shared Federal and non-Federal use. (FCC)

*Harmful Interference*. Interference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating in accordance with [the ITU] Radio Regulations. (CS)

*High Altitude Platform Station (HAPS)*. A station located on an object at an altitude of 20 to 50 km and at a specified,

nominal, fixed point relative to the Earth. (RR)

*Hybrid Spread Spectrum Systems*. Hybrid spread spectrum systems are those which use combinations of two or more types of direct sequence, frequency hopping, time hopping and pulsed FM modulation in order to achieve their wide occupied bandwidths.

*Inclination of an Orbit (of an earth satellite)*. The angle determined by the plane containing the orbit and the plane of the Earth's equator measured in degrees between 0° and 180° and in counter-clockwise direction from the Earth's equatorial plane at the ascending node of the orbit. (RR)

*Individual Reception (in the broadcasting-satellite service)*. The reception of emissions from a space station in the broadcasting-satellite service by simple domestic installations and in particular those possessing small antennae. (RR)

*Industrial, Scientific and Medical (ISM) (of radio frequency energy) Applications*. Operation of equipment or appliances designed to generate and use locally radio-frequency energy for industrial, scientific, medical, domestic or similar purposes, excluding applications in the field of telecommunications. (RR)

*Instrument Landing System (ILS)*. A radionavigation system which provides aircraft with horizontal and vertical guidance just before and during landing and, at certain fixed points, indicates the distance to the reference point of landing. (RR)

*Instrument Landing System Glide Path*. A system of vertical guidance embodied in the instrument landing system which indicates the vertical deviation of the aircraft from its optimum path of descent. (RR)

*Instrument Landing System Localizer*. A system of horizontal guidance embodied in the instrument landing system which indicates the horizontal deviation of the aircraft from its optimum path of descent along the axis of the runway. (RR)

*Insular area*. A jurisdiction that is neither a part of one of the several States nor a Federal district. The U.S. insular areas are listed in 47 CFR 2.105(a) at notes 2 and 3. (FCC)

*Interdepartment Radio Advisory Committee (IRAC)*. A committee of the Federal departments, agencies, and administrations that advises NTIA in assigning frequencies to Federal radio stations and in developing and executing policies, programs, procedures, and technical criteria pertaining to the allocation, management, and use of the spectrum. The IRAC consists of a main committee, subcommittees, and several ad hoc groups that consider various aspects of spectrum management policy. The FCC serves as a member of the Frequency Assignment Subcommittee and as Liaison Representative on the main committee, all other subcommittees and ad hoc groups. (FCC)

*Interference*. The effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a radiocommunication system, manifested by any performance degradation, misinterpretation, or loss of information which could be extracted in the absence of such unwanted energy. (RR)

*International Telecommunication Union (ITU)*. An international organization within the United Nations System where governments and the private sector coordinate global telecom networks and services. The ITU is headquartered in Geneva, Switzerland and its internet address is *www.itu.int*. (FCC)

*Inter-Satellite Service*. A radiocommunication service providing links between artificial satellites. (RR)

*Ionospheric Scatter*. The propagation of radio waves by scattering as a result of irregularities or discontinuities in the ionization of the ionosphere. (RR)

*Land Earth Station*. An earth station in the fixed-satellite service or, in some cases, in the mobile-satellite service, located at a specified fixed point or within a specified area on land to provide a feeder link for the mobile-satellite service. (RR)

*Land Mobile Earth Station*. A mobile earth station in the land mobile-satellite service capable of surface movement within the geographical limits of a country or continent. (RR)

*Land Mobile-Satellite Service*. A mobile-satellite service in which mobile earth stations are located on land. (RR)

*Land Mobile Service*. A mobile service between base stations and land mobile stations, or between land mobile stations. (RR)

*Land Mobile Station*. A mobile station in the land mobile service capable of surface movement within the geographical limits of a country or continent.

*Land Station*. A station in the mobile service not intended to be used while in motion. (RR)

*Left-Hand (or Anti-Clockwise) Polarized Wave*. An elliptically or circularly-polarized wave, in fixed plane, normal to the direction of propagation, whilst looking in the direction of propagation, rotates with time in a left hand or anti-clockwise direction. (RR)

*Line A*. Begins at Aberdeen, Washington running by great circle arc to the intersection of 48° N., 120° W., thence along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N., 85° W., thence southward along meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N., to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates. (FCC)

*Line B*. Begins at Tofino, B.C., running by great circle arc to the intersection of 50° N., 125° W., thence along parallel 50° N., to the intersection of 90° W., thence by great circle arc to the intersection of 45° N., 79°30′ W., thence by great circle arc through the northernmost point of Drummondville, Quebec (Lat. 45°52′ N., Long 72°30′ W.), thence by great circle arc to 48°30′ N., 70° W., thence by great circle arc through the northernmost point of Compbellton, N.B., thence by great circle are through the northernmost point of Liverpool, N.S., at which point it terminates. (FCC)

*Line C*. Begins at the intersection of 70° N., 144° W., thence by great circle arc to the intersection of 60° N., 143° W., thence by great circle arc so as to include all of the Alaskan Panhandle. (FCC)

*Line D*. Begins at the intersection of 70° N., 138° W., thence by great circle arc to the intersection of 61°20′ N., 139° W. (Burwash Landing), thence by great circle arc to the intersection of 60°45′ N., 135° W., thence by great circle arc to the intersection of 56° N., 128° W., thence south along 128° meridian to Lat. 55° N., thence by great circle arc to the intersection of 54° N., 130° W., thence by great circle arc to Port Clements, thence to the Pacific Ocean where it ends. (FCC)

*Maritime Mobile-Satellite Service*. A mobile-satellite service in which mobile earth stations are located on board ships; survival craft stations and emergency position-indicating radiobeacon stations may also participate in this service. (RR)

*Maritime Mobile Service*. A mobile service between coast stations and ship stations, or between ship stations, or between associated on-board communication stations; survival craft stations and emergency position-indicating radiobeacon stations may also participate in this service. (RR)

*Maritime Radionavigation-Satellite Service*. A radionavigation-satellite service in which earth stations are located on board ships. (RR)

*Maritime Radionavigation Service*. A radionavigation service intended for the benefit and for the safe operation of ships. (RR)

*Marker Beacon*. A transmitter in the aeronautical radionavigation service which radiates vertically a distinctive pattern for providing position information to aircraft. (RR)

*Mean Power (of a radio transmitter)*. The average power supplied to the antenna transmission line by a transmitter during an interval of time sufficiently long compared with the lowest frequency encountered in the modulation taken under normal operating conditions. (RR)

*Meteorological Aids Service*. A radiocommunication service used for meteorological, including hydrological, observation and exploration. (RR)

*Meteorological-Satellite Service*. An earth exploration-satellite service for meteorological purposes. (RR)

*Mobile Earth Station*. An earth station in the mobile-satellite service intended

to be used while in motion or during halts at unspecified points. (RR)

*Mobile-Satellite Service*. A radiocommunication service:

(1) Between mobile earth stations and one or more space stations, or between space stations used by this service; or

(2) Between mobile earth stations by means of one or more space stations.

NOTE: This service may also include feeder links necessary for its operation. (RR)

*Mobile Service*. A radiocommunication service between mobile and land stations, or between mobile stations. (CV)

*Mobile Station*. A station in the mobile service intended to be used while in motion or during halts at unspecified points. (RR)

*Multi-Satellite Link*. A radio link between a transmitting earth station and a receiving earth station through two or more satellites, without any intermediate earth station.

NOTE: A multisatellite link comprises one up-link, one or more satellite-to-satellite links and one down-link. (RR)

*National Telecommunications and Information Administration (NTIA)*. An agency of the United States Department of Commerce that serves as the President's principal advisor on telecommunications and information policy issues. NTIA manages Federal use of the radio spectrum and coordinates Federal use with the FCC. NTIA sets forth regulations for Federal use of the radio spectrum within its *Manual of Regulations & Procedures for Federal Radio Frequency Management (NTIA Manual)*. (FCC)

*Necessary Bandwidth*. For a given class of emission, the width of the frequency band which is just sufficient to ensure the transmission of information at the rate and with the quality required under specified conditions. (RR)

*Non-Voice, Non-Geostationary Mobile-Satellite Service*. A mobile-satellite service reserved for use by non-geostationary satellites in the provision of non-voice communications which may include satellite links between land earth stations at fixed locations.

*Occupied Bandwidth*. The width of a frequency band such that, below the lower and above the upper frequency limits, the mean powers emitted are each equal to a specified percentage $\beta/2$ of the total mean power of a given emission.

NOTE: Unless otherwise specified in an ITU–R Recommendation for the appropriate class of emission, the value of $\beta/2$ should be taken as 0.5%. (RR).

*On-Board Communication Station*. A low-powered mobile station in the maritime mobile service intended for use for internal communications on board a ship, or between a ship and its lifeboats and life-rafts during lifeboat drills or operations, or for communication within a group of vessels being towed or pushed, as well as for line handling and mooring instructions. (RR)

*Orbit*. The path, relative to a specified frame of reference, described by the centre of mass of a satellite or other object in space subjected primarily to natural forces, mainly the force of gravity. (RR)

*Out-of-band domain (of an emission)*. The frequency range, immediately outside the necessary bandwidth but excluding the spurious domain, in which out-of-band emissions generally predominate. Out-of-band emissions, defined based on their source, occur in the out-of-band domain and, to a lesser extent, in the spurious domain. Spurious emissions likewise may occur in the out-of-band domain as well as in the spurious domain. (RR)

*Out-of-band Emission*. Emission on a frequency or frequencies immediately outside the necessary bandwidth which results from the modulation process, but excluding spurious emissions. (RR)

*Passive Sensor*. A measuring instrument in the earth exploration-satellite service or in the space research service by means of which information is obtained by reception of radio waves of natural origin. (RR)

*Peak Envelope Power (of a radio transmitter)*. The average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle at the crest of the modulation envelope taken under normal operating conditions. (RR)

*Period (of a satellite)*. The time elapsing between two consecutive passages of a satellite through a characteristic point on its orbit. (RR)

*Permissible Interference.*[3] Observed or predicted interference which complies with quantitative interference and sharing criteria contained in these [ITU Radio] Regulations or in ITU–R Recommendations or in special agreements as provided for in these Regulations. (RR)

*Port Operations Service.* A maritime mobile service in or near a port, between coast stations and ship stations, or between ship stations, in which messages are restricted to those relating to the operational handling, the movement and the safty of ships and, in emergency, to the safety of persons.

NOTE: Messages which are of a public correspondence nature shall be excluded from this service. (RR)

*Port Station.* A coast station in the port operations service. (RR)

*Power.* Whenever the power of a radio transmitter, etc. is referred to it shall be expressed in one of the following forms, according to the class of emission, using the arbitrary symbols indicated:

(1) Peak envelope power (PX or pX);

(2) Mean power (PY or pY);

(3) Carrier power (PZ or pZ).

NOTE 1: For different classes of emission, the relationships between peak envelope power, mean power and carrier power, under the conditions of normal operation and of no modulation, are contained in ITU–R Recommendations which may be used as a guide.

NOTE 2: For use in formulae, the symbol p denotes power expressed in watts and the symbol P denotes power expressed in decibels relative to a reference level. (RR)

*Primary Radar.* A radiodetermination system based on the comparison of reference signals with radio signals reflected from the position to be determined. (RR)

*Protection Ratio.* The minimum value of the wanted-to-unwanted signal ratio, usually expressed in decibels, at the receiver input determined under specified conditions such that a specified reception quality of the wanted signal is achieved at the receiver output. (RR)

*Public Correspondence.* Any telecommunication which the offices and stations must, by reason of their being at the disposal of the public, accept for transmission. (CS)

*Pulsed FM Systems.* A pulsed FM system is a spread spectrum system in which a RF carrier is modulated with a fixed period and fixed duty cycle sequence. At the beginning of each transmitted pulse, the carrier frequency is frequency modulated causing an additional spreading of the carrier. The pattern of the frequency modulation will depend upon the spreading function which is chosen. In some systems the spreading function is a linear FM chirp sweep, sweeping either up or down in frequency.

*Radar.* A radiodetermination system based on the comparison of reference signals with radio signals reflected, or retrainsmitted, from the position to be determined. (RR)

*Radar Beacon (RACON).* A transmitter-receiver associated with a fixed navigational mark which, when triggered by a radar, automatically returns a distinctive signal which can appear on the display of the triggering radar, providing range, bearing and identification information. (RR)

*Radiation.* The outward flow of energy from any source in the form of radio waves. (RR)

*Radio.* A general term applied to the use of radio waves. (RR)

*Radio Altimeter.* Radionavigation equipment, on board an aircraft or spacecraft or the spacecraft above the Earth's surface or another surface. (RR)

*Radio Astronomy.* Astronomy based on the reception of radio waves of cosmic origin. (RR)

*Radio Astronomy Service.* A service involving the use of radio astronomy. (RR)

*Radio Astronomy Station.* A station in the radio astronomy service. (RR)

*Radiobeacon Station.* A station in the radionavigation service the emissions of which are intended to enable a mobile station to determine its bearing or direction in relation to radiobeacon station. (RR)

*Radiocommunication.* Telecommunication by means of radio waves. (CS) (CV)

*Radiocommunication Service.* A service as defined in this Section involving the

[3] See footnote under Accepted Interference.

transmission, emission and/or reception of radio waves for specific telecommunication purposes.

NOTE: In these [international] Radio Regulations, unless otherwise stated, any radiocommunication service relates to terrestrial radiocommunication. (RR)

*Radiodetermination*. The determination of the position, velocity and/or other characteristics of an object, or the obtaining of information relating to these parameters, by means of the propagation properties of radio waves. (RR)

*Radiodetermination-Satellite Service*. A radiocommunication service for the purpose of radiodetermination involving the use or one of more space stations. This service may also include feeder links necessary for its own operation. (RR)

*Radiodetermination Service*. A radiocommunication service for the purpose of radiodetermination. (RR)

*Radiodetermination Station*. A station in the radiodetermination serviice. (RR)

*Radio Direction-Finding*. Radiodetermination using the reception of radio waves for the purpose of determining the direction of a station or object. (RR)

*Radio Direction-Finding Station*. A radiodetermination station using radio direction-finding. (RR)

*Radiolocation*. Radiodetermination used for purposes other than those of radionavigation. (RR)

*Radiolocation Land Station*. A station in the radiolocation service not intended to be used while in motion. (RR)

*Radiolocation Mobile Station*. A station in the radiolocation service intended to be used while in motion or during halts at unspecified points. (RR)

*Radiolocation Service*. A radiodetermination service for the purpose of radiolocation. (RR)

*Radionavigation*. Radiodetermination used for the purposes of navigation, including obstruction warning.

*Radionavigation Land Station*. A station in the radionavigation service not intended to be used while in motion. (RR)

*Radionavigation Mobile Station*. A station in the radionavigation service intended to be used while in motion or during halts at unspecified points. (RR)

*Radionavigation-Satellite Service*. A radiodetermination-satellite service used for the purpose of radionavigation. This service may also include feeder links necessary for its operation. (RR)

*Radionavigation Service*. A radiodetermination service for the purpose of radionavigation. (RR)

*Radiosonde*. An automatic radio transmitter in the meteorological aids service usually carried on an aircraft, free ballon, kite or parachute, and which transmits meteorological data. (RR)

*Radiotelegram*. A telegram, originating in or intended for a mobile station or a mobile earth station transmitted on all or part of its route over the radiocommunication channels of the mobile service or of the mobile-satellite service. (RR)

*Radiotelemetry*. Telemetry by means of radio waves. (RR)

*Radiotelephone Call*. A telephone call, originating in or intended for a mobile station or a mobile earth station, transmitted on all or part of its route over the radiocommunication channels of the mobile service or of the mobile-satellite service. (RR)

*Radiotelex Call*. A telex call, originating in or intended for a mobile station or a mobile earth station, transmitted on all or part of its route over the radiocommunication channels of the mobile service or the mobile-satellite service. (RR)

*Radio Waves or Hertzian Waves*. Electromagnetic waves of frequencies arbitrarily lower than 3,000 GHz, propagated in space without aritificial guide. (RR)

*Reduced Carrier Single-Sideband Emission*. A single-sideband emission in which the degree of carrier suppession enables the carrier to be reconstrituted and to be used for demodulation. (RR)

*Reference Frequency*. A frequency having a fixed and specified position with respect to the assigned frequency. The displacement of this frequency with respect to the assigned frequency has the same absolute value and sign that the displacement of the characteristic frequency has with respect to the centre of the frequency band occupied by the emission. (RR)

*Reflecting Satellite*. A satellite intended to reflect radiocommunication signals. (RR)

*Right-Hand (or Clockwise) Polarized Wave*. An Elliptically or circularly-polarized wave, in which the electric field vector, observed in any fixed plane, normal to the direction of propagation, whilst looking in the direction of propagation, rotates with time in a right-hand or clockwise direction. (RR)

*Safety Service*. Any radiocommunication service used permanently or temporarily for the safeguarding of human life and property. (RR)

*Satellite*. A body which revolves around another body of preponderant mass and which has a motion primarily and permanently determined by the force of attraction of that other body. (RR)

*Satellite Link*. A radio link between a transmitting earth station and a receiving earth station through one satellite. A satellite link comprises one up-link and one down-link. (RR)

*Satellite Network*. A satellite system or a part of a satellite system, consisting of only one satellite and the cooperating earth stations. (RR)

*Satellite System*. A space system using one or more artificial earth satellites. (RR)

*Secondary Radar*. A radiodetermination system based on the comparison of reference signals with radio signals retransmitted from the position to be determined. (RR)

*Semi-Duplex Operation*.[4] A method which is simplex operation on one end of the circuit and duplex operation at the other. (RR)

*Simplex Operation*.[4] Operating method in which transmission is made possible alternatively in each direction of a telecommunication channel, for example, by means of manual control.

*Ship Earth Station*. A mobile earth station in the maritime mobile-satellite service located on board ship. (RR)

*Ship Movement Service*. A safety service in the maritime mobile service other than a port operations service, between coast stations and ship stations, or between ship stations, in which messages are restricted to those relating to the movement of ships. Messages which are of a public correspondence nature shall be excluded from this service. (RR)

*Ship's Emergency Transmitter*. A ship's transmitter to be used exclusively on a distress frequency for distress, urgency or safety purposes. (RR)

*Ship Station*. A mobile station in the maritime mobile service located on board a vessel which is not permanently moored, other than a survival craft station. (RR)

*Simplex Operation*. Operating method in which transmission is made possible alternatively in each direction of a telecommunication channel, for example, by means of manual control.[5] (RR)

*Single-Sideband Emission*. An amplitude modulated emission with one sideband only. (RR)

*Software defined radio*. A radio that includes a transmitter in which the operating parameters of frequency range, modulation type or maximum output power (either radiated or conducted), or the circumstances under which the transmitter operates in accordance with Commission rules, can be altered by making a change in software without making any changes to hardware components that affect the radio frequency emissions. In accordance with § 2.944 of this part, only radios in which the software is designed or expected to be modified by a party other than the manufacturer and would affect the above-listed operating parameters or circumstances under which the radio transmits must be certified as software defined radios.

*Spacecraft*. A man-made vehicle which is intended to go beyond the major portion of the Earth's atmosphere. (RR)

*Space Operation Service*. A radiocommunication service concerned exclusively with the operation of spacecraft, in particular space tracking, space telemetry, and space telecommand.

NOTE: These functions will normally be provided within the service in which the space station is operating. (RR)

*Space Radiocommunication*. Any radiocommunication involving the use

[4] *See* footnote under Duplex Operation.

[5] (See footnote under Duplex Operations.)

of one or more space stations or the use of one or more reflecting satellites or other objects in space. (RR)

*Space Research Service.* A radiocommunication service in which spacecraft or other objects in space are used for scientific or technological research purposes. (RR)

*Space Station.* A station located on an object which is beyond, is intended to go beyond, or has been beyond, the major portion of the Earth's atmosphere. (RR)

*Space System.* Any group of cooperating Earth stations and/or space stations employing space radiocommunication for specific purposes. (RR)

*Space Telecommand.* The use of radiocommunication for the transmission of signals to a space station to initiate, modify or terminate functions of equipment on a space object, incuding the space station. (RR)

*Space Telemetry.* The use of telemetry for transmission for a space station of results of measurements made in a spacecraft, including those relating to the functioning of the spacecraft. (RR)

*Space Tracking.* Determination of the orbit, velocity or instanteneous position of an object in space by means of radiodetermination, excluding primary radar, for the purpose of following the movement of the object. (RR)

*Special Service.* A radiocommunication service, not otherwise defined in this Section, carried on exclusively for specific needs of general utility, and not open to public correspondence. (RR)

*Spread Spectrum Systems.* A spread spectrum system is an information bearing communications system in which: (1) Information is conveyed by modulation of a carrier by some conventional means, (2) the bandwidth is deliberately widened by means of a spreading function over that which would be needed to transmit the information alone. (In some spread spectrum systems, a portion of the information being conveyed by the system may be contained in the spreading function.)

*Spurious domain (of an emission):* The frequency range beyond the out-of-band domain in which spurious emissions generally predominate. (RR)

*Spurious Emission.* Emission on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions. (RR)

*Standard Frequency and Time Signal-Satellite Service.* A radiocommunication service using space stations on earth satellites for the same purposes as those of the standard frequency and time signal service.

NOTE: This service may also include feeder links necessary for its operation. (RR)

*Standard Frequency and Time Signal Service.* A radiocommunication service for scientific, technical and other purposes, providing the transmission of specified frequencies, time signals, or both, of stated high precision, intended for general reception. (RR)

*Standard Frequency and Time Signal Station.* A station in the standard frequency and time signal service. (RR)

*Station.* One or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radiocommunication service, or the radio astronomy service.

NOTE: Each station shall be classified by the service in which it operates permanently or temporarily. (RR)

*Suppressed Carrier Single-Sideband Emission.* A single-sideband emission in which the carrier is virtually suppressed and not intended to be used for demodulation. (RR)

*Survival Craft Station.* A mobile station in the maritime mobile service or the aeronautical mobile service intended solely for survival purposes and located on any lifeboat, life-raft or other survival equipment. (RR)

*Telecommand.* The use of telecommunication for the transmission of signals to initiate, modify or terminate functions of equipment at a distance. (RR)

*Telecommunication.* Any transmission, emission or reception of signs, signals,

writings, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems. (CS)

*Telegram*. Written matter intended to be transmitted by telegraphy for delivery to the addressee. This term also includes radiotelegrams unless otherwise specified. (CS)

NOTE: In this definition the term telegraphy has the same general meaning as defined in the Convention.

*Telegraphy*.[5] A form of telecommunication in which the transmitted information is intended to be recorded on arrival as a graphic document; the transmitted information may sometimes be presented in an alternative form or may be stored for subsequent use. (CS)

*Telemetry*. The use of telecommunication for automatically indicating or recording measurements at a distance from the measuring instrument. (RR)

*Telephony*. A form of telecommunication primarily intended for the exchange of information in the form of speech. (CS)

*Television*. A form of telecommunication for the transmission of transient images of fixed or moving objects. (RR)

*Terrestrial Radiocommunication*. Any radiocommunication other than space radiocommunication or radio astronomy. (RR)

*Terrestrial Station*. A station effecting terrestrial radiocommunication.

NOTE: In these [international Radio] Regulations, unless otherwise stated, any station is a terrestrial station. (RR)

*Time Hopping Systems*. A time hopping system is a spread spectrum system in which the period and duty cycle of a pulsed RF carrier are varied in a pseudorandom manner under the control of a coded sequence. Time hopping is often used effectively with frequency hopping to form a hybrid time-division, multiple-access (TDMA) spread spectrum system.

[5] A graphic document records information in a permanent form and is capable of being filed and consulted; it may take the form of written or printed matter or of a fixed image.

*Transponder*. A transmitter-receiver facility the function of which is to transmit signals automatically when the proper interrogation is received. (FCC)

*Tropospheric Scatter*. The propagation of radio waves by scattering as a result of irregularities or discontinuities in the physical properties of the troposphere. (RR)

*Unwanted Emissions*. Consist of spurious emissions and out-of-band emissions. (RR)

[49 FR 2368, Jan. 19, 1984, as amended at 50 FR 25239, June 18, 1985; 51 FR 37399, Oct. 22, 1986; 52 FR 7417, Mar. 11, 1987; 54 FR 49980, Dec. 4, 1990; 55 FR 28761, July 13, 1990; 56 FR 42703, Aug. 29, 1991; 58 FR 68058, Dec. 23, 1993; 62 FR 26242, May 13, 1997; 65 FR 60109, Oct. 10, 2000; 66 FR 50840, Oct. 5, 2001; 68 FR 74330, Dec. 23, 2003; 70 FR 23039, May 4, 2005; 70 FR 46583, Aug. 10, 2005; 71 FR 15619, Mar. 29, 2006; 72 FR 31192, June 6, 2007; 73 FR 25421, May 6, 2008; 75 FR 62933, Oct. 13, 2010]

## Subpart B—Allocation, Assignment, and Use of Radio Frequencies

SOURCE: 49 FR 2373, Jan. 19, 1984, unless otherwise noted.

### § 2.100 International regulations in force.

The ITU *Radio Regulations*, Edition of 2004, have been incorporated to the extent practicable in Subparts A and B of this part, except that the International Table within § 2.106 has been updated to reflect the ITU *Radio Regulations*, Edition of 2008.

[75 FR 62933, Oct. 13, 2010]

### § 2.101 Frequency and wavelength bands.

(a) The radio spectrum shall be subdivided into nine frequency bands, which shall be designated by progressive whole numbers in accordance with the following table. As the unit of frequency is the hertz (Hz), frequencies shall be expressed:

(1) In kilohertz (kHz), up to and including 3 000 kHz;

(2) In megahertz (MHz), above 3 MHz, up to and including 3 000 MHz;

(3) In gigahertz (GHz), above 3 GHz, up to and including 3 000 GHz.

(b) However, where adherence to these provisions would introduce serious difficulties, for example in connection with the notification and registration of frequencies, the lists of frequencies and related matters, reasonable departures may be made.[1]

| Band number | Symbols | Frequency range (lower limit exclusive, upper limit inclusive) | Corresponding metric subdivision | Metric abbreviations for the bands |
|---|---|---|---|---|
| 4 | VLF | 3 to 30 kHz | Myriametric waves | B.Mam |
| 5 | LF | 30 to 300 kHz | Kilometric waves | B.km |
| 6 | MF | 300 to 3 000 kHz | Hectometric waves | B.hm |
| 7 | HF | 3 to 30 MHz | Decametric waves | B.dam |
| 8 | VHF | 30 to 300 MHz | Metric waves | B.m |
| 9 | UHF | 300 to 3 000 MHz | Decimetric waves | B.dm |
| 10 | SHF | 3 to 30 GHz | Centimetric waves | B.cm |
| 11 | EHF | 30 to 300 GHz | Millimetric waves | B.mm |
| 12 | | 300 to 3 000 GHz | Decimillimetric waves | |

**Note 1:** "Band N" (N = band number) extends from $0.3 \times 10^N$ Hz to $3 \times 10^N$ Hz.
**Note 2:** Prefix: k = kilo ($10^3$), M = mega ($10^6$), G = giga ($10^9$).

(c) In communications between administrations and the ITU, no names, symbols or abbreviations should be used for the various frequency bands other than those specified in this section.

[70 FR 46583, Aug. 10, 2005; 70 FR 53074, Sept. 7, 2005; 75 FR 62933, Oct. 13, 2010]

### § 2.102 Assignment of frequencies.

(a) Except as otherwise provided in this section, the assignment of frequencies and bands of frequencies to all stations and classes of stations and the licensing and authorizing of the use of all such frequencies between 9 kHz and 275 GHz, and the actual use of such frequencies for radiocommunication or for any other purpose, including the transfer of energy by radio, shall be in accordance with the Table of Frequency Allocations in § 2.106.

(b) On the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations the following exceptions to paragraph (a) of this section may be authorized:

(1) In individual cases the Commission may, without rule making proceedings, authorize on a temporary basis only, the use of frequencies not in accordance with the Table of Frequency Allocations for projects of short duration or emergencies where the Commission finds that important or exceptional circumstances require such utilization. Such authorizations are not intended to develop a service to be operated on frequencies other than those allocated such service.

(2) A station for the development of techniques or equipment to be employed by services set forth in column 5 of the Table of Frequency Allocations may be authorized the use of frequencies allocated to those services or classes of stations.

(3) Experimental stations, pursuant to part 5 of this chapter, may be authorized the use of any frequency or frequency band not exclusively allocated to the passive services (including the radio astronomy service).

(4) In the event a band is reallocated so as to delete its availability for use by a particular service, the Commission may provide for the further interim use of the band by stations in that service for a temporary, specific period of time.

(c) Non-Federal stations may be authorized to use Federal frequencies in the bands above 25 MHz if the Commission finds, after consultations with the appropriate Federal agency or agencies, that such use is necessary for coordination of Federal and non-Federal activities: Provided, however, that:

[1] In the application of the ITU *Radio Regulations*, the Radiocommunication Bureau uses the following units:

kHz: For frequencies up to 28 000 kHz inclusive;

MHz: For frequencies above 28 000 kHz up to 10 500 MHz inclusive; and

GHz: For frequencies above 10 500 MHz.

(1) Non-Federal operation on Federal frequencies shall conform with the conditions agreed upon by the Commission and NTIA (the more important of which are contained in paragraphs (c)(2), (c)(3), and (c)(4) of this section);

(2) Such operations shall be in accordance with NTIA rules governing the service to which the frequencies involved are allocated;

(3) Such operations shall not cause harmful interference to Federal stations and, should harmful interference result, that the interfering non-Federal operation shall immediately terminate; and

(4) Non-Federal operation has been certified as necessary by the Federal agency involved and this certification has been furnished, in writing, to the non-Federal licensee with which communication is required.

(d) Aircraft stations may communicate with stations of the maritime mobile service. They shall then conform to those provisions of the international *Radio Regulations* which relate to the maritime mobile service. For this purpose aircraft stations should use the frequencies allocated to the maritime mobile service. However, having regard to interference which may be caused by aircraft stations at high altitudes, maritime mobile frequencies in the bands above 30 MHz shall not be used by aircraft stations in any specific area without the prior agreement of all administrations of the area in which interference is likely to be caused. In particular, aircraft stations operating in Region 1 should not use frequencies in the bands above 30 MHz allocated to the maritime mobile service by virtue of any agreement between administrations in that Region.

(e) Non-Federal services operating on frequencies in the band 25–50 MHz must recognize that it is shared with various services of other countries; that harmful interference may be caused by skywave signals received from distant stations of all services of the United States and other countries radiating power on frequencies in this band; and that no protection from such harmful interference generally can be expected. Persons desiring to avoid such harmful interference should consider operation on available frequencies higher in the radio spectrum not generally subject to this type of difficulty.

(f) The stations of a service shall use frequencies so separated from the limits of a band allocated to that service as not to cause harmful interference to allocated services in immediately adjoining frequency bands.

(g) In the bands above 25 MHz which are allocated to the non-Federal land mobile service, fixed stations may be authorized on the following conditions:

(1) That such stations are authorized in the service shown in Column 5 of the Table of Frequency Allocations in the band in question;

(2) That harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

(h) Special provisions regarding the use of spectrum allocated to the fixed and land mobile services below 25 MHz by non-Federal stations.

(1) Only in the following circumstances will authority be extended to stations in the fixed service to operate on frequencies below 25 MHz.

(i) With respect to aeronautical fixed stations, only when a showing can be made that more suitable facilities are not available.

(ii) With respect to fixed stations, except aeronautical fixed stations, only to:

(A) Provide communication circuits in emergency and/or disaster situations, where safety of life and property are concerned;

(B) Provide standby and/or backup facilities to satellite and cable circuits used for international public correspondence;

(C) Provide standby and/or backup communications circuits to regular domestic communication circuits which have been disrupted by disasters and/or emergencies;

(D) Provide communication circuits wholly within the State of Alaska and the United States insular areas in the Pacific; and

(E) Provide communication circuits to support operations which are highly important to the national interest and where other means of telecommunication are unavailable.

(2) Only in the following circumstances will authority be extended

to stations in the land mobile service to operate below 25 MHz.

(i) Provide communication circuits in emergency and/or disaster situations, where safety of life and property are concerned;

(ii) Provide standby and/or backup communications circuits to regular domestic communication circuits which have been disrupted by disasters and/or emergencies;

(iii) Provide communication circuits wholly within the State of Alaska and the United States insular areas in the Pacific; and

(iv) Provide communication circuits to support operations which are highly important to the national interest and where other means of telecommunication are unavailable.

(3) Except in the State of Alaska and the United States Pacific insular areas, the Commission does not intend to seek international protection for assignments made pursuant to paragraphs (h) (1)(ii) and (2) of this section; this results in the following constraints upon the circuits/assignments.

(i) The Commission will not accept responsibility for protection of the circuits from harmful interference caused by foreign operations.

(ii) In the event that a complaint of harmful interference resulting from operation of these circuits is received from a foreign source, the offending circuit(s) must cease operation on the particular frequency concerned.

(iii) In order to accommodate the situations described in paragraphs (h)(3) (i) and (ii) of this section, equipments shall be capable of transmitting and receiving on any frequency in the bands assigned to the particular operation and capable of immediate change among the frequencies.

[49 FR 2373, Jan. 19, 1984, 70 FR 46585, Aug. 10, 2005]

### § 2.103 Federal use of non-Federal frequencies.

(a) Federal stations may be authorized to use non-Federal frequencies in the bands above 25 MHz (except the 763–775 MHz and 793–805 MHz public safety bands) if the Commission finds that such use is necessary for coordination of Federal and non-Federal activities: Provided, however, that:

(1) Federal operation on non-Federal frequencies shall conform with the conditions agreed upon by the Commission and NTIA (the more important of which are contained in paragraphs (a)(2), (a)(3) and (a)(4) of this section);

(2) Such operations shall be in accordance with Commission rules governing the service to which the frequencies involved are allocated;

(3) Such operations shall not cause harmful interference to non-Federal stations and, should harmful interference result, that the interfering Federal operation shall immediately terminate; and

(4) Federal operation has been certified as necessary by the non-Federal licensees involved and this certification has been furnished, in writing, to the Federal agency with which communication is required.

(b) Federal stations may be authorized to use channels in the 769–775 MHz, 799–805 MHz and 4940–4990 MHz public safety bands with non-Federal entities if the Commission finds such use necessary; where:

(1) The stations are used for interoperability or part of a Federal/non-Federal shared or joint-use system;

(2) The Federal entity obtains the approval of the non-Federal (State/local government) licensee(s) or applicant(s) involved;

(3) Federal operation is in accordance with the Commission's Rules governing operation of this band and conforms with any conditions agreed upon by the Commission and NTIA; and

(4) Interoperability, shared or joint-use systems are the subject of a mutual agreement between the Federal and non-Federal entities. This section does not preclude other arrangements or agreements as permitted under part 90 of the rules. See 47 CFR 90.179 and 90.421 of this chapter.

(c) Federal stations may be authorized to use channels in the 763–768 MHz and 793–798 MHz public safety bands with non-Federal entities where:

(1) The Federal entity obtains the prior approval of the Public Safety Broadband Licensee (and such approval granted by the Public Safety Broadband Licensee is consistent with

the terms and conditions of the Network Sharing Agreement under 90.1406 of this chapter); and

(2) Federal operation is in accordance with the Commission's rules governing operation of this band and conforms to any conditions agreed upon by the Commission and NTIA.

[63 FR 58650, Nov. 2, 1998, as amended at 68 FR 38638, June 30, 2003; 70 FR 46586, Aug. 10, 2005; 72 FR 48843, Aug. 24, 2007]

### § 2.104 International Table of Frequency Allocations.

(a) The International Table of Frequency Allocations is subdivided into the Region 1 Table (column 1 of § 2.106), the Region 2 Table (column 2 of § 2.106), and the Region 3 Table (column 3 of § 2.106). The International Table is included for informational purposes only.

(b) *Regions.* For the allocation of frequencies the International Telecommunication Union (ITU) has divided the world into three Regions[1] as shown in Figure 1 of this section and described as follows:

(1) *Region 1.* Region 1 includes the area limited on the east by line A (lines A, B and C are defined below) and on the west by line B, excluding any of the territory of the Islamic Republic of Iran which lies between these limits. It also includes the whole of the territory of Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Mongolia, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan, Turkey and Ukraine and the area to the north of the Russian Federation which lies between lines A and C.

(2) *Region 2.* Region 2 includes the area limited on the east by line B and on the west by line C.

(3) *Region 3.* Region 3 includes the area limited on the east by line C and on the west by line A, except any of the territory of Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Mongolia, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan, Turkey and Ukraine and the area to the north of the Russian Federation. It also includes that part of the territory of the Islamic Republic of Iran lying outside of those limits.

(4) The lines A, B and C are defined as follows:

(i) *Line A.* Line A extends from the North Pole along meridian 40° East of Greenwich to parallel 40° North; thence by great circle arc to the intersection of meridian 60° East and the Tropic of Cancer; thence along the meridian 60° East to the South Pole.

(ii) *Line B.* Line B extends from the North Pole along meridian 10° West of Greenwich to its intersection with parallel 72° North; thence by great circle arc to the intersection of meridian 50° West and parallel 40° North; thence by great circle arc to the intersection of meridian 20° West and parallel 10° South; thence along meridian 20° West to the South Pole.

(iii) *Line C.* Line C extends from the North Pole by great circle arc to the intersection of parallel 65°30′ North with the international boundary in Bering Strait; thence by great circle arc to the intersection of meridian 165° East of Greenwich and parallel 50° North; thence by great circle arc to the intersection of meridian 170° West and parallel 10° North; thence along parallel 10° North to its intersection with meridian 120° West; thence along meridian 120° West to the South Pole.

(c) *Areas.* To further assist in the international allocation of the radio spectrum, the ITU has established five special geographical areas and they are defined as follows:

(1) The term ''African Broadcasting Area'' means:

(i) African countries, parts of countries, territories and groups of territories situated between the parallels 40° South and 30° North;

(ii) Islands in the Indian Ocean west of meridian 60° East of Greenwich, situated between the parallel 40° South and the great circle arc joining the points 45° East, 11°30′ North and 60° East, 15° North; and

(iii) Islands in the Atlantic Ocean east of line B, situated between the parallels 40° South and 30° North.

(2) The ''European Broadcasting Area'' is bounded on the west by the western boundary of Region 1, on the

[1] It should be noted that where the words ''regions'' or ''regional'' are without a capital ''R,'' they do not relate to the three Regions here defined for purposes of frequency allocation.

east by the meridian 40° East of Greenwich and on the south by the parallel 30° North so as to include the northern part of Saudi Arabia and that part of those countries bordering the Mediterranean within these limits. In addition, Armenia, Azerbaijan, Georgia and those parts of the territories of Iraq, Jordan, Syrian Arab Republic, Turkey and Ukraine lying outside the above limits are included in the European Broadcasting Area.

(3) The ''European Maritime Area'' is bounded to the north by a line extending along parallel 72° North from its intersection with meridian 55° East of Greenwich to its intersection with meridian 5° West, then along meridian 5° West to its intersection with parallel 67° North, thence along parallel 67° North to its intersection with meridian 32° West; to the west by a line extending along meridian 32° West to its intersection with parallel 30° North; to the south by a line extending along parallel 30° North to its intersection with meridian 43° East; to the east by a line extending along meridian 43° East to its intersection with parallel 60° North, thence along parallel 60° North to its intersection with meridian 55° East and thence along meridian 55° East to its intersection with parallel 72° North.

(4) The ''Tropical Zone'' (see Figure 1 of this section) is defined as:

(i) The whole of that area in Region 2 between the Tropics of Cancer and Capricorn.

(ii) The whole of that area in Regions 1 and 3 contained between the parallels 30° North and 35° South with the addition of:

(A) The area contained between the meridians 40° East and 80° East of Greenwich and the parallels 30° North and 40° North; and

(B) That part of Libyan Arab Jamahiriya north of parallel 30° North.

(iii) In Region 2, the Tropical Zone may be extended to parallel 33° North, subject to special agreements between the countries concerned in that Region (see Article 6 of the ITU *Radio Regulations*).

(5) A sub-Region is an area consisting of two or more countries in the same Region.

(d) *Categories of services and allocations.* (1) Primary and secondary services. Where, in a box of the International Table in §2.106, a band is indicated as allocated to more than one service, either on a worldwide or Regional basis, such services are listed in the following order:

(i) Services the names of which are printed in ''capitals'' (example: FIXED); these are called ''primary'' services; and

(ii) Services the names of which are printed in ''normal characters'' (example: Mobile); these are called ''secondary'' services (see paragraph (d)(3) of this section).

(2) Additional remarks shall be printed in normal characters (example: MOBILE except aeronautical mobile).

(3) Stations of a secondary service:

(i) Shall not cause harmful interference to stations of primary services to which frequencies are already assigned or to which frequencies may be assigned at a later date;

(ii) Cannot claim protection from harmful interference from stations of a primary service to which frequencies are already assigned or may be assigned at a later date; and

(iii) Can claim protection, however, from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date.

(4) Where a band is indicated in a footnote of the International Table as allocated to a service ''on a secondary basis'' in an area smaller than a Region, or in a particular country, this is a secondary service (see paragraph (d)(3) of this section).

(5) Where a band is indicated in a footnote of the International Table as allocated to a service ''on a primary basis'', in an area smaller than a Region, or in a particular country, this is a primary service only in that area or country.

(e) *Additional allocations.* (1) Where a band is indicated in a footnote of the International Table as ''also allocated'' to a service in an area smaller than a Region, or in a particular country, this is an ''additional'' allocation, *i.e.* an allocation which is added in this area or

in this country to the service or services which are indicated in the International Table.

(2) If the footnote does not include any restriction on the service or services concerned apart from the restriction to operate only in a particular area or country, stations of this service or these services shall have equality of right to operate with stations of the other primary service or services indicated in the International Table.

(3) If restrictions are imposed on an additional allocation in addition to the restriction to operate only in a particular area or country, this is indicated in the footnote of the International Table.

(f) *Alternative allocations.* (1) Where a band is indicated in a footnote of the International Table as ''allocated'' to one or more services in an area smaller than a Region, or in a particular country, this is an ''alternative'' allocation, *i.e.* an allocation which replaces, in this area or in this country, the allocation indicated in the Table.

(2) If the footnote does not include any restriction on stations of the service or services concerned, apart from the restriction to operate only in a particular area or country, these stations of such a service or services shall have an equality of right to operate with stations of the primary service or services, indicated in the International Table, to which the band is allocated in other areas or countries.

(3) If restrictions are imposed on stations of a service to which an alternative allocation is made, in addition to the restriction to operate only in a particular country or area, this is indicated in the footnote.

(g) *Miscellaneous provisions.* (1) Where it is indicated in the International Table that a service or stations in a service may operate in a specific frequency band subject to not causing harmful interference to another service or to another station in the same service, this means also that the service which is subject to not causing harmful interference cannot claim protection from harmful interference caused by the other service or other station in the same service.

(2) Where it is indicated in the International Table that a service or stations in a service may operate in a specific frequency band subject to not claiming protection from another service or from another station in the same service, this means also that the service which is subject to not claiming protection shall not cause harmful interference to the other service or other station in the same service.

(3) Except if otherwise specified in a footnote, the term ''fixed service'', where appearing in the International Table, does not include systems using ionospheric scatter propagation.

(h) *Description of the International Table of Frequency Allocations.* (1) The heading of the International Table includes three columns, each of which corresponds to one of the Regions (see paragraph (b) of this section). Where an allocation occupies the whole of the width of the Table or only one or two of the three columns, this is a worldwide allocation or a Regional allocation, respectively.

(2) The frequency band referred to in each allocation is indicated in the left-hand top corner of the part of the Table concerned.

(3) Within each of the categories specified in paragraph (d)(1) of this section, services are listed in alphabetical order according to the French language. The order of listing does not indicate relative priority within each category.

(4) In the case where there is a parenthetical addition to an allocation in the International Table, that service allocation is restricted to the type of operation so indicated.

(5) The footnote references which appear in the International Table below the allocated service or services apply to more than one of the allocated services, or to the whole of the allocation concerned.

(6) The footnote references which appear to the right of the name of a service are applicable only to that particular service.

(7) In certain cases, the names of countries appearing in the footnotes have been simplified in order to shorten the text.

FIGURE 1 TO § 2.104—MAP

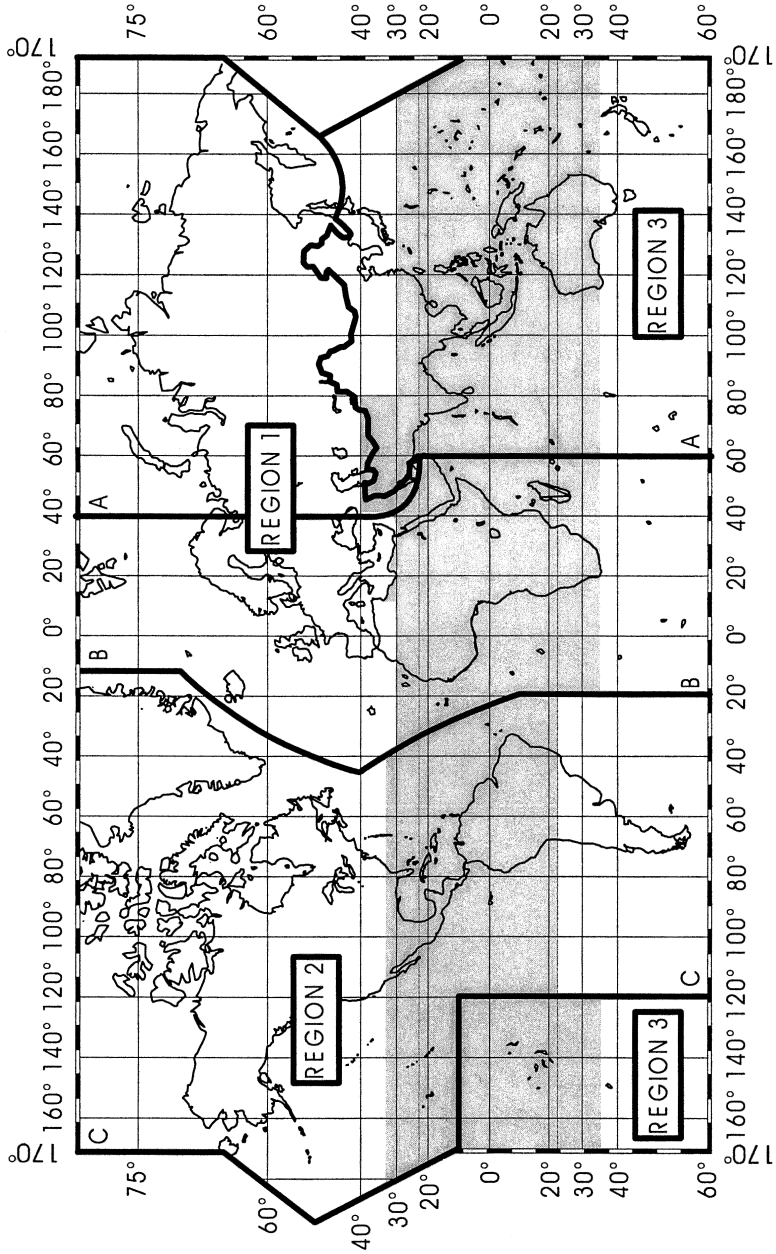


Figure 1: Map identifying Region 1, Region 2, and Region 3, as defined in paragraph 2.104(b), and the Tropical Zone (shaded area), as defined in paragraph 2.104(c)(4).

[65 FR 4636, Jan. 31, 2000, as amended at 70 FR 46586, Aug. 10, 2005; 75 FR 62933, Oct. 13, 2010]

**§ 2.105 United States Table of Frequency Allocations.**

(a) The United States Table of Frequency Allocations (United States Table) is subdivided into the Federal Table of Frequency Allocations (Federal Table, column 4 of § 2.106) and the non-Federal Table of Frequency Allocations (non-Federal Table, column 5 of § 2.106). The United States Table is based on the Region 2 Table because the relevant area of jurisdiction is located primarily in Region 2[1] (*i.e.*, the 50 States, the District of Columbia, the Caribbean insular areas,[2] and some of the Pacific insular areas).[3] The Federal Table is administered by NTIA[4] and the non-Federal Table is administered by the Federal Communications Commission (FCC).[5]

(b) In the United States, radio spectrum may be allocated to either Federal or non-Federal use exclusively, or for shared use. In the case of shared use, the type of service(s) permitted need not be the same [e.g., Federal FIXED, non-Federal MOBILE]. The terms used to designate categories of services and allocations[6] in columns 4 and 5 of § 2.106 correspond to the terms in the ITU *Radio Regulations*.

(c) *Category of services*. (1) Any segment of the radio spectrum may be allocated to the Federal and/or non-Federal sectors either on an exclusive or shared basis for use by one or more radio services. In the case where an allocation has been made to more than one service, such services are listed in the following order:

(i) Services, the names of which are printed in ''capitals'' [example: FIXED]; these are called ''primary'' services;

(ii) Services, the names of which are printed in ''normal characters'' [example: Mobile]; these are called ''secondary'' services.

(2) Stations of a secondary service:

(i) Shall not cause harmful interference to stations of primary services to which frequencies are already assigned or to which frequencies may be assigned at a later date;

(ii) Cannot claim protection from harmful interference from stations of a primary service to which frequencies are already assigned or may be assigned at a later date; and

(iii) Can claim protection, however, from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date.

(d) *Format of the United States Table*. (1) The frequency band referred to in each allocation, column 4 for Federal operations and column 5 for non-Federal operations, is indicated in the left-hand top corner of the column. If there is no service or footnote indicated for a band of frequencies in column 4, then the Federal sector has no access to that band except as provided for by § 2.103. If there is no service or footnote indicated for a band of frequencies in column 5, then the non-Federal sector has no access to that band except as provided for by § 2.102.

(2) When the Federal Table and the non-Federal Table are exactly the same for a shared band, the line between columns 4 and 5 is deleted and the allocations are shown once.

(3) The Federal Table, given in column 4, is included for informational purposes only.

(4) In the case where there is a parenthetical addition to an allocation in the United States Table [example: FIXED-SATELLITE (space-to-earth)], that service allocation is restricted to the type of operation so indicated.

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[1] *See* 2.104(b) for definitions of the ITU Regions.

[2] The operation of stations in the U.S. insular areas located in Region 2 is generally governed by the United States Table. The U.S. insular areas located in Region 2 are comprised of the Caribbean insular areas and two of the eleven Pacific insular areas. The Caribbean insular areas are Puerto Rico, the United States Virgin Islands, and Navassa Island. The Pacific insular areas located in Region 2 are Johnston Atoll and Midway Atoll.

[3] The operation of stations in the Pacific insular areas located in Region 3 is generally governed by the Region 3 Table (*i.e.*, column 3 of § 2.106). The Pacific insular areas located in Region 3 are American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Kingman Reef, Palmyra Island, and Wake Island.

[4] Section 305(a) of the Communications Act of 1934, as amended. *See* Public Law 102–538, 106 Stat. 3533 (1992).

[5] The Communications Act of 1934, as amended.

[6] The radio services are defined in 47 CFR 2.1.

(5) The following symbols are used to designate footnotes in the United States Table:

(i) Any footnote number consisting of ''5.'' followed by one or more digits,[7] e.g., 5.53, denotes an international footnote. Where an international footnote is applicable, without modification, to both Federal and non-Federal operations, the Commission places the footnote in both the Federal Table and the non-Federal Table (columns 4 and 5) and the international footnote is binding on both Federal users and non-Federal licensees. If, however, an international footnote pertains to a service allocated only for Federal or non-Federal use, the international footnote will be placed only in the affected Table. For example, footnote 5.142 pertains only to the amateur service, and thus, footnote 5.142 is shown only in the non-Federal Table.

(ii) Any footnote consisting of the letters ''US'' followed by one or more digits,[7] e.g., US7, denotes a stipulation affecting both Federal and non-Federal operations. United States footnotes appear in both the Federal Table and the non-Federal Table.

(iii) Any footnote consisting of the letters ''NG'' followed by one or more digits,[7] e.g., NG2, denotes a stipulation applicable only to non-Federal operations. Non-Federal footnotes appear solely in the non-Federal Table (column 5).

(iv) Any footnote consisting of the letters ''G'' followed by one or more digits,[7] e.g., G2, denotes a stipulation applicable only to Federal operations. Federal footnotes appear solely in the Federal Table (column 4).

[7] In some cases, a letter, or letters, may be appended to the digit(s) of a footnote number in order to preserve the sequential order.

(6) The coordinates of latitude and longitude that are listed in United States, Federal, and non-Federal footnotes are referenced to the North American Datum of 1983 (NAD 83).

(e) *Rule Part Cross References*. If a frequency or frequency band has been allocated to a radiocommunication service in the non-Federal Table, then a cross reference may be added for the pertinent FCC Rule part (column 6 of § 2.106). For example, the band 849–851 MHz is allocated to the aeronautical mobile service for non-Federal use, rules for the use of the 849–851 MHz band have been added to Part 22—Public Mobile Services (47 CFR part 22), and a cross reference, Public Mobile (22), has been added in column 6 of § 2.106. The exact use that can be made of any given frequency or frequency band (e.g., channelling plans, allowable emissions, etc.) is given in the FCC Rule part(s) so indicated. The FCC Rule parts in this column are not allocations and are provided for informational purposes only. This column also may contain explanatory notes for informational purposes only.

(f) The FCC Online Table of Frequency Allocations is updated shortly after a final rule that amends § 2.106 is released. The address for the FCC Radio Spectrum Home Page, which includes the FCC Online Table and the FCC Allocation History File, is *http://www.fcc.gov/oet/spectrum*.

[65 FR 4640, Jan. 31, 2000, as amended at 70 FR 46587, Aug. 10, 2005; 73 FR 25421, May 6, 2008; 75 FR 62933, Oct. 13, 2010]

### § 2.106 Table of Frequency Allocations.

EDITORIAL NOTE: The text of § 2.106 begins on the following page.

| Table of Frequency Allocations | | | 0-160 kHz (VLF/LF) | | Page 1 |
|---|---|---|---|---|---|
| International Table | | | United States Table | | FCC Rule Part(s) |
| Region 1 Table | Region 2 Table | Region 3 Table | Federal Table | Non-Federal Table | |
| Below 9 (Not Allocated)<br>5.53 5.54 | | | Below 9 (Not Allocated)<br>5.53 5.54 | | |
| 9-14<br>RADIONAVIGATION | | | 9-14<br>RADIONAVIGATION US18<br>US2 | | |
| 14-19.95<br>FIXED<br>MARITIME MOBILE 5.57<br>5.55 5.56 | | | 14-19.95<br>FIXED<br>MARITIME MOBILE 5.57<br>US2 | 14-19.95<br>Fixed<br>US2 | |
| 19.95-20.05<br>STANDARD FREQUENCY AND TIME SIGNAL (20 kHz) | | | 19.95-20.05<br>STANDARD FREQUENCY AND TIME SIGNAL (20 kHz)<br>US2 | | |
| 20.05-70<br>FIXED<br>MARITIME MOBILE 5.57 | | | 20.05-59<br>FIXED<br>MARITIME MOBILE 5.57<br>US2 | 20.05-59<br>FIXED<br>US2 | |
| | | | 59-61<br>STANDARD FREQUENCY AND TIME SIGNAL (60 kHz)<br>US2 | | |
| 5.56 5.58 | | | 61-70<br>FIXED<br>MARITIME MOBILE 5.57<br>US2 | 61-70<br>FIXED<br>US2 | |
| 70-72<br>RADIONAVIGATION 5.60 | 70-90<br>FIXED<br>MARITIME MOBILE 5.57<br>MARITIME RADIONAVIGATION 5.60<br>Radiolocation | 70-72<br>RADIONAVIGATION 5.60<br>Fixed<br>Maritime mobile 5.57<br>5.59 | 70-90<br>FIXED<br>MARITIME MOBILE 5.57<br>Radiolocation | 70-90<br>FIXED<br>Radiolocation | Private Land Mobile (90) |
| 72-84<br>FIXED<br>MARITIME MOBILE 5.57<br>RADIONAVIGATION 5.60<br>5.56 | | 72-84<br>FIXED<br>MARITIME MOBILE 5.57<br>RADIONAVIGATION 5.60 | | | |
| 84-86<br>RADIONAVIGATION 5.60 | | 84-86<br>RADIONAVIGATION 5.60<br>Fixed<br>Maritime mobile 5.57<br>5.59 | | | |
| 86-90<br>FIXED<br>MARITIME MOBILE 5.57<br>RADIONAVIGATION<br>5.56 | 5.61 | 86-90<br>FIXED<br>MARITIME MOBILE 5.57<br>RADIONAVIGATION 5.60 | US2 | US2 | |

| | | | | |
|---|---|---|---|---|
| 90-110<br>RADIONAVIGATION 5.62<br>Fixed<br>5.64 | | | 90-110<br>RADIONAVIGATION 5.62 US18<br>US2 US104 | Aviation (87)<br>Private Land Mobile (90) |
| 110-112<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION<br>5.64 | 110-130<br>FIXED<br>MARITIME MOBILE<br>MARITIME RADIONAVIGATION 5.60<br>Radiolocation | 110-112<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION 5.60<br>5.64 | 110-130<br>FIXED<br>MARITIME MOBILE<br>Radiolocation | Private Land Mobile (90) |
| 112-115<br>RADIONAVIGATION 5.60 | | 112-117.6<br>RADIONAVIGATION 5.60<br>Fixed<br>Maritime mobile<br>5.64 5.65 | | |
| 115-117.6<br>RADIONAVIGATION 5.60<br>Fixed<br>Maritime mobile<br>5.64 5.66 | | | | |
| 117.6-126<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION 5.60<br>5.64 | | 117.6-126<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION 5.60<br>5.64 | | |
| 126-129<br>RADIONAVIGATION 5.60 | | 126-129<br>RADIONAVIGATION 5.60<br>Fixed<br>Maritime mobile<br>5.64 5.65 | | |
| 129-130<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION 5.60<br>5.64 | 5.61 5.64 | 129-130<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION 5.60<br>5.64 | 5.64 US2 | |
| 130-135.7<br>FIXED<br>MARITIME MOBILE<br>5.64 5.67 | 130-135.7<br>FIXED<br>MARITIME MOBILE<br>5.64 | 130-135.7<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION<br>5.64 | 130-160<br>FIXED<br>MARITIME MOBILE | Maritime (80) |
| 135.7-137.8<br>FIXED<br>MARITIME MOBILE<br>Amateur 5.67A<br>5.64 5.67 5.67B | 135.7-137.8<br>FIXED<br>MARITIME MOBILE<br>Amateur 5.67A<br>5.64 | 135.7-137.8<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION<br>Amateur 5.67A<br>5.64 5.67B | | |
| 137.8-148.5<br>FIXED<br>MARITIME MOBILE<br>5.64 5.67 | 137.8-160<br>FIXED<br>MARITIME MOBILE<br>5.64 | 137.8-160<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION<br>5.64 | 5.64 US2 | |
| 148.5-255<br>BROADCASTING<br>5.68 5.69 5.70 | | | | |

| Table of Frequency Allocations | | | 160-1800 kHz (LF/MF) | | Page 3 |
|---|---|---|---|---|---|
| International Table | | | United States Table | | FCC Rule Part(s) |
| Region 1 Table | Region 2 Table | Region 3 Table | Federal Table | Non-Federal Table | |
| (See previous page) | 160-190<br>FIXED | 160-190<br>FIXED<br>Aeronautical radionavigation | 160-190<br>FIXED<br>MARITIME MOBIILE<br><br>US2 | 160-190<br>FIXED<br><br>US2 | |
| | 190-200<br>AERONAUTICAL RADIONAVIGATION | | 190-200<br>AERONAUTICAL RADIONAVIGATION US18<br><br>US2 | | Aviation (87) |
| 255-283.5<br>BROADCASTING<br>AERONAUTICAL RADIONAVIGATION<br><br>5.70 5.71 | 200-275<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | 200-285<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | 200-275<br>AERONAUTICAL RADIONAVIGATION US18<br>Aeronautical mobile<br><br>US2 | | |
| 283.5-315<br>AERONAUTICAL RADIONAVIGATION<br>MARITIME RADIONAVIGATION (radiobeacons) 5.73 | 275-285<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons) | | 275-285<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons)<br><br>US2 US18 | | |
| 5.72 5.74 | 285-315<br>AERONAUTICAL RADIONAVIGATION<br>MARITIME RADIONAVIGATION (radiobeacons) 5.73 | | 285-325<br>MARITIME RADIONAVIGATION (radiobeacons) 5.73<br>Aeronautical radionavigation (radiobeacons) | | |
| 315-325<br>AERONAUTICAL RADIONAVIGATION<br>Maritime radionavigation (radiobeacons) 5.73<br><br>5.72 5.75 | 315-325<br>MARITIME RADIONAVIGATION (radiobeacons) 5.73<br>Aeronautical radionavigation | 315-325<br>AERONAUTICAL RADIONAVIGATION<br>MARITIME RADIONAVIGATION (radiobeacons) 5.73 | US2 US18 US364 | | |
| 325-405<br>AERONAUTICAL RADIONAVIGATION | 325-335<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons) | 325-405<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | 325-335<br>AERONAUTICAL RADIONAVIGATION (radiobeacons)<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons)<br><br>US2 US18 | | Aviation (87) |
| 5.72 | 335-405<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | | 335-405<br>AERONAUTICAL RADIONAVIGATION (radiobeacons) US18<br>Aeronautical mobile<br><br>US2 | | |
| 405-415<br>RADIONAVIGATION 5.76<br><br>5.72 | 405-415<br>RADIONAVIGATION 5.76<br>Aeronautical mobile | | 405-415<br>RADIONAVIGATION 5.76 US18<br>Aeronautical mobile<br><br>US2 | | Maritime (80)<br>Aviation (87) |

| | | | | | |
|---|---|---|---|---|---|
| 415-435<br>MARITIME MOBILE 5.79<br>AERONAUTICAL RADIONAVIGATION<br>5.72 | 415-495<br>MARITIME MOBILE 5.79 5.79A<br>Aeronautical radionavigation 5.80 | | 415-435<br>MARITIME MOBILE 5.79<br>AERONAUTICAL RADIONAVIGATION<br>US2 | | |
| 435-495<br>MARITIME MOBILE 5.79 5.79A<br>Aeronautical radionavigation<br>5.72 5.82 | 5.77 5.78 5.82 | | 435-495<br>MARITIME MOBILE 5.79<br>5.79A<br>Aeronautical radionavigation<br>5.82 US2 US231 | 435-495<br>MARITIME MOBILE 5.79<br>5.79A<br>5.82 US2 US231 | |
| 495-505<br>MOBILE 5.82A<br>5.82B | | | 495-505<br>MOBILE (distress and calling) | | |
| 505-526.5<br>MARITIME MOBILE 5.79 5.79A 5.84<br>AERONAUTICAL RADIONAVIGATION<br>5.72 | 505-510<br>MARITIME MOBILE 5.79 | 505-526.5<br>MARITIME MOBILE 5.79 5.79A 5.84<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile<br>Land mobile | 505-510<br>MARITIME MOBILE 5.79 | | Maritime (80) |
| | 510-525<br>MOBILE 5.79A 5.84<br>AERONAUTICAL RADIONAVIGATION | | 510-525<br>MARITIME MOBILE (ships only) 5.79A 5.84<br>AERONAUTICAL RADIONAVIGATION (radiobeacons) US18<br>US14 US225 | | Maritime (80)<br>Aviation (87) |
| 526.5-1606.5<br>BROADCASTING | 525-535<br>BROADCASTING 5.86<br>AERONAUTICAL RADIONAVIGATION | 526.5-535<br>BROADCASTING<br>Mobile<br>5.88 | 525-535<br>MOBILE US221<br>AERONAUTICAL RADIONAVIGATION (radiobeacons) US18<br>US239 | | Aviation (87)<br>Private Land Mobile (90) |
| 5.87 5.87A | 535-1605<br>BROADCASTING | 535-1606.5<br>BROADCASTING | 535-1605 | 535-1605<br>BROADCASTING<br>NG1 NG5 | Radio Broadcast (AM)(73)<br>Private Land Mobile (90) |
| 1606.5-1625<br>FIXED<br>MARITIME MOBILE 5.90<br>LAND MOBILE<br>5.92 | 1605-1625<br>BROADCASTING 5.89<br>5.90 | 1606.5-1800<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>RADIONAVIGATION | 1605-1615<br>MOBILE US221 G127<br>1615-1705<br>US299 | 1605-1705<br>BROADCASTING 5.89<br>US299 NG1 NG5 | Radio Broadcast (AM)(73)<br>Alaska Fixed (80)<br>Private Land Mobile (90) |
| 1625-1635<br>RADIOLOCATION<br>5.93 | 1625-1705<br>FIXED<br>MOBILE<br>BROADCASTING 5.89<br>Radiolocation<br>5.90 | | | | |
| 1635-1800<br>FIXED<br>MARITIME MOBILE 5.90<br>LAND MOBILE<br>5.92 5.96 | 1705-1800<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>AERONAUTICAL RADIONAVIGATION | 5.91 | 1705-1800<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>US240 | | Alaska Fixed (80)<br>Private Land Mobile (90) |

| Table of Frequency Allocations | | | 1800-3025 kHz (MF/HF) | | Page 5 |
|---|---|---|---|---|---|
| International Table | | | United States Table | | FCC Rule Part(s) |
| Region 1 Table | Region 2 Table | Region 3 Table | Federal Table | Non-Federal Table | |
| 1800-1810<br>RADIOLOCATION<br><br>5.93 | 1800-1850<br>AMATEUR | 1800-2000<br>AMATEUR<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIONAVIGATION<br>Radiolocation | 1800-1900 | 1800-1900<br>AMATEUR | Amateur Radio (97) |
| 1810-1850<br>AMATEUR<br><br>5.98 5.99 5.100 5.101 | | | | | |
| 1850-2000<br>FIXED<br>MOBILE except aeronautical mobile<br><br>5.92 5.96 5.103 | 1850-2000<br>AMATEUR<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIOLOCATION<br>RADIONAVIGATION<br><br>5.102 | 5.97 | 1900-2000<br>RADIOLOCATION<br><br>US290 | | Private Land Mobile (90)<br>Amateur Radio (97) |
| 2000-2025<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>5.92 5.103 | 2000-2065<br>FIXED<br>MOBILE | | 2000-2065<br>FIXED<br>MOBILE<br><br>US340 | 2000-2065<br>MARITIME MOBILE<br><br>US340 NG7 | Maritime (80)<br>Private Land Mobile (90) |
| 2025-2045<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>Meteorological aids 5.104<br><br>5.92 5.103 | | | | | |
| 2045-2160<br>FIXED<br>MARITIME MOBILE<br>LAND MOBILE<br><br>5.92 | 2065-2107<br>MARITIME MOBILE 5.105<br><br>5.106 | | 2065-2107<br>MARITIME MOBILE 5.105<br><br>US296 US340 | | Maritime (80) |
| 2160-2170<br>RADIOLOCATION<br><br>5.93 5.107 | 2107-2170<br>FIXED<br>MOBILE | | 2107-2170<br>FIXED<br>MOBILE<br><br>US340 | 2107-2170<br>FIXED<br>MOBILE except aeronautical mobile<br><br>US340 NG7 | Maritime (80)<br>Private Land Mobile (90) |
| 2170-2173.5<br>MARITIME MOBILE | | | 2170-2173.5<br>MARITIME MOBILE (telephony)<br><br>US340 | 2170-2173.5<br>MARITIME MOBILE<br><br>US340 | Maritime (80) |

| | | | | |
|---|---|---|---|---|
| 2173.5-2190.5<br>MOBILE (distress and calling)<br><br>5.108 5.109 5.110 5.111 | | 2173.5-2190.5<br>MOBILE (distress and calling)<br><br>5.108 5.109 5.110 5.111 US279 US340 | | Maritime (80)<br>Aviation (87) |
| 2190.5-2194<br>MARITIME MOBILE | | 2190.5-2194<br>MARITIME MOBILE (telephony)<br><br>US340 | 2190.5-2194<br>MARITIME MOBILE<br><br>US340 | Maritime (80) |
| 2194-2300<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>5.92 5.103 5.112 | 2194-2300<br>FIXED<br>MOBILE<br><br>5.112 | 2194-2495<br>FIXED<br>MOBILE<br><br>US22 US340 | 2194-2495<br>FIXED<br>MOBILE except aeronautical mobile<br><br>US22 US340 NG7 | Maritime (80)<br>Private Land Mobile (90) |
| 2300-2498<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>BROADCASTING 5.113<br><br>5.103 | 2300-2495<br>FIXED<br>MOBILE<br>BROADCASTING 5.113 | | | |
| 2498-2501<br>STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) | 2495-2501<br>STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) | 2495-2505<br>STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) | | |
| 2501-2502<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research | | | | |
| 2502-2625<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>5.92 5.103 5.114 | 2502-2505<br>STANDARD FREQUENCY AND TIME SIGNAL | US1 US340 | | |
| 2625-2650<br>MARITIME MOBILE<br>MARITIME RADIONAVIGATION<br><br>5.92 | 2505-2850<br>FIXED<br>MOBILE | 2505-2850<br>FIXED<br>MOBILE US285 | 2505-2850<br>FIXED<br>MOBILE except aeronautical mobile US285 | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 2650-2850<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>5.92 5.103 | | US22 US340 | US22 US340 | |
| 2850-3025<br>AERONAUTICAL MOBILE (R)<br><br>5.111 5.115 | | 2850-3025<br>AERONAUTICAL MOBILE (R)<br><br>5.111 5.115 US283 US340 | | Aviation (87) |

| Table of Frequency Allocations | | 3.025-5.68 MHz (HF) | | | Page 7 |
|---|---|---|---|---|---|
| International Table | | | United States Table | | FCC Rule Part(s) |
| Region 1 Table | Region 2 Table | Region 3 Table | Federal Table | Non-Federal Table | |
| 3.025-3.155<br>AERONAUTICAL MOBILE (OR) | | | 3.025-3.155<br>AERONAUTICAL MOBILE (OR)<br><br>US340 | | |
| 3.155-3.2<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>5.116 5.117 | | | 3.155-3.23<br>FIXED<br>MOBILE except aeronautical mobile (R) | | Maritime (80)<br>Private Land Mobile (90) |
| 3.2-3.23<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>BROADCASTING 5.113<br><br>5.116 | | | <br><br><br><br>US22 US340 | | |
| 3.23-3.4<br>FIXED<br>MOBILE except aeronautical mobile<br>BROADCASTING 5.113<br><br>5.116 5.118 | | | 3.23-3.4<br>FIXED<br>MOBILE except aeronautical mobile<br>Radiolocation<br><br>US340 | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 3.4-3.5<br>AERONAUTICAL MOBILE (R) | | | 3.4-3.5<br>AERONAUTICAL MOBILE (R)<br><br>US283 US340 | | Aviation (87) |
| 3.5-3.8<br>AMATEUR<br>FIXED<br>MOBILE except aeronautical mobile<br>5.92 | 3.5-3.75<br>AMATEUR<br><br>5.119 | 3.5-3.9<br>AMATEUR<br>FIXED<br>MOBILE | 3.5-4 | 3.5-4<br>AMATEUR | Amateur Radio (97) |
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| 4-4.063<br>FIXED<br>MARITIME MOBILE 5.127<br>5.126 | | | 4-4.063<br>FIXED<br>MARITIME MOBILE<br>US340 | | Maritime (80) |

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| 4.063-4.438<br>MARITIME MOBILE 5.79A 5.109 5.110 5.130 5.131 5.132<br><br>5.128 | | | 4.063-4.438<br>MARITIME MOBILE 5.79A 5.109 5.110 5.130 5.131 5.132 US82<br><br>US296 US340 | | Maritime (80)<br>Aviation (87) |
| 4.438-4.65<br>FIXED<br>MOBILE except aeronautical mobile (R) | | 4.438-4.65<br>FIXED<br>MOBILE except aeronautical mobile | 4.438-4.65<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>US22 US340 | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 4.65-4.7<br>AERONAUTICAL MOBILE (R) | | | 4.65-4.7<br>AERONAUTICAL MOBILE (R)<br><br>US282 US283 US340 | | Aviation (87) |
| 4.7-4.75<br>AERONAUTICAL MOBILE (OR) | | | 4.7-4.75<br>AERONAUTICAL MOBILE (OR)<br><br>US340 | | |
| 4.75-4.85<br>FIXED<br>AERONAUTICAL MOBILE (OR)<br>LAND MOBILE<br>BROADCASTING 5.113 | 4.75-4.85<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>BROADCASTING 5.113 | 4.75-4.85<br>FIXED<br>BROADCASTING 5.113<br>Land mobile | 4.75-4.85<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>US340 | | Maritime (80)<br>Private Land Mobile (90) |
| 4.85-4.995<br>FIXED<br>LAND MOBILE<br>BROADCASTING 5.113 | | | 4.85-4.995<br>FIXED<br>MOBILE<br><br>US340 | 4.85-4.995<br>FIXED<br><br>US340 | Aviation (87)<br>Private Land Mobile (90) |
| 4.995-5.003<br>STANDARD FREQUENCY AND TIME SIGNAL (5 MHz) | | | 4.995-5.005<br>STANDARD FREQUENCY AND TIME SIGNAL (5 MHz) | | |
| 5.003-5.005<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research | | | US1 US340 | | |
| 5.005-5.06<br>FIXED<br>BROADCASTING 5.113 | | | 5.005-5.06<br>FIXED US22<br><br>US340 | | Aviation (87)<br>Private Land Mobile (90) |
| 5.06-5.25<br>FIXED<br>Mobile except aeronautical mobile<br><br>5.133 | | | 5.06-5.45<br>FIXED US22<br>Mobile except aeronautical mobile | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90)<br>Amateur Radio (97) |
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| 5.45-5.48<br>FIXED<br>AERONAUTICAL MOBILE (OR)<br>LAND MOBILE | 5.45-5.48<br>AERONAUTICAL MOBILE (R) | 5.45-5.48<br>FIXED<br>AERONAUTICAL MOBILE (OR)<br>LAND MOBILE | 5.45-5.68<br>AERONAUTICAL MOBILE (R) | | Aviation (87) |
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| 7.45-8.1<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>5.144 | | | 7.45-8.1<br>FIXED US22<br>MOBILE except aeronautical mobile (R)<br><br>US340 | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
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| 11.4-11.6<br>FIXED | | | 11.4-11.6<br>FIXED<br><br>US340 | | Private Land Mobile (90) |
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| 13.26-13.36<br>AERONAUTICAL MOBILE (R) | 13.26-13.36<br>AERONAUTICAL MOBILE (R)<br><br>US283 US340 | | Aviation (87) |
| 13.36-13.41<br>FIXED<br>RADIO ASTRONOMY<br><br>5.149 | 13.36-13.41<br>RADIO ASTRONOMY<br><br>US342 G115 | 13.36-13.41<br>RADIO ASTRONOMY<br><br>US342 | |
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| 13.57-13.6<br>BROADCASTING 5.134<br><br>5.151 | 13.57-13.87<br>BROADCASTING 5.134 | | International Broadcast Stations (73F) |
| 13.6-13.8<br>BROADCASTING | | | |
| 13.8-13.87<br>BROADCASTING 5.134<br><br>5.151 | US136 US340 | | |
| 13.87-14<br>FIXED<br>Mobile except aeronautical mobile (R) | 13.87-14<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 | 13.87-14<br>FIXED<br><br>US340 | Private Land Mobile (90) |
| 14-14.25<br>AMATEUR<br>AMATEUR-SATELLITE | 14-14.35 | 14-14.25<br>AMATEUR<br>AMATEUR-SATELLITE<br><br>US340 | Amateur Radio (97) |
| 14.25-14.35<br>AMATEUR<br><br>5.152 | US340 | 14.25-14.35<br>AMATEUR<br><br>US340 | |
| 14.35-14.99<br>FIXED<br>Mobile except aeronautical mobile (R) | 14.35-14.99<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 | 14.35-14.99<br>FIXED<br><br>US340 | Private Land Mobile (90) |
| 14.99-15.005<br>STANDARD FREQUENCY AND TIME SIGNAL (15 MHz)<br><br>5.111 | 14.99-15.01<br>STANDARD FREQUENCY AND TIME SIGNAL (15 MHz) | | |
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| 15.1-15.6<br>BROADCASTING | | | 15.1-15.8<br>BROADCASTING 5.134<br>US136 US340 | | | International Broadcast Stations (73F) |
| 15.6-15.8<br>BROADCASTING 5.134<br>5.146 | | | | | | |
| 15.8-16.36<br>FIXED<br>5.153 | | | 15.8-16.36<br>FIXED<br>US340 | | | Private Land Mobile (90) |
| 16.36-17.41<br>MARITIME MOBILE 5.109 5.110 5.132 5.145 | | | 16.36-17.41<br>MARITIME MOBILE 5.109 5.110 5.132 5.145 US82<br>US296 US340 | | | Maritime (80) |
| 17.41-17.48<br>FIXED | | | 17.41-17.48<br>FIXED<br>US340 | | | Private Land Mobile (90) |
| 17.48-17.55<br>BROADCASTING 5.134<br>5.146 | | | 17.48-17.9<br>BROADCASTING 5.134<br>US136 US340 | | | International Broadcast Stations (73F) |
| 17.55-17.9<br>BROADCASTING | | | | | | |
| 17.9-17.97<br>AERONAUTICAL MOBILE (R) | | | 17.9-17.97<br>AERONAUTICAL MOBILE (R)<br>US283 US340 | | | Aviation (87) |
| 17.97-18.03<br>AERONAUTICAL MOBILE (OR) | | | 17.97-18.03<br>AERONAUTICAL MOBILE (OR)<br>US340 | | | |
| 18.030-18.052<br>FIXED | | | 18.03-18.068<br>FIXED<br>US340 | | | Maritime (80)<br>Private Land Mobile (90) |
| 18.052-18.068<br>FIXED<br>Space research | | | | | | |
| 18.068-18.168<br>AMATEUR<br>AMATEUR-SATELLITE<br>5.154 | | | 18.068-18.168<br>US340 | 18.068-18.168<br>AMATEUR<br>AMATEUR-SATELLITE<br>US340 | | Amateur Radio (97) |
| 18.168-18.78<br>FIXED<br>Mobile except aeronautical mobile | | | 18.168-18.78<br>FIXED<br>Mobile<br>US340 | | | Maritime (80)<br>Private Land Mobile (90) |

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| 18.78-18.9<br>MARITIME MOBILE | 18.78-18.9<br>MARITIME MOBILE US82<br>US296 US340 | | Maritime (80) |
| 18.9-19.02<br>BROADCASTING 5.134<br>5.146 | 18.9-19.02<br>BROADCASTING 5.134<br>US136 US340 | | International Broadcast Stations (73F) |
| 19.02-19.68<br>FIXED | 19.02-19.68<br>FIXED<br>US340 | | Private Land Mobile (90) |
| 19.68-19.8<br>MARITIME MOBILE 5.132 | 19.68-19.8<br>MARITIME MOBILE 5.132<br>US340 | | Maritime (80) |
| 19.8-19.99<br>FIXED | 19.8-19.99<br>FIXED<br>US340 | | Private Land Mobile (90) |
| 19.99-19.995<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research<br>5.111 | 19.99-20.01<br>STANDARD FREQUENCY AND TIME SIGNAL (20 MHz)<br>5.111 US1 US340 | | |
| 19.995-20.01<br>STANDARD FREQUENCY AND TIME SIGNAL (20 MHz)<br>5.111 | | | |
| 20.01-21<br>FIXED<br>Mobile | 20.01-21<br>FIXED<br>Mobile<br>US340 | 20.01-21<br>FIXED<br>US340 | Private Land Mobile (90) |
| 21-21.45<br>AMATEUR<br>AMATEUR-SATELLITE | 21-21.45<br>US340 | 21-21.45<br>AMATEUR<br>AMATEUR-SATELLITE<br>US340 | Amateur Radio (97) |
| 21.45-21.85<br>BROADCASTING | 21.45-21.85<br>BROADCASTING<br>US340 | | International Broadcast Stations (73F) |
| 21.85-21.87<br>FIXED 5.155A<br>5.155 | 21.85-21.924<br>FIXED<br>US340 | | Aviation (87)<br>Private Land Mobile (90) |
| 21.87-21.924<br>FIXED 5.155B | | | |
| 21.924-22<br>AERONAUTICAL MOBILE (R) | 21.924-22<br>AERONAUTICAL MOBILE (R)<br>US340 | | Aviation (87) |
| 22-22.855<br>MARITIME MOBILE 5.132<br>5.156 | 22-22.855<br>MARITIME MOBILE 5.132 US82<br>US296 US340 | | Maritime (80) |

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| 22.855-23<br>FIXED<br><br>5.156 | | | 22.855-23<br>FIXED<br><br>US340 | | Private Land Mobile (90) |
| 23-23.2<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>5.156 | | | 23-23.2<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 | 23-23.2<br>FIXED<br><br><br>US340 | |
| 23.2-23.35<br>FIXED 5.156A<br>AERONAUTICAL MOBILE (OR) | | | 23.2-23.35<br>AERONAUTICAL MOBILE (OR)<br><br>US340 | | |
| 23.35-24<br>FIXED<br>MOBILE except aeronautical mobile 5.157 | | | 23.35-24.89<br>FIXED<br>MOBILE except aeronautical mobile | 23.35-24.89<br>FIXED | Private Land Mobile (90) |
| 24-24.89<br>FIXED<br>LAND MOBILE | | | <br><br><br>US340 | <br><br><br>US340 | |
| 24.89-24.99<br>AMATEUR<br>AMATEUR-SATELLITE | | | 24.89-24.99<br><br><br><br>US340 | 24.89-24.99<br>AMATEUR<br>AMATEUR-SATELLITE<br><br>US340 | Amateur Radio (97) |
| 24.99-25.005<br>STANDARD FREQUENCY AND TIME SIGNAL (25 MHz) | | | 24.99-25.01<br>STANDARD FREQUENCY AND TIME SIGNAL (25 MHz) | | |
| 25.005-25.01<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research | | | <br><br><br>US1 US340 | | |
| 25.01-25.07<br>FIXED<br>MOBILE except aeronautical mobile | | | 25.01-25.07<br><br><br>US340 | 25.01-25.07<br>LAND MOBILE<br><br>US340 NG112 | Private Land Mobile (90) |
| 25.07-25.21<br>MARITIME MOBILE | | | 25.07-25.21<br>MARITIME MOBILE US82<br><br>US281 US296 US340 | 25.07-25.21<br>MARITIME MOBILE US82<br><br>US281 US296 US340 NG112 | Maritime (80)<br>Private Land Mobile (90) |
| 25.21-25.55<br>FIXED<br>MOBILE except aeronautical mobile | | | 25.21-25.33<br><br><br>US340 | 25.21-25.33<br>LAND MOBILE<br><br>US340 | Private Land Mobile (90) |
| | | | 25.33-25.55<br>FIXED<br>MOBILE except aeronautical mobile<br><br>US340 | 25.33-25.55<br><br><br><br>US340 | |

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| 25.67-26.1<br>BROADCASTING | 25.67-26.1<br>BROADCASTING<br><br>US25 US340 | | International Broadcast Stations (73F)<br>Remote Pickup (74D) |
| 26.1-26.175<br>MARITIME MOBILE 5.132 | 26.1-26.175<br>MARITIME MOBILE 5.132<br><br>US25 US340 | | Remote Pickup (74D)<br>Low Power Auxiliary (74H)<br>Maritime (80) |
| 26.175-27.5<br>FIXED<br>MOBILE except aeronautical mobile | 26.175-26.48<br><br><br>US340 | 26.175-26.48<br>LAND MOBILE<br><br>US340 | Remote Pickup (74D)<br>Low Power Auxiliary (74H) |
| | 26.48-26.95<br>FIXED<br>MOBILE except aeronautical mobile<br><br>US340 | 26.48-26.95<br><br><br>US340 | |
| | 26.95-27.41<br><br><br><br><br><br><br><br>5.150 US340 | 26.95-26.96<br>FIXED<br><br>5.150 US340 | ISM Equipment (18) |
| | | 26.96-27.23<br>MOBILE except aeronautical mobile<br><br>5.150 US340 | ISM Equipment (18)<br>Personal Radio (95) |
| | | 27.23-27.41<br>FIXED<br>MOBILE except aeronautical mobile<br><br>5.150 US340 | ISM Equipment (18)<br>Private Land Mobile (90)<br>Personal Radio (95) |
| 5.150 | 27.41-27.54<br><br><br><br>US340 | 27.41-27.54<br>FIXED<br>LAND MOBILE<br><br>US340 | Private Land Mobile (90) |
| 27.5-28<br>METEOROLOGICAL AIDS<br>FIXED<br>MOBILE | 27.54-28<br>FIXED<br>MOBILE<br><br>US298 US340 | 27.54-28<br><br><br><br>US298 US340 | |
| 28-29.7<br>AMATEUR<br>AMATEUR-SATELLITE | 28-29.7<br><br><br><br>US340 | 28-29.7<br>AMATEUR<br>AMATEUR-SATELLITE<br><br>US340 | Amateur Radio (97) |

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| 29.7-30.005<br>FIXED<br>MOBILE | | | 29.7-29.89<br><br><br><br><br>US340 | 29.7-29.8<br>LAND MOBILE<br><br>US340 | Private Land Mobile (90) |
| | | | | 29.8-29.89<br>FIXED<br><br>US340 | |
| | | | 29.89-29.91<br>FIXED<br>MOBILE<br><br>US340 | 29.89-29.91<br><br><br><br>US340 | |
| | | | 29.91-30<br><br><br>US340 | 29.91-30<br>FIXED<br><br>US340 | |
| 30.005-30.01<br>SPACE OPERATION (satellite identification)<br>FIXED<br>MOBILE<br>SPACE RESEARCH | | | 30-30.56<br>FIXED<br>MOBILE | 30-30.56 | |
| 30.01-37.5<br>FIXED<br>MOBILE | | | 30.56-32 | 30.56-32<br>FIXED<br>LAND MOBILE<br><br>NG124 | Private Land Mobile (90) |
| | | | 32-33<br>FIXED<br>MOBILE | 32-33 | |
| | | | 33-34 | 33-34<br>FIXED<br>LAND MOBILE<br><br>NG124 | Private Land Mobile (90) |
| | | | 34-35<br>FIXED<br>MOBILE | 34-35 | |
| | | | 35-36 | 35-36<br>FIXED<br>LAND MOBILE | Public Mobile (22)<br>Private Land Mobile (90) |

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|---|---|---|---|
| | 36-37<br>FIXED<br>MOBILE<br><br>US220 | 36-37<br><br><br><br>US220 | |
| | 37-37.5 | 37-37.5<br>LAND MOBILE<br><br>NG124 | Private Land Mobile (90) |
| 37.5-38.25<br>FIXED<br>MOBILE<br>Radio astronomy | 37.5-38<br>Radio astronomy<br><br><br>US342 | 37.5-38<br>LAND MOBILE<br>Radio astronomy<br><br>US342 NG59 NG124 | |
| 5.149 | 38-38.25<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY<br><br>US81 US342 | 38-38.25<br>RADIO ASTRONOMY<br><br><br><br>US81 US342 | |
| 38.25-39.986<br>FIXED<br>MOBILE | 38.25-39<br>FIXED<br>MOBILE | 38.25-39 | |
| 39.986-40.02<br>FIXED<br>MOBILE<br>Space research | 39-40 | 39-40<br>LAND MOBILE<br>NG124 | Private Land Mobile (90) |
| 40.02-40.98<br>FIXED<br>MOBILE<br>5.150 | 40-42<br>FIXED<br>MOBILE | 40-42 | ISM Equipment (18)<br>Private Land Mobile (90) |
| 40.98-41.015<br>FIXED<br>MOBILE<br>Space research<br>5.160 5.161 | 5.150 US210 US220 | 5.150 US210 US220 | |
| 41.015-44<br>FIXED<br>MOBILE<br><br>5.160 5.161 | 42-46.6 | 42-43.69<br>FIXED<br>LAND MOBILE<br>NG124 NG141 | Public Mobile (22)<br>Private Land Mobile (90) |
| 44-47<br>FIXED<br>MOBILE<br><br>5.162 5.162A | | 43.69-46.6<br>LAND MOBILE<br>NG124 NG141 | Private Land Mobile (90) |
| | 46.6-47<br>FIXED<br>MOBILE | 46.6-47 | |

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| | | | 49.6-50<br>FIXED<br>MOBILE | 49.6-50 | |
| | 50-54<br>AMATEUR<br><br>5.162A 5.166 5.167 5.167A 5.168 5.170 | | 50-73 | 50-54<br>AMATEUR | Amateur Radio (97) |
| 5.162A 5.163 5.164 5.165<br>5.169 5.171 | 54-68<br>BROADCASTING<br>Fixed<br>Mobile<br><br>5.172 | 54-68<br>FIXED<br>MOBILE<br>BROADCASTING<br><br>5.162A | | 54-72<br>BROADCASTING<br><br>NG5 NG14 NG115 NG149 | Broadcast Radio (TV)(73)<br>LPTV, TV Translator/ Booster (74G)<br>Low Power Auxiliary (74H) |
| 68-74.8<br>FIXED<br>MOBILE except aeronautical mobile | 68-72<br>BROADCASTING<br>Fixed<br>Mobile<br><br>5.173 | 68-74.8<br>FIXED<br>MOBILE | | | |
| | 72-73<br>FIXED<br>MOBILE | | | 72-73<br>FIXED<br>MOBILE<br><br>NG3 NG49 NG56 | Public Mobile (22)<br>Aviation (87)<br>Private Land Mobile (90)<br>Personal Radio (95) |
| | 73-74.6<br>RADIO ASTRONOMY<br><br>5.178 | | 73-74.6<br>RADIO ASTRONOMY US74<br><br>US246 | | |
| 5.149 5.175 5.177 5.179 | 74.6-74.8<br>FIXED<br>MOBILE | 5.149 5.176 5.179 | 74.6-74.8<br>FIXED<br>MOBILE<br><br>US273 | | Private Land Mobile (90) |
| 74.8-75.2<br>AERONAUTICAL RADIONAVIGATION<br><br>5.180 5.181 | | | 74.8-75.2<br>AERONAUTICAL RADIONAVIGATION<br><br>5.180 | | Aviation (87) |
| 75.2-87.5<br>FIXED<br>MOBILE except aeronautical mobile | 75.2-75.4<br>FIXED<br>MOBILE<br><br>5.179 | | 75.2-75.4<br>FIXED<br>MOBILE<br><br>US273 | | Private Land Mobile (90) |

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| | 75.4-76<br>FIXED<br>MOBILE | 75.4-87<br>FIXED<br>MOBILE | 75.4-88 | 75.4-76<br>FIXED<br>MOBILE<br><br>NG3 NG49 NG56 | Public Mobile (22)<br>Aviation (87)<br>Private Land Mobile (90)<br>Personal Radio (95) |
| 5.175 5.179 5.187 | 76-88<br>BROADCASTING<br>Fixed<br>Mobile<br><br>5.185 | 5.182 5.183 5.188<br>87-100<br>FIXED<br>MOBILE<br>BROADCASTING | | 76-88<br>BROADCASTING<br><br>NG5 NG14 NG115<br>NG149 | Broadcast Radio (TV)(73)<br>LPTV, TV Translator/ Booster (74G)<br>Low Power Auxiliary (74H) |
| 87.5-100<br>BROADCASTING<br><br>5.190 | 88-100<br>BROADCASTING | | 88-108<br><br>US93 | 88-108<br>BROADCASTING NG2<br><br>US93 NG5 | Broadcast Radio (FM)(73)<br>FM Translator/Booste (74L) |
| 100-108<br>BROADCASTING<br><br>5.192 5.194 | | | | | |
| 108-117.975<br>AERONAUTICAL RADIONAVIGATION<br><br>5.197 5.197A | | | 108-117.975<br>AERONAUTICAL RADIONAVIGATION<br><br>US93 US343 | | Aviation (87) |
| 117.975-137<br>AERONAUTICAL MOBILE (R) | | | 117.975-121.9375<br>AERONAUTICAL MOBILE (R)<br><br>5.111 5.200 US26 US28 US36 | | |
| | | | 121.9375-123.0875<br><br>US30 US31 US33<br>US80 US102<br>US213 | 121.9375-123.0875<br>AERONAUTICAL MOBILE<br><br>US30 US31 US33 US80<br>US102<br>US213 | |
| | | | 123.0875-123.5875<br>AERONAUTICAL MOBILE<br><br>5.200 US32 US33 US112 | | |
| | | | 123.5875-128.8125<br>AERONAUTICAL MOBILE (R)<br><br>US26 US36 | | |
| | | | 128.8125-132.0125 | 128.8125-132.0125<br>AERONAUTICAL MOBILE (R) | |
| | | | 132.0125-136<br>AERONAUTICAL MOBILE (R)<br><br>US26 | | |
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| 137.825-138<br>SPACE OPERATION (space-to-Earth)<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>SPACE RESEARCH (space-to-Earth)<br>Fixed<br>Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.209<br>Mobile except aeronautical mobile (R)<br>5.204 5.205 5.206 5.207 5.208 | | | 137.825-138<br>SPACE OPERATION (space-to-Earth)<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>SPACE RESEARCH (space-to-Earth)<br>Mobile-satellite (space-to-Earth) US319 US320<br>5.208 | | |
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| 143.65-144<br>AERONAUTICAL MOBILE (OR)<br>5.210 5.211 5.212 5.214 | 143.65-144<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>Space research (space-to-Earth) | 143.65-144<br>FIXED<br>MOBILE<br>Space research (space-to-Earth)<br>5.207 5.213 | G30 | | |

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| 144-146<br>AMATEUR<br>AMATEUR-SATELLITE<br>5.216 | | | 144-148 | 144-146<br>AMATEUR<br>AMATEUR-SATELLITE | Amateur Radio (97) |
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| | | | 150.8-152.855<br>US73 | 150.8-152.855<br>FIXED<br>LAND MOBILE NG4 NG51 NG112<br>US73 NG124 | Public Mobile (22)<br>Private Land Mobile (90)<br>Personal Radio (95) |
| 153-154<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>Meteorological aids | | | 152.855-156.2475 | 152.855-154<br>LAND MOBILE NG4<br>NG124 | Remote Pickup (74D)<br>Private Land Mobile (90) |
| 154-156.4875<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>5.226 | 5.225 5.226 | | | 154-156.2475<br>FIXED<br>LAND MOBILE NG112<br>5.226 NG117 NG124 NG148 | Maritime (80)<br>Private Land Mobile (90)<br>Personal Radio (95) |
| 156.4875-156.5625<br>MARITIME MOBILE (distress and calling via DSC)<br>5.111 5.226 5.227 | | | 156.2475-156.7625 | 156.2475-156.7625<br>MARITIME MOBILE US106 US226 NG117 | Maritime (80)<br>Aviation (87) |
| 156.5625-156.7625<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>5.226 | 156.5625-156.7625<br>FIXED<br>MOBILE<br>5.225 5.226 | | US77 US106 US226 US266 | US77 US266 NG124 | |

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| 156.8375-174<br>FIXED<br>MOBILE except aeronautical mobile | 156.8375-174<br>FIXED<br>MOBILE | | 156.8375-157.0375<br>5.226 US77 US266 | 156.8375-157.0375<br>MARITIME MOBILE<br>5.226 US77 US266 | |
| | | | 157.0375-157.1875<br>MARITIME MOBILE US214<br>5.226 US266 G109 | 157.0375-157.1875<br>5.226 US214 US266 | Maritime (80) |
| | | | 157.1875-161.575 | 157.1875-157.45<br>MOBILE except aeronautical mobile US266<br>5.226 NG111 | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| | | | | 157.45-161.575<br>FIXED<br>LAND MOBILE NG28 NG111 NG112<br>5.226 NG6 NG70 NG124 NG148 NG155 | Public Mobile (22)<br>Remote Pickup (74D)<br>Maritime (80)<br>Private Land Mobile (90) |
| | | | 161.575-161.625<br>5.226 US77 | 161.575-161.625<br>MARITIME MOBILE<br>5.226 US77 NG6 NG17 | Public Mobile (22)<br>Maritime (80) |
| | | | 161.625-161.9625<br>US266 | 161.625-161.775<br>LAND MOBILE NG6<br>5.226 | Public Mobile (22)<br>Remote Pickup (74D)<br>Low Power Auxiliary (74H) |
| | | | | 161.775-161.9625<br>MOBILE except aeronautical mobile US266 NG6<br>5.226 | Maritime (80)<br>Private Land Mobile (90) |
| | | | 161.9625-161.9875<br>MARITIME MOBILE (AIS) US228 | | Maritime (80) |
| | | | 161.9875-162.0125 | 161.9875-162.0125<br>MOBILE except aeronautical mobile<br>5.226 | |
| | | | 162.0125-162.0375<br>MARITIME MOBILE (AIS) US228 | | |
| | | | 162.0375-173.2<br>FIXED<br>MOBILE<br>US8 US11 US13 US73 US300 US312 G5 | 162.0375-173.2<br>US8 US11 US13 US73 US300 US312 | Remote Pickup (74D)<br>Private Land Mobile (90) |
| | | | 173.2-173.4 | 173.2-173.4<br>FIXED<br>Land mobile | Private Land Mobile (90) |
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| | | | 217-220<br>Fixed<br>Mobile<br><br>US210 US241 | 219-220<br>FIXED<br>MOBILE except aeronautical mobile<br>Amateur NG152<br><br>US210 US241 NG173 | Maritime (80)<br>Private Land Mobile (90)<br>Amateur Radio (97) |
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| 235-267<br>FIXED<br>MOBILE<br><br>5.111 5.252 5.254 5.256 5.256A | | | 235-267<br>FIXED<br>MOBILE<br><br>5.111 5.256 G27 G100 | 235-267<br><br>5.111 5.256 | Page 24 |

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| 272-273<br>SPACE OPERATION (space-to-Earth)<br>FIXED<br>MOBILE<br><br>5.254 | | | | | |
| 273-312<br>FIXED<br>MOBILE<br><br>5.254 | | | | | |
| 312-315<br>FIXED<br>MOBILE<br>Mobile-satellite (Earth-to-space) 5.254 5.255 | | | | | |
| 315-322<br>FIXED<br>MOBILE<br><br>5.254 | | | | | |
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| 399.9-400.05<br>MOBILE-SATELLITE (Earth-to-space) 5.209 5.224A<br>RADIONAVIGATION-SATELLITE 5.222 5.224B 5.260<br><br>5.220 | 399.9-400.05<br>MOBILE-SATELLITE (Earth-to-space) US319 US320<br>RADIONAVIGATION-SATELLITE 5.260 | | Satellite Communications (25) |
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| 400.15-401<br>METEOROLOGICAL AIDS<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209<br>SPACE RESEARCH (space-to-Earth) 5.263<br>Space operation (space-to-Earth)<br><br>5.262 5.264 | 400.15-401<br>METEOROLOGICAL AIDS (radiosonde) US70<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth) US319 US320 US324<br>SPACE RESEARCH (space-to-Earth) 5.263<br>Space operation (space-to-Earth)<br><br>5.264 | 400.15-401<br>METEOROLOGICAL AIDS (radiosonde) US70<br>MOBILE-SATELLITE (space-to-Earth) US320 US324<br>SPACE RESEARCH (space-to-Earth) 5.263<br>Space operation (space-to-Earth)<br><br>5.264 US319 | Satellite Communications (25) |
| 401-402<br>METEOROLOGICAL AIDS<br>SPACE OPERATION (space-to-Earth)<br>EARTH EXPLORATION-SATELLITE (Earth-to-space)<br>METEOROLOGICAL-SATELLITE (Earth-to-space)<br>Fixed<br>Mobile except aeronautical mobile | 401-402<br>METEOROLOGICAL AIDS (radiosonde) US70<br>SPACE OPERATION (space-to-Earth)<br>EARTH EXPLORATION-SATELLITE (Earth-to-space)<br>METEOROLOGICAL-SATELLITE (Earth-to-space)<br><br>US345 US384 | 401-402<br>METEOROLOGICAL AIDS (radiosonde) US70<br>SPACE OPERATION (space-to-Earth)<br>Earth exploration-satellite (Earth-to-space)<br>Meteorological-satellite (Earth-to-space)<br><br>US345 US384 | MedRadio (95I) |
| 402-403<br>METEOROLOGICAL AIDS<br>EARTH EXPLORATION-SATELLITE (Earth-to-space)<br>METEOROLOGICAL-SATELLITE (Earth-to-space)<br>Fixed<br>Mobile except aeronautical mobile | 402-403<br>METEOROLOGICAL AIDS (radiosonde) US70<br>EARTH EXPLORATION-SATELLITE (Earth-to-space)<br>METEOROLOGICAL-SATELLITE (Earth-to-space)<br><br>US345 US384 | 402-403<br>METEOROLOGICAL AIDS (radiosonde) US70<br>Earth exploration-satellite (Earth-to-space)<br>Meteorological-satellite (Earth-to-space)<br><br>US345 US384 | |
| 403-406<br>METEOROLOGICAL AIDS<br>Fixed<br>Mobile except aeronautical mobile | 403-406<br>METEOROLOGICAL AIDS (radiosonde) US70<br><br>US345 G6 | 403-406<br>METEOROLOGICAL AIDS (radiosonde) US70<br><br>US345 | |
| 406-406.1<br>MOBILE-SATELLITE (Earth-to-space)<br><br>5.266 5.267 | 406-406.1<br>MOBILE-SATELLITE (Earth-to-space)<br><br>5.266 5.267 | | Maritime (EPIRBs) (80V)<br>Aviation (ELTs) (87F)<br>Personal Radio (95) |
| 406.1-410<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIO ASTRONOMY<br><br>5.149 | 406.1-410<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY US74<br><br>US13 US117 G5 G6 | 406.1-410<br>RADIO ASTRONOMY US74<br><br>US13 US117 | Private Land Mobile (90) |

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| 420-430<br>FIXED<br>MOBILE except aeronautical mobile<br>Radiolocation<br>5.269 5.270 5.271 | | | 420-450<br>RADIOLOCATION G2 G129 | 420-450<br>Amateur US270 | Private Land Mobile (90)<br>Amateur Radio (97) |
| 430-432<br>AMATEUR<br>RADIOLOCATION<br>5.271 5.272 5.273 5.274 5.275 5.276 5.277 | 430-432<br>RADIOLOCATION<br>Amateur<br>5.271 5.276 5.277 5.278 5.279 | | | | |
| 432-438<br>AMATEUR<br>RADIOLOCATION<br>Earth exploration-satellite (active) 5.279A<br>5.138 5.271 5.272 5.276 5.277 5.280 5.281 5.282 | 432-438<br>RADIOLOCATION<br>Amateur<br>Earth exploration-satellite (active) 5.279A<br>5.271 5.276 5.277 5.278 5.279 5.281 5.282 | | | | |
| 438-440<br>AMATEUR<br>RADIOLOCATION<br>5.271 5.273 5.274 5.275 5.276 5.277 5.283 | 438-440<br>RADIOLOCATION<br>Amateur<br>5.271 5.276 5.277 5.278 5.279 | | | | |
| 440-450<br>FIXED<br>MOBILE except aeronautical mobile<br>Radiolocation<br>5.269 5.270 5.271 5.284 5.285 5.286 | | | 5.286 US87 US230 US269 US270 US397 G8 | 5.282 5.286 US87 US230 US269 US397 | |
| 450-455<br>FIXED<br>MOBILE 5.286AA<br>5.209 5.271 5.286 5.286A 5.286B 5.286C 5.286D 5.286E | | | 450-454<br>5.286 US87 | 450-454<br>LAND MOBILE<br>5.286 US87 NG112 NG124 | Remote Pickup (74D)<br>Low Power Auxiliary (74H)<br>Private Land Mobile (90) |
| | | | 454-456 | 454-455<br>FIXED<br>LAND MOBILE<br>NG12 NG112 NG148 | Public Mobile (22)<br>Maritime (80) |
| 455-456<br>FIXED<br>MOBILE 5.286AA<br>5.209 5.271 5.286A 5.286B 5.286C 5.286E | 455-456<br>FIXED<br>MOBILE 5.286AA<br>MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C<br>5.209 | 455-456<br>FIXED<br>MOBILE 5.286AA<br>5.209 5.271 5.286A 5.286B 5.286C 5.286E | | 455-456<br>LAND MOBILE | Remote Pickup (74D)<br>Low Power Auxiliary (74H) |

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| 456-459<br>FIXED<br>MOBILE 5.286AA<br>5.271 5.287 5.288 | | | 456-459<br>5.287 5.288 | 456-460<br>FIXED<br>LAND MOBILE<br>5.287 5.288 NG12 NG112 NG124 NG148 | Public Mobile (22)<br>Maritime (80)<br>Private Land Mobile (90) |
| 459-460<br>FIXED<br>MOBILE 5.286AA<br>5.209 5.271 5.286A 5.286B 5.286C 5.286E | 459-460<br>FIXED<br>MOBILE 5.286AA<br>MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C<br>5.209 | 459-460<br>FIXED<br>MOBILE 5.286AA<br>5.209 5.271 5.286A 5.286B 5.286C 5.286E | 459-460 | | |
| 460-470<br>FIXED<br>MOBILE 5.286AA<br>Meteorological-satellite (space-to-Earth)<br>5.287 5.288 5.289 5.290 | | | 460-470<br>Meteorological-satellite (space-to-Earth)<br>5.287 5.288 5.289 US73 US201 US209 | 460-462.5375<br>FIXED<br>LAND MOBILE<br>5.289 US201 US209 NG124 | Private Land Mobile (90) |
| | | | | 462.5375-462.7375<br>LAND MOBILE<br>5.289 US201 | Personal Radio (95) |
| | | | | 462.7375-467.5375<br>FIXED<br>LAND MOBILE<br>5.287 5.289 US73 US201 US209 NG124 | Private Land Mobile (90) |
| | | | | 467.5375-467.7375<br>LAND MOBILE<br>5.287 5.289 US201 | Personal Radio (95) |
| | | | | 467.7375-470<br>FIXED<br>LAND MOBILE<br>5.288 5.289 US73 US201 NG124 | Maritime (80)<br>Private Land Mobile (90) |
| 470-790<br>BROADCASTING<br>5.149 5.291A 5.294 5.296 5.300 5.302 5.304 5.306 5.311A 5.312 | 470-512<br>BROADCASTING<br>Fixed<br>Mobile<br>5.292 5.293 | 470-585<br>FIXED<br>MOBILE<br>BROADCASTING<br>5.291 5.298 | 470-608 | 470-512<br>FIXED<br>LAND MOBILE<br>BROADCASTING<br>NG5 NG14 NG66 NG115 NG149 | Public Mobile (22)<br>Broadcast Radio (TV)(73)<br>LPTV, TV Translator/Booster (74G)<br>Low Power Auxiliary (74H)<br>Private Land Mobile (90) |
| | 512-608<br>BROADCASTING<br>5.297 | 585-610<br>FIXED<br>MOBILE<br>BROADCASTING<br>RADIONAVIGATION<br>5.149 5.305 5.306 5.307 | | 512-608<br>BROADCASTING<br>NG5 NG14 NG115 NG149 | Broadcast Radio (TV)(73)<br>LPTV, TV Translator/Booster (74G)<br>Low Power Auxiliary (74H) |
| | 608-614<br>RADIO ASTRONOMY<br>Mobile-satellite except aeronautical mobile-satellite (Earth-to-space) | | 608-614<br>LAND MOBILE (medical telemetry and medical telecommand)<br>RADIO ASTRONOMY US74<br>US246 | | Personal Radio (95) |
| | 614-698<br>BROADCASTING<br>Fixed<br>Mobile<br>5.293 5.309 5.311A | 610-890<br>FIXED<br>MOBILE 5.313A 5.317A<br>BROADCASTING<br>5.149 5.305 5.306 5.307 5.311A 5.320 | 614-698 | 614-698<br>BROADCASTING<br>NG5 NG14 NG115 NG149 | Broadcast Radio (TV)(73)<br>LPTV, TV Translator/Booster (74G)<br>Low Power Auxiliary (74H) |

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| | | | 763-775 | 763-775<br>FIXED<br>MOBILE<br><br>NG158 NG159 | Public Safety Land Mobile (90R) |
| | | | 775-793 | 775-793<br>FIXED<br>MOBILE<br>BROADCASTING<br><br>NG159 | Wireless Communications (27)<br>LPTV and TV Translator (74G) |
| 790-862<br>FIXED<br>MOBILE except aeronautical mobile 5.316B 5.317A<br>BROADCASTING | | | 793-805 | 793-805<br>FIXED<br>MOBILE<br><br>NG158 NG159 | Public Safety Land Mobile (90R) |
| | | | 805-806 | 805-806<br>FIXED<br>MOBILE<br>BROADCASTING<br><br>NG159 | Wireless Communications (27)<br>LPTV and TV Translator (74G) |
| | 806-890<br>FIXED<br>MOBILE 5.317A<br>BROADCASTING | | 806-809 | 806-809<br>LAND MOBILE | Public Safety Land Mobile (90S) |
| | | | 809-851 | 809-849<br>FIXED<br>LAND MOBILE | Public Mobile (22)<br>Private Land Mobile (90) |
| | | | | 849-851<br>AERONAUTICAL MOBILE | Public Mobile (22) |
| | | | 851-854 | 851-854<br>LAND MOBILE | Public Safety Land Mobile (90S) |
| 5.312 5.314 5.315 5.316<br>5.316A 5.319 | | | 854-890 | 854-894<br>FIXED<br>LAND MOBILE | Public Mobile (22)<br>Private Land Mobile (90) |
| 862-890<br>FIXED<br>MOBILE except aeronautical mobile 5.317A<br>BROADCASTING 5.322<br><br>5.319 5.323 | 5.317 5.318 | | | | |

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| 890-942<br>FIXED<br>MOBILE except aeronautical mobile 5.317A<br>BROADCASTING 5.322<br>Radiolocation | 890-902<br>FIXED<br>MOBILE except aeronautical mobile 5.317A<br>Radiolocation<br>5.318 5.325 | 890-942<br>FIXED<br>MOBILE 5.317A<br>BROADCASTING<br>Radiolocation | 890-902<br>US116 US268 G2 | US116 US268 | |
| | | | | 894-896<br>AERONAUTICAL MOBILE<br>US116 US268 | Public Mobile (22) |
| | | | | 896-901<br>FIXED<br>LAND MOBILE<br>US116 US268 | Private Land Mobile (90) |
| | | | | 901-902<br>FIXED<br>MOBILE<br>US116 US268 | Personal Communications (24) |
| | 902-928<br>FIXED<br>Amateur<br>Mobile except aeronautical mobile 5.325A<br>Radiolocation<br>5.150 5.325 5.326 | | 902-928<br>RADIOLOCATION G59<br>5.150 US218 US267 US275 G11 | 902-928<br>5.150 US218 US267 US275 | ISM Equipment (18)<br>Private Land Mobile (90)<br>Amateur Radio (97) |
| | 928-942<br>FIXED<br>MOBILE except aeronautical mobile 5.317A<br>Radiolocation | | 928-932<br>US116 US268 G2 | 928-929<br>FIXED<br>US116 US268 NG120 | Public Mobile (22)<br>Private Land Mobile (90)<br>Fixed Microwave (101) |
| | | | | 929-930<br>FIXED<br>LAND MOBILE<br>US116 US268 | Private Land Mobile (90) |
| | | | | 930-931<br>FIXED<br>MOBILE<br>US116 US268 | Personal Communications (24) |
| | | | | 931-932<br>FIXED<br>LAND MOBILE<br>US116 US268 | Public Mobile (22) |
| | | | 932-935<br>FIXED<br>US268 G2 | 932-935<br>FIXED<br>US268 NG120 | Public Mobile (22)<br>Fixed Microwave (101) |
| | | | 935-941<br>US116 US268 G2 | 935-940<br>FIXED<br>LAND MOBILE<br>US116 US268 | Private Land Mobile (90) |
| | | | | 940-941<br>FIXED<br>MOBILE<br>US116 US268 | Personal Communications (24) |
| 5.323 | 5.325 | 5.327 | | | |

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| 942-960<br>FIXED<br>MOBILE except aeronautical mobile 5.317A<br>BROADCASTING 5.322<br><br>5.323 | 942-960<br>FIXED<br>MOBILE 5.317A | 942-960<br>FIXED<br>MOBILE 5.317A<br>BROADCASTING<br><br>5.320 | 944-960 | 944-960<br>FIXED<br><br>NG120 | Public Mobile (22)<br>Aural Broadcast Auxiliary (74E)<br>Low Power Auxiliary (74H)<br>Fixed Microwave (101) |
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| 5.149 5.338 5.338A 5.339 | 5.149 5.334 5.339 | 1390-1395<br>5.339 US37 US342 US385 US398 | 1390-1392<br>FIXED<br>MOBILE except aeronautical mobile<br>Fixed-satellite (Earth-to-space) US368<br>5.339 US37 US342 US385 US398<br>1392-1395<br>FIXED<br>MOBILE except aeronautical mobile<br>5.339 US37 US342 US385 US398 | Wireless Communications (27) |
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| 1427-1429<br>SPACE OPERATION (Earth-to-space)<br>FIXED<br>MOBILE except aeronautical mobile<br>5.338A 5.341 | | 1427-1429.5<br>LAND MOBILE (medical telemetry and medical telecommand) US350<br>5.341 US37 US398 | 1427-1429.5<br>LAND MOBILE (telemetry and telecommand)<br>Fixed (telemetry)<br>5.341 US37 US350 US398 | Private Land Mobile (90)<br>Personal Radio (95) |
| 1429-1452<br>FIXED<br>MOBILE except aeronautical mobile<br>5.338A 5.341 5.342 | 1429-1452<br>FIXED<br>MOBILE 5.343<br>5.338A 5.341 | 1429.5-1432<br>5.341 US37 US350 US398 | 1429.5-1430<br>FIXED (telemetry and telecommand)<br>LAND MOBILE (telemetry and telecommand)<br>5.341 US37 US350 US398<br>1430-1432<br>FIXED (telemetry and telecommand)<br>LAND MOBILE (telemetry and telecommand)<br>Fixed-satellite (space-to-Earth) US368<br>5.341 US37 US350 US398 | |
| | | 1432-1435<br>5.341 US361 | 1432-1435<br>FIXED<br>MOBILE except aeronautical mobile<br>5.341 US361 | Wireless Communications (27) |
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| 1518-1525<br>FIXED<br>MOBILE except aeronautical mobile<br>MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A<br>5.341 5.342 | 1518-1525<br>FIXED<br>MOBILE 5.343<br>MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A<br>5.341 5.344 | 1518-1525<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A<br>5.341 | | | |
| 1525-1530<br>SPACE OPERATION (space-to-Earth)<br>FIXED<br>MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A<br>Earth exploration-satellite<br>Mobile except aeronautical mobile 5.349<br>5.341 5.342 5.350 5.351 5.352A 5.354 | 1525-1530<br>SPACE OPERATION (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A<br>Earth exploration-satellite<br>Fixed<br>Mobile 5.343<br>5.341 5.351 5.354 | 1525-1530<br>SPACE OPERATION (space-to-Earth)<br>FIXED<br>MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A<br>Earth exploration-satellite<br>Mobile 5.349<br>5.341 5.351 5.352A 5.354 | 1525-1535<br>MOBILE-SATELLITE (space-to-Earth) US315 US380<br>5.341 5.351 | | Satellite Communications (25)<br>Maritime (80) |
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| 1535-1559<br>MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A<br>5.341 5.351 5.353A 5.354 5.355 5.356 5.357 5.357A 5.359 5.362A | | | 1535-1559<br>MOBILE-SATELLITE (space-to-Earth) US308 US309 US315 US380<br>5.341 5.351 5.356 | | Satellite Communications (25)<br>Maritime (80)<br>Aviation (87) |
| 1559-1610<br>AERONAUTICAL RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.208B 5.328B 5.329A<br>5.341 5.362B 5.362C | | | 1559-1610<br>AERONAUTICAL RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space)<br>5.341 US208 US260 US343 | | Aviation (87) |
| 1610-1610.6<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>AERONAUTICAL RADIONAVIGATION<br>5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.371 5.372 | 1610-1610.6<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>AERONAUTICAL RADIONAVIGATION<br>RADIODETERMINATION-SATELLITE (Earth-to-space)<br>5.341 5.364 5.366 5.367 5.368 5.370 5.372 | 1610-1610.6<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>AERONAUTICAL RADIONAVIGATION<br>Radiodetermination-satellite (Earth-to-space)<br>5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372 | 1610-1610.6<br>MOBILE-SATELLITE (Earth-to-space) US319 US380<br>AERONAUTICAL RADIONAVIGATION US260<br>RADIODETERMINATION-SATELLITE (Earth-to-space)<br>5.341 5.364 5.366 5.367 5.368 5.372 US208 | | Satellite Communications (25)<br>Aviation (87) |

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| 1610.6-1613.8<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>RADIO ASTRONOMY<br>AERONAUTICAL RADIONAVIGATION<br><br>5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.371 5.372 | 1610.6-1613.8<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>RADIO ASTRONOMY<br>AERONAUTICAL RADIONAVIGATION<br>RADIODETERMINATION-SATELLITE (Earth-to-space)<br><br>5.149 5.341 5.364 5.366 5.367 5.368 5.370 5.372 | 1610.6-1613.8<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>RADIO ASTRONOMY<br>AERONAUTICAL RADIONAVIGATION<br>Radiodetermination-satellite (Earth-to-space)<br><br>5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372 | 1610.6-1613.8<br>MOBILE-SATELLITE (Earth-to-space) US319 US380<br>RADIO ASTRONOMY<br>AERONAUTICAL RADIONAVIGATION US260<br>RADIODETERMINATION-SATELLITE (Earth-to-space)<br><br>5.341 5.364 5.366 5.367 5.368 5.372 US208 US342 | |
| 1613.8-1626.5<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>AERONAUTICAL RADIONAVIGATION<br>Mobile-satellite (space-to-Earth) 5.208B<br><br>5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.371 5.372 | 1613.8-1626.5<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>AERONAUTICAL RADIONAVIGATION<br>RADIODETERMINATION-SATELLITE (Earth-to-space)<br>Mobile-satellite (space-to-Earth) 5.208B<br><br>5.341 5.364 5.365 5.366 5.367 5.368 5.370 5.372 | 1613.8-1626.5<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>AERONAUTICAL RADIONAVIGATION<br>Mobile-satellite (space-to-Earth) 5.208B<br>Radiodetermination-satellite (Earth-to-space)<br><br>5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.372 | 1613.8-1626.5<br>MOBILE-SATELLITE (Earth-to-space) US319 US380<br>AERONAUTICAL RADIONAVIGATION US260<br>RADIODETERMINATION-SATELLITE (Earth-to-space)<br>Mobile-satellite (space-to-Earth)<br><br>5.341 5.364 5.365 5.366 5.367 5.368 5.372 US208 | |
| 1626.5-1660<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br><br>5.341 5.351 5.353A 5.354 5.355 5.357A 5.359 5.362A 5.374 5.375 5.376 | | | 1626.5-1660<br>MOBILE-SATELLITE (Earth-to-space) US308 US309 US315 US380<br><br>5.341 5.351 5.375 | Satellite Communications (25)<br>Maritime (80)<br>Aviation (87) |
| 1660-1660.5<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br>RADIO ASTRONOMY<br><br>5.149 5.341 5.351 5.354 5.362A 5.376A | | | 1660-1660.5<br>MOBILE-SATELLITE (Earth-to-space) US308 US309 US380<br>RADIO ASTRONOMY<br><br>5.341 5.351 US342 | Satellite Communications (25)<br>Aviation (87) |
| 1660.5-1668<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>Fixed<br>Mobile except aeronautical mobile<br><br>5.149 5.341 5.379 5.379A | | | 1660.5-1668.4<br>RADIO ASTRONOMY US74<br>SPACE RESEARCH (passive)<br><br>5.341 US246 | |
| 1668-1668.4<br>MOBILE-SATELLITE (Earth-to-space) 5.351A 5.379B 5.379C<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>Fixed<br>Mobile except aeronautical mobile<br><br>5.149 5.341 5.379 5.379A | | | | |
| 1668.4-1670<br>METEOROLOGICAL AIDS<br>FIXED<br>MOBILE except aeronautical mobile<br>MOBILE-SATELLITE (Earth-to-space) 5.351A 5.379B 5.379C<br>RADIO ASTRONOMY<br><br>5.149 5.341 5.379D 5.379E | | | 1668.4-1670<br>METEOROLOGICAL AIDS (radiosonde)<br>RADIO ASTRONOMY US74<br><br>5.341 US99 US342 | |

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| International Table | | | United States Table | | FCC Rule Part(s) |
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| 1670-1675<br>METEOROLOGICAL AIDS<br>FIXED<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space) 5.351A 5.379B<br>5.341 5.379D 5.379E 5.380A | | | 1670-1675<br>5.341 US211 US362 | 1670-1675<br>FIXED<br>MOBILE except aeronautical mobile<br>5.341 US211 US362 | Wireless Communications (27) |
| 1675-1690<br>METEOROLOGICAL AIDS<br>FIXED<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br>5.341 | | | 1675-1700<br>METEOROLOGICAL AIDS (radiosonde)<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>5.289 5.341 US211 | | |
| 1690-1700<br>METEOROLOGICAL AIDS<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>Fixed<br>Mobile except aeronautical mobile<br>5.289 5.341 5.382 | 1690-1700<br>METEOROLOGICAL AIDS<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>5.289 5.341 5.381 | | | | |
| 1700-1710<br>FIXED<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br>5.289 5.341 | | 1700-1710<br>FIXED<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br>5.289 5.341 5.384 | 1700-1710<br>FIXED G118<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>5.289 5.341 | 1700-1710<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>Fixed<br>5.289 5.341 | |
| 1710-1930<br>FIXED<br>MOBILE 5.384A 5.388A 5.388B<br>5.149 5.341 5.385 5.386 5.387 5.388 | | | 1710-1755<br>5.341 US378 US385 | 1710-1755<br>FIXED<br>MOBILE<br>5.341 US378 US385 | Wireless Communications (27) |
| | | | 1755-1850<br>FIXED<br>MOBILE<br>SPACE OPERATION (Earth-to-space) G42 | 1755-1850 | |
| 1930-1970<br>FIXED<br>MOBILE 5.388A 5.388B<br>5.388 | 1930-1970<br>FIXED<br>MOBILE 5.388A 5.388B<br>Mobile-satellite (Earth-to-space)<br>5.388 | 1930-1970<br>FIXED<br>MOBILE 5.388A 5.388B<br>5.388 | 1850-1980 | 1850-2000<br>FIXED<br>MOBILE | RF Devices (15)<br>Personal Communications (24)<br>Fixed Microwave (101) |
| 1970-1980<br>FIXED<br>MOBILE 5.388A 5.388B<br>5.388 | | | | | |

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|---|---|---|---|---|---|
| 1980-2010<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space) 5.351A<br><br>5.388 5.389A 5.389B 5.389F | | | 1980-2025 | NG177 | |
| | | | | 2000-2020<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE<br>(Earth-to-space) | Satellite Communications (25) |
| 2010-2025<br>FIXED<br>MOBILE 5.388A 5.388B<br><br>5.388 | 2010-2025<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br><br>5.388 5.389C 5.389E | 2010-2025<br>FIXED<br>MOBILE 5.388A 5.388B<br><br>5.388 | | 2020-2025<br>FIXED<br>MOBILE<br><br>NG177 | |
| 2025-2110<br>SPACE OPERATION (Earth-to-space) (space-to-space)<br>EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space)<br>FIXED<br>MOBILE 5.391<br>SPACE RESEARCH (Earth-to-space) (space-to-space)<br><br>5.392 | | | 2025-2110<br>SPACE OPERATION<br>(Earth-to-space) (space-to-space)<br>EARTH EXPLORATION-SATELLITE<br>(Earth-to-space) (space-to-space)<br>SPACE RESEARCH<br>(Earth-to-space) (space-to-space)<br><br>5.391 5.392 US90 US222 US346<br>US347 US393 | 2025-2110<br>FIXED NG118<br>MOBILE 5.391<br><br>5.392 US90 US222 US346<br>US347 US393 | TV Auxiliary Broadcasting (74F)<br>Cable TV Relay (78)<br>Local TV Transmission (101J) |
| 2110-2120<br>FIXED<br>MOBILE 5.388A 5.388B<br>SPACE RESEARCH (deep space) (Earth-to-space)<br><br>5.388 | | | 2110-2120<br><br>US252 | 2110-2120<br>FIXED<br>MOBILE<br><br>US252 | Public Mobile (22)<br>Wireless Communications (27)<br>Fixed Microwave (101) |
| 2120-2170<br>FIXED<br>MOBILE 5.388A 5.388B<br><br>5.388 | 2120-2160<br>FIXED<br>MOBILE 5.388A 5.388B<br>Mobile-satellite (space-to-Earth)<br><br>5.388<br>2160-2170<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth)<br><br>5.388 5.389C 5.389E | 2120-2170<br>FIXED<br>MOBILE 5.388A 5.388B<br><br>5.388 | 2120-2200 | 2120-2180<br>FIXED<br>MOBILE<br><br>NG153 NG178 | |
| 2170-2200<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth) 5.351A<br><br>5.388 5.389A 5.389F | | | | 2180-2200<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE<br>(space-to-Earth)<br><br>NG168 | Satellite Communications (25)<br><br>Page 36 |

| Table of Frequency Allocations | | | 2200-2655 MHz (UHF) | | Page 37 |
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| 2200-2290<br>SPACE OPERATION (space-to-Earth) (space-to-space)<br>EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space)<br>FIXED<br>MOBILE 5.391<br>SPACE RESEARCH (space-to-Earth) (space-to-space)<br>5.392 | | | 2200-2290<br>SPACE OPERATION (space-to-Earth) (space-to-space)<br>EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space)<br>FIXED (line-of-sight only)<br>MOBILE (line-of-sight only including aeronautical telemetry, but excluding flight testing of manned aircraft) 5.391<br>SPACE RESEARCH (space-to-Earth) (space-to-space)<br>5.392 US303 | 2200-2290<br>US303 | |
| 2290-2300<br>FIXED<br>MOBILE except aeronautical mobile<br>SPACE RESEARCH (deep space) (space-to-Earth) | | | 2290-2300<br>FIXED<br>MOBILE except aeronautical mobile<br>SPACE RESEARCH (deep space) (space-to-Earth) | 2290-2300<br>SPACE RESEARCH (deep space) (space-to-Earth) | |
| 2300-2450<br>FIXED<br>MOBILE 5.384A<br>Amateur<br>Radiolocation | 2300-2450<br>FIXED<br>MOBILE 5.384A<br>RADIOLOCATION<br>Amateur | | 2300-2305<br>G122 | 2300-2305<br>Amateur | Amateur Radio (97) |
| | | | 2305-2310<br>US338 G122 | 2305-2310<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIOLOCATION<br>Amateur<br>US338 | Wireless Communications (27)<br>Amateur Radio (97) |
| | | | 2310-2320<br>Fixed<br>Mobile US339<br>Radiolocation G2<br>US327 | 2310-2320<br>FIXED<br>MOBILE US339<br>BROADCASTING-SATELLITE<br>RADIOLOCATION<br>5.396 US327 | Wireless Communications (27)<br>Aviation (87) |
| | | | 2320-2345<br>Fixed<br>Radiolocation G2<br>US327 | 2320-2345<br>BROADCASTING-SATELLITE<br>5.396 US327 | Satellite Communications (25) |
| | | | 2345-2360<br>Fixed<br>Mobile US339<br>Radiolocation G2<br>US327 | 2345-2360<br>FIXED<br>MOBILE US339<br>BROADCASTING-SATELLITE<br>RADIOLOCATION<br>5.396 US327 | Wireless Communications (27)<br>Aviation (87) |
| | | | 2360-2390<br>MOBILE US276<br>RADIOLOCATION G2 G120<br>Fixed | 2360-2390<br>MOBILE US276 | Aviation (87) |

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|---|---|---|---|---|---|
| | | | 2390-2395<br>MOBILE US276 | 2390-2395<br>AMATEUR<br>MOBILE US276 | Aviation (87)<br>Amateur Radio (97) |
| | | | 2395-2400<br>G122 | 2395-2400<br>AMATEUR | Amateur Radio (97) |
| | | | 2400-2417<br>5.150 G122 | 2400-2417<br>AMATEUR<br>5.150 5.282 | ISM Equipment (18)<br>Amateur Radio (97) |
| 5.150 5.282 5.395 | 5.150 5.282 5.393 5.394 5.396 | | 2417-2450<br>Radiolocation G2<br>5.150 | 2417-2450<br>Amateur<br>5.150 5.282 | |
| 2450-2483.5<br>FIXED<br>MOBILE<br>Radiolocation<br>5.150 5.397 | 2450-2483.5<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>5.150 | | 2450-2483.5<br>5.150 US41 | 2450-2483.5<br>FIXED<br>MOBILE<br>Radiolocation<br>5.150 US41 | ISM Equipment (18)<br>TV Auxiliary Broadcasting (74F)<br>Private Land Mobile (90)<br>Fixed Microwave (101) |
| 2483.5-2500<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth) 5.351A<br>Radiolocation<br>5.150 5.371 5.397 5.398 5.399 5.400 5.402 | 2483.5-2500<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth) 5.351A<br>RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398<br>RADIOLOCATION<br>5.150 5.402 | 2483.5-2500<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth) 5.351A<br>RADIOLOCATION<br>Radiodetermination-satellite (space-to-Earth) 5.398<br>5.150 5.400 5.402 | 2483.5-2500<br>MOBILE-SATELLITE (space-to-Earth) US319 US380 US391<br>RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398<br>5.150 5.402 US41 | 2483.5-2495<br>MOBILE-SATELLITE (space-to-Earth) US380<br>RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398<br>5.150 5.402 US41 US319 NG147 | ISM Equipment (18)<br>Satellite Communications (25) |
| | | | | 2495-2500<br>FIXED<br>MOBILE except aeronautical mobile<br>MOBILE-SATELLITE (space-to-Earth) US380<br>RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398<br>5.150 5.402 US41 US319 US391 NG147 | ISM Equipment (18)<br>Satellite Communications (25)<br>Wireless Communications (27) |
| 2500-2520<br>FIXED 5.410<br>MOBILE except aeronautical mobile 5.384A<br>5.405 5.412 | 2500-2520<br>FIXED 5.410<br>FIXED-SATELLITE (space-to-Earth) 5.415<br>MOBILE except aeronautical mobile 5.384A<br>5.404 | 2500-2520<br>FIXED 5.410<br>FIXED-SATELLITE (space-to-Earth) 5.415<br>MOBILE except aeronautical mobile 5.384A<br>MOBILE-SATELLITE (space-to-Earth) 5.351A 5.407 5.414 5.414A<br>5.404 5.415A | 2500-2655<br>5.339 US205 | 2500-2655<br>FIXED US205<br>MOBILE except aeronautical mobile<br>5.339 | Wireless Communications (27) |
| 2520-2655<br>FIXED 5.410<br>MOBILE except aeronautical mobile 5.384A<br>BROADCASTING-SATELLITE 5.413 5.416<br>5.339 5.405 5.412 5.417C 5.417D 5.418B 5.418C | 2520-2655<br>FIXED 5.410<br>FIXED-SATELLITE (space-to-Earth) 5.415<br>MOBILE except aeronautical mobile 5.384A<br>BROADCASTING-SATELLITE 5.413 5.416<br>5.339 5.417C 5.417D 5.418B 5.418C | 2520-2535<br>FIXED 5.410<br>FIXED-SATELLITE (space-to-Earth) 5.415<br>MOBILE except aeronautical mobile 5.384A<br>BROADCASTING-SATELLITE 5.413 5.416<br>5.403 5.414A 5.415A<br>2535-2655<br>FIXED 5.410<br>MOBILE except aeronautical mobile 5.384A<br>BROADCASTING-SATELLITE 5.413 5.416<br>5.339 5.417A 5.417B 5.417C 5.417D 5.418 5.418A 5.418B 5.418C | | | |

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| 2655-2670<br>FIXED 5.410<br>MOBILE except aeronautical mobile 5.384A<br>BROADCASTING-SATELLITE 5.208B 5.413 5.416<br>Earth exploration-satellite (passive)<br>Radio astronomy<br>Space research (passive)<br>5.149 5.412 | 2655-2670<br>FIXED 5.410<br>FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.415<br>MOBILE except aeronautical mobile 5.384A<br>BROADCASTING-SATELLITE 5.413 5.416<br>Earth exploration-satellite (passive)<br>Radio astronomy<br>Space research (passive)<br>5.149 5.208B | 2655-2670<br>FIXED 5.410<br>FIXED-SATELLITE (Earth-to-space) 5.415<br>MOBILE except aeronautical mobile 5.384A<br>BROADCASTING-SATELLITE 5.413 5.416<br>Earth exploration-satellite (passive)<br>Radio astronomy<br>Space research (passive)<br>5.149 5.208B 5.420 | 2655-2690<br>Earth exploration-satellite (passive)<br>Radio astronomy US385<br>Space research (passive) | 2655-2690<br>FIXED US205<br>MOBILE except aeronautical mobile<br>Earth exploration-satellite (passive)<br>Radio astronomy<br>Space research (passive) | Wireless Communications (27) |
| 2670-2690<br>FIXED 5.410<br>MOBILE except aeronautical mobile 5.384A<br>Earth exploration-satellite (passive)<br>Radio astronomy<br>Space research (passive)<br>5.149 5.412 | 2670-2690<br>FIXED 5.410<br>FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.208B 5.415<br>MOBILE except aeronautical mobile 5.384A<br>Earth exploration-satellite (passive)<br>Radio astronomy<br>Space research (passive)<br>5.149 | 2670-2690<br>FIXED 5.410<br>FIXED-SATELLITE (Earth-to-space) 5.415<br>MOBILE except aeronautical mobile 5.384A<br>MOBILE-SATELLITE (Earth-to-space) 5.351A 5.419<br>Earth exploration-satellite (passive)<br>Radio astronomy<br>Space research (passive)<br>5.149 | US205 | US385 | |
| 2690-2700<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>5.340 5.422 | | | 2690-2700<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY US74<br>SPACE RESEARCH (passive)<br>US246 | | |
| 2700-2900<br>AERONAUTICAL RADIONAVIGATION 5.337<br>Radiolocation<br>5.423 5.424 | | | 2700-2900<br>METEOROLOGICAL AIDS<br>AERONAUTICAL RADIONAVIGATION 5.337 US18<br>Radiolocation G2<br>5.423 G15 | 2700-2900<br>5.423 US18 | Aviation (87) |
| 2900-3100<br>RADIOLOCATION 5.424A<br>RADIONAVIGATION 5.426<br>5.425 5.427 | | | 2900-3100<br>RADIOLOCATION 5.424A G56<br>MARITIME RADIONAVIGATION<br>5.427 US44 US316 | 2900-3100<br>MARITIME RADIONAVIGATION<br>Radiolocation US44<br>5.427 US316 | Maritime (80)<br>Private Land Mobile (90) |
| 3100-3300<br>RADIOLOCATION<br>Earth exploration-satellite (active)<br>Space research (active)<br>5.149 5.428 | | | 3100-3300<br>RADIOLOCATION G59<br>Earth exploration-satellite (active)<br>Space research (active)<br>US342 | 3100-3300<br>Earth exploration-satellite (active)<br>Space research (active)<br>Radiolocation<br>US342 | Private Land Mobile (90) |

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|---|---|---|---|---|---|
| 3300-3400<br>RADIOLOCATION<br><br>5.149 5.429 5.430 | 3300-3400<br>RADIOLOCATION<br>Amateur<br>Fixed<br>Mobile<br>5.149 | 3300-3400<br>RADIOLOCATION<br>Amateur<br>5.149 5.429 | 3300-3500<br>RADIOLOCATION US108 G2<br><br>US342 | 3300-3500<br>Amateur<br>Radiolocation US108<br>5.282 US342 | Private Land Mobile (90)<br>Amateur Radio (97) |
| 3400-3600<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>Mobile 5.430A<br>Radiolocation | 3400-3500<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>Amateur<br>Mobile 5.431A<br>Radiolocation 5.433<br>5.282 | 3400-3500<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>Amateur<br>Mobile 5.432B<br>Radiolocation 5.433<br>5.282 5.432 5.432A | | | |
| 5.431 | 3500-3700<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br>Radiolocation 5.433 | 3500-3600<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br>5.433A<br>Radiolocation 5.433 | 3500-3650<br>RADIOLOCATION G59<br>AERONAUTICAL<br>RADIONAVIGATION<br>(ground-based) G110 | 3500-3600<br>Radiolocation | Private Land Mobile (90) |
| 3600-4200<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>Mobile | | 3600-3700<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br>Radiolocation 5.433<br>5.435 | US245<br>3650-3700<br>US348 US349 | 3600-3650<br>FIXED-SATELLITE<br>(space-to-Earth) US245<br>Radiolocation<br>3650-3700<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>NG169 NG185<br>MOBILE except aeronautical mobile<br>US348 US349 | Satellite<br>Communications (25)<br>Private Land Mobile (90) |
| | 3700-4200<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile | | 3700-4200 | 3700-4200<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>NG180 | Satellite<br>Communications (25)<br>Fixed Microwave (101) |
| 4200-4400<br>AERONAUTICAL RADIONAVIGATION 5.438<br>5.439 5.440 | | | 4200-4400<br>AERONAUTICAL RADIONAVIGATION<br>5.440 US261 | | Aviation (87) |
| 4400-4500<br>FIXED<br>MOBILE 5.440A | | | 4400-4500<br>FIXED<br>MOBILE | 4400-4500 | |
| 4500-4800<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.441<br>MOBILE 5.440A | | | 4500-4800<br>FIXED<br>MOBILE<br>US245 | 4500-4800<br>FIXED-SATELLITE (space-to-Earth)<br>5.441 US245 | |
| 4800-4990<br>FIXED<br>MOBILE 5.440A 5.442<br>Radio astronomy | | | 4800-4940<br>FIXED<br>MOBILE<br>US203 US342 | 4800-4940<br>US203 US342 | |
| 5.149 5.339 5.443 | | | 4940-4990<br>5.339 US342 US385 G122 | 4940-4990<br>FIXED<br>MOBILE except aeronautical mobile<br>5.339 US342 US385 | Public Safety Land Mobile<br>(90Y) |

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| 4990-5000<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIO ASTRONOMY<br>Space research (passive)<br>5.149 | | | 4990-5000<br>RADIO ASTRONOMY US74<br>Space research (passive)<br>US246 | | |
| 5000-5010<br>AERONAUTICAL RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE (Earth-to-space)<br>5.367 | | | 5000-5010<br>AERONAUTICAL RADIONAVIGATION US260<br>RADIONAVIGATION-SATELLITE (Earth-to-space)<br>5.367 US211 | | Aviation (87) |
| 5010-5030<br>AERONAUTICAL RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.443B<br>5.367 | | | 5010-5030<br>AERONAUTICAL RADIONAVIGATION US260<br>RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.443B<br>5.367 US211 | | |
| 5030-5091<br>AERONAUTICAL RADIONAVIGATION<br>5.367 5.444 | | | 5030-5091<br>AERONAUTICAL RADIONAVIGATION US260<br>5.367 US211 US444 | | |
| 5091-5150<br>AERONAUTICAL RADIONAVIGATION<br>AERONAUTICAL MOBILE 5.444B<br>5.367 5.444 5.444A | | | 5091-5150<br>AERONAUTICAL RADIONAVIGATION US260<br>5.367 US211 US344 US444 US444A | | Satellite Communications (25)<br>Aviation (87) |
| 5150-5250<br>AERONAUTICAL RADIONAVIGATION<br>FIXED-SATELLITE (Earth-to-space) 5.447A<br>MOBILE except aeronautical mobile 5.446A 5.446B<br>5.446 5.446C 5.447 5.447B 5.447C | | | 5150-5250<br>AERONAUTICAL RADIONAVIGATION US260<br>US211 US307 US344 | 5150-5250<br>AERONAUTICAL RADIONAVIGATION US260<br>FIXED-SATELLITE (Earth-to-space) 5.447A US344<br>5.447C US211 US307 | RF Devices (15)<br>Satellite Communications (25)<br>Aviation (87) |
| 5250-5255<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION<br>SPACE RESEARCH 5.447D<br>MOBILE except aeronautical mobile 5.446A 5.447F<br>5.447E 5.448 5.448A | | | 5250-5255<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION G59<br>SPACE RESEARCH (active) 5.447D<br>5.448A | 5250-5255<br>Earth exploration-satellite (active)<br>Radiolocation<br>Space research | RF Devices (15)<br>Private Land Mobile (90) |
| 5255-5350<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION<br>SPACE RESEARCH (active)<br>MOBILE except aeronautical mobile 5.446A 5.447F<br>5.447E 5.448 5.448A | | | 5255-5350<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION G59<br>SPACE RESEARCH (active)<br>5.448A | 5255-5350<br>Earth exploration-satellite (active)<br>Radiolocation<br>Space research (active)<br>5.448A | |
| 5350-5460<br>EARTH EXPLORATION-SATELLITE (active) 5.448B<br>SPACE RESEARCH (active) 5.448C<br>AERONAUTICAL RADIONAVIGATION 5.449<br>RADIOLOCATION 5.448D | | | 5350-5460<br>EARTH EXPLORATION-SATELLITE (active) 5.448B<br>SPACE RESEARCH (active)<br>AERONAUTICAL RADIONAVIGATION 5.449<br>RADIOLOCATION G56<br>US390 G130 | 5350-5460<br>AERONAUTICAL RADIONAVIGATION 5.449<br>Earth exploration-satellite (active) 5.448B<br>Space research (active)<br>Radiolocation<br>US390 | Aviation (87)<br>Private Land Mobile (90) |

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| 5460-5470<br>RADIONAVIGATION 5.449<br>EARTH EXPLORATION-SATELLITE (active)<br>SPACE RESEARCH (active)<br>RADIOLOCATION 5.448D<br><br>5.448B | | | 5460-5470<br>RADIONAVIGATION 5.449 US65<br>EARTH EXPLORATION-SATELLITE (active)<br>SPACE RESEARCH (active)<br>RADIOLOCATION G56<br><br>5.448B US49 G130 | 5460-5470<br>RADIONAVIGATION 5.449 US65<br>Earth exploration-satellite (active)<br>Space research (active)<br>Radiolocation<br><br>5.448B US49 | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 5470-5570<br>MARITIME RADIONAVIGATION<br>MOBILE except aeronautical mobile 5.446A 5.450A<br>EARTH EXPLORATION-SATELLITE (active)<br>SPACE RESEARCH (active)<br>RADIOLOCATION 5.450B<br><br>5.448B 5.450 5.451 | | | 5470-5570<br>MARITIME RADIONAVIGATION US65<br>EARTH EXPLORATION-SATELLITE (active)<br>SPACE RESEARCH (active)<br>RADIOLOCATION G56<br><br>5.448B US50 G131 | 5470-5570<br>MARITIME RADIONAVIGATION US65<br>RADIOLOCATION<br>Earth exploration-satellite (active)<br>Space research (active)<br><br>US50 | RF Devices (15)<br>Maritime (80)<br>Private Land Mobile (90) |
| 5570-5650<br>MARITIME RADIONAVIGATION<br>MOBILE except aeronautical mobile 5.446A 5.450A<br>RADIOLOCATION 5.450B<br><br>5.450 5.451 5.452 | | | 5570-5600<br>MARITIME RADIONAVIGATION US65<br>RADIOLOCATION G56<br><br>US50 G131 | 5570-5600<br>MARITIME RADIONAVIGATION US65<br>RADIOLOCATION<br><br>US50 | |
| | | | 5600-5650<br>MARITIME RADIONAVIGATION US65<br>METEOROLOGICAL AIDS<br>RADIOLOCATION G56<br><br>5.452 US50 G131 | 5600-5650<br>MARITIME RADIONAVIGATION US65<br>METEOROLOGICAL AIDS<br>RADIOLOCATION<br><br>5.452 US50 | |
| 5650-5725<br>MOBILE except aeronautical mobile 5.446A 5.450A<br>RADIOLOCATION<br>Amateur<br>Space research (deep space)<br><br>5.282 5.451 5.453 5.454 5.455 | | | 5650-5925<br>RADIOLOCATION G2<br><br>5.150 US245 | 5650-5830<br>Amateur<br><br>5.150 5.282 | RF Devices (15)<br>ISM Equipment (18)<br>Amateur Radio (97) |
| 5725-5830<br>FIXED-SATELLITE (Earth-to-space)<br>RADIOLOCATION<br>Amateur<br><br>5.150 5.451 5.453 5.455 5.456 | 5725-5830<br>RADIOLOCATION<br>Amateur<br><br>5.150 5.453 5.455 | | | | |
| 5830-5850<br>FIXED-SATELLITE (Earth-to-space)<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite (space-to-Earth)<br><br>5.150 5.451 5.453 5.455 5.456 | 5830-5850<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite (space-to-Earth)<br><br>5.150 5.453 5.455 | | | 5830-5850<br>Amateur<br>Amateur-satellite (space-to-Earth)<br><br>5.150 | |
| 5850-5925<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br><br>5.150 | 5850-5925<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br>Amateur<br>Radiolocation<br><br>5.150 | 5850-5925<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br>Radiolocation<br><br>5.150 | | 5850-5925<br>FIXED-SATELLITE (Earth-to-space) US245<br>MOBILE NG160<br>Amateur<br><br>5.150 | ISM Equipment (18)<br>Private Land Mobile (90)<br>Personal Radio (95)<br>Amateur Radio (97) |

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| 5925-6700<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B<br>MOBILE 5.457C<br><br>5.149 5.440 5.458 | | | 5925-6425<br><br>6425-6525<br><br>5.440 5.458 | 5925-6425<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) NG181<br>6425-6525<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br>5.440 5.458 | Satellite Communications (25)<br>Fixed Microwave (101)<br>TV Broadcast Auxiliary (74F)<br>Cable TV Relay (78)<br>Fixed Microwave (101) | |
| | | | 6525-6700<br><br>5.458 US342 | 6525-6700<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>5.458 US342 | Fixed Microwave (101) | |
| 6700-7075<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441<br>MOBILE<br><br>5.458 5.458A 5.458B 5.458C | | | 6700-7125 | 6700-6875<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441<br>5.458 5.458A 5.458B | Satellite Communications (25)<br>Fixed Microwave (101) | |
| | | | | 6875-7025<br>FIXED NG118<br>FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441<br>MOBILE NG171<br>5.458 5.458A 5.458B | Satellite Communications (25)<br>TV Broadcast Auxiliary (74F)<br>Cable TV Relay (78) | |
| | | | | 7025-7075<br>FIXED NG118<br>FIXED-SATELLITE (Earth-to-space) NG172<br>MOBILE NG171<br>5.458 5.458A 5.458B | TV Broadcast Auxiliary (74F)<br>Cable TV Relay (78) | |
| 7075-7145<br>FIXED<br>MOBILE<br><br>5.458 5.459 | | | 5.458<br>7125-7145<br>FIXED<br>5.458 G116 | 7075-7125<br>FIXED NG118<br>MOBILE NG171<br>5.458<br>7125-7235 | | |
| 7145-7235<br>FIXED<br>MOBILE<br>SPACE RESEARCH (Earth-to-space) 5.460<br><br>5.458 5.459 | | | 7145-7190<br>FIXED<br>SPACE RESEARCH (deep space) (Earth-to-space) US262<br>5.458 G116<br>7190-7235<br>FIXED<br>SPACE RESEARCH (Earth-to-space) G133<br>5.458 G134 | 5.458 US262 | | |

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| 7235-7250<br>FIXED<br>MOBILE<br><br>5.458 | 7235-7250<br>FIXED<br><br>5.458 | 7235-7250<br><br>5.458 | |
| 7250-7300<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE<br><br>5.461 | 7250-7300<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth)<br>Fixed<br><br>G117 | 7250-8025 | |
| 7300-7450<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br><br>5.461 | 7300-7450<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>Mobile-satellite (space-to-Earth)<br><br>G117 | | |
| 7450-7550<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br><br>5.461A | 7450-7550<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br>Mobile-satellite (space-to-Earth)<br><br>G104 G117 | | |
| 7550-7750<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile | 7550-7750<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>Mobile-satellite (space-to-Earth)<br><br>G117 | | |
| 7750-7850<br>FIXED<br>METEOROLOGICAL-SATELLITE (space-to-Earth) 5.461B<br>MOBILE except aeronautical mobile | 7750-7850<br>FIXED<br>METEOROLOGICAL-SATELLITE (space-to-Earth)<br><br>5.461B | | |
| 7850-7900<br>FIXED<br>MOBILE except aeronautical mobile | 7850-7900<br>FIXED | | |
| 7900-8025<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br><br>5.461 | 7900-8025<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE-SATELLITE (Earth-to-space)<br>Fixed<br><br>G117 | | Page 44 |

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| 8025-8175<br>EARTH EXPLORATION-SATELLITE (space-to-Earth)<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE 5.463<br><br>5.462A | | | 8025-8175<br>EARTH EXPLORATION-SATELLITE (space-to-Earth)<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>Mobile-satellite (Earth-to-space) (no airborne transmissions)<br><br>US258 G117 | 8025-8400 | |
| 8175-8215<br>EARTH EXPLORATION-SATELLITE (space-to-Earth)<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>METEOROLOGICAL-SATELLITE (Earth-to-space)<br>MOBILE 5.463<br><br>5.462A | | | 8175-8215<br>EARTH EXPLORATION-SATELLITE (space-to-Earth)<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>METEOROLOGICAL-SATELLITE (Earth-to-space)<br>Mobile-satellite (Earth-to-space) (no airborne transmissions)<br><br>US258 G104 G117 | | |
| 8215-8400<br>EARTH EXPLORATION-SATELLITE (space-to-Earth)<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE 5.463<br><br>5.462A | | | 8215-8400<br>EARTH EXPLORATION-SATELLITE (space-to-Earth)<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>Mobile-satellite (Earth-to-space) (no airborne transmissions)<br><br>US258 G117 | US258 | |
| 8400-8500<br>FIXED<br>MOBILE except aeronautical mobile<br>SPACE RESEARCH (space-to-Earth) 5.465 5.466 | | | 8400-8450<br>FIXED<br>SPACE RESEARCH (deep space) (space-to-Earth) | 8400-8450<br>Space research (deep space) (space-to-Earth) | |
| | | | 8450-8500<br>FIXED<br>SPACE RESEARCH (space-to-Earth) | 8450-8500<br>SPACE RESEARCH (space-to-Earth) | |
| 8500-8550<br>RADIOLOCATION<br><br>5.468 5.469 | | | 8500-8550<br>RADIOLOCATION G59 | 8500-8550<br>Radiolocation | Private Land Mobile (90) |
| 8550-8650<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION<br>SPACE RESEARCH (active)<br><br>5.468 5.469 5.469A | | | 8550-8650<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION G59<br>SPACE RESEARCH (active) | 8550-8650<br>Earth exploration-satellite (active)<br>Radiolocation<br>Space research (active) | |

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| 8650-8750<br>RADIOLOCATION<br><br>5.468 5.469 | 8650-9000<br>RADIOLOCATION G59<br><br><br>

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| 10-10.45<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>Amateur<br>5.479 | 10-10.45<br>RADIOLOCATION<br>Amateur<br>5.479 5.480 | 10-10.45<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>Amateur<br>5.479 | 10-10.45<br>RADIOLOCATION US58<br>US108 G2<br>5.479 | 10-10.45<br>Amateur<br>Radiolocation US108<br>5.479 US58 NG42 | Private Land Mobile (90)<br>Amateur Radio (97) |
| 10.45-10.5<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite<br>5.481 | | | | 10.45-10.5<br>Amateur<br>Amateur-satellite<br>Radiolocation US108<br>US58 NG42 | |
| 10.5-10.55<br>FIXED<br>MOBILE<br>Radiolocation | 10.5-10.55<br>FIXED<br>MOBILE<br>RADIOLOCATION | | 10.5-10.55<br>RADIOLOCATION US59 | | Private Land Mobile (90) |
| 10.55-10.6<br>FIXED<br>MOBILE except aeronautical mobile<br>Radiolocation | | | 10.55-10.6 | 10.55-10.6<br>FIXED | Fixed Microwave (101) |
| 10.6-10.68<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>Radiolocation<br>5.149 5.482 5.482A | | | 10.6-10.68<br>EARTH EXPLORATION-SATELLITE (passive)<br>SPACE RESEARCH (passive)<br>US265 US277 | 10.6-10.68<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED US265<br>SPACE RESEARCH (passive)<br>US277 | |
| 10.68-10.7<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>5.340 5.483 | | | 10.68-10.7<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY US74<br>SPACE RESEARCH (passive)<br>US246 US355 | | |
| 10.7-11.7<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.441 5.484A (Earth-to-space) 5.484<br>MOBILE except aeronautical mobile | 10.7-11.7<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.441 5.484A<br>MOBILE except aeronautical mobile | | 10.7-11.7<br>US211 | 10.7-11.7<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.441 US211 US355 NG104 NG182 NG186 | Satellite Communications (25)<br>Fixed Microwave (101) |
| 11.7-12.5<br>FIXED<br>MOBILE except aeronautical mobile<br>BROADCASTING<br>BROADCASTING-SATELLITE 5.492 | 11.7-12.1<br>FIXED 5.486<br>FIXED-SATELLITE (space-to-Earth) 5.484A 5.488<br>Mobile except aeronautical mobile<br>5.485<br>12.1-12.2<br>FIXED-SATELLITE (space-to-Earth) 5.484A 5.488<br>5.485 5.489 | 11.7-12.2<br>FIXED<br>MOBILE except aeronautical mobile<br>BROADCASTING<br>BROADCASTING-SATELLITE 5.492<br>5.487 5.487A | 11.7-12.2 | 11.7-12.2<br>FIXED-SATELLITE (space-to-Earth) 5.485 5.488 NG143 NG183 NG187<br>NG184 | Satellite Communications (25) |

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| 5.487 5.487A | 12.2-12.7<br>FIXED<br>MOBILE except aeronautical mobile<br>BROADCASTING<br>BROADCASTING-SATELLITE 5.492<br><br>5.487A 5.488 5.490 | 12.2-12.5<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE except aeronautical mobile<br>BROADCASTING<br><br>5.484A 5.487 | 12.2-12.75 | 12.2-12.7<br>FIXED<br>BROADCASTING-SATELLITE<br><br>5.487A 5.488 5.490 | Satellite Communications (25)<br>Fixed Microwave (101) |
| 12.5-12.75<br>FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space)<br><br>5.494 5.495 5.496 | 12.7-12.75<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE except aeronautical mobile | 12.5-12.75<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.484A<br>MOBILE except aeronautical mobile<br>BROADCASTING-SATELLITE 5.493 | | 12.7-12.75<br>FIXED NG118<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE | TV Broadcast Auxiliary (74F)<br>Cable TV Relay (78)<br>Fixed Microwave (101) |
| 12.75-13.25<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.441<br>MOBILE<br>Space research (deep space) (space-to-Earth) | | | 12.75-13.25<br><br>US251 | 12.75-13.25<br>FIXED NG118<br>FIXED-SATELLITE (Earth-to-space) 5.441 NG104<br>MOBILE<br>US251 NG53 | Satellite Communications (25)<br>TV Broadcast Auxiliary (74F)<br>Cable TV Relay (78)<br>Fixed Microwave (101) |
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| 31-31.3<br>FIXED 5.338A 5.543A<br>MOBILE<br>Standard frequency and time signal-satellite (space-to-Earth)<br>Space research 5.544 5.545<br>5.149 | | | 31-31.3<br>Standard frequency and time signal-satellite (space-to-Earth)<br>US211 US342 | 31-31.3<br>FIXED<br>MOBILE<br>Standard frequency and time signal-satellite (space-to-Earth)<br>US211 US342 | Fixed Microwave (101) |
| 31.3-31.5<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>5.340 | | | 31.3-31.8<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY US74<br>SPACE RESEARCH (passive) | | |
| 31.5-31.8<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>Fixed<br>Mobile except aeronautical mobile<br>5.149 5.546 | 31.5-31.8<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>5.340 | 31.5-31.8<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>Fixed<br>Mobile except aeronautical mobile<br>5.149 | US246 | | |
| 31.8-32<br>FIXED 5.547A<br>RADIONAVIGATION<br>SPACE RESEARCH (deep space) (space-to-Earth)<br>5.547 5.547B 5.548 | | | 31.8-32.3<br>RADIONAVIGATION US69<br>SPACE RESEARCH (deep space) (space-to-Earth) US262 | 31.8-32.3<br>SPACE RESEARCH (deep space) (space-to-Earth) US262 | |
| 32-32.3<br>FIXED 5.547A<br>RADIONAVIGATION<br>SPACE RESEARCH (deep space) (space-to-Earth)<br>5.547 5.547C 5.548 | | | 5.548 US211 | 5.548 US211 | |
| 32.3-33<br>FIXED 5.547A<br>INTER-SATELLITE<br>RADIONAVIGATION<br>5.547 5.547D 5.548 | | | 32.3-33<br>INTER-SATELLITE US278<br>RADIONAVIGATION US69<br>5.548 | | Aviation (87) |
| 33-33.4<br>FIXED 5.547A<br>RADIONAVIGATION<br>5.547 5.547E | | | 33-33.4<br>RADIONAVIGATION US69<br>US360 G117 | | |

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| 33.4-34.2<br>RADIOLOCATION<br>5.549 | 33.4-34.2<br>RADIOLOCATION<br>US360 G117 | 33.4-34.2<br>Radiolocation<br>US360 | Private Land Mobile (90) |
| 34.2-34.7<br>RADIOLOCATION<br>SPACE RESEARCH (deep space) (Earth-to-space)<br>5.549 | 34.2-34.7<br>RADIOLOCATION<br>SPACE RESEARCH (deep space) (Earth-to-space) US262<br>US360 G34 G117 | 34.2-34.7<br>Radiolocation<br>Space research (deep space) (Earth-to-space) US262<br>US360 | |
| 34.7-35.2<br>RADIOLOCATION<br>Space research 5.550<br>5.549 | 34.7-35.5<br>RADIOLOCATION | 34.7-35.5<br>Radiolocation | |
| 35.2-35.5<br>METEOROLOGICAL AIDS<br>RADIOLOCATION<br>5.549 | US360 G117 | US360 | |
| 35.5-36<br>METEOROLOGICAL AIDS<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION<br>SPACE RESEARCH (active)<br>5.549 5.549A | 35.5-36<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION<br>SPACE RESEARCH (active)<br>US360 G117 | 35.5-36<br>Earth exploration-satellite (active)<br>Radiolocation<br>Space research (active)<br>US360 | |
| 36-37<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>MOBILE<br>SPACE RESEARCH (passive)<br>5.149 5.550A | 36-37<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>MOBILE<br>SPACE RESEARCH (passive)<br>US263 US342 | | |
| 37-37.5<br>FIXED<br>MOBILE<br>SPACE RESEARCH (space-to-Earth)<br>5.547 | 37-38<br>FIXED<br>MOBILE<br>SPACE RESEARCH (space-to-Earth) | 37-37.5<br>FIXED<br>MOBILE | |
| 37.5-38<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE<br>SPACE RESEARCH (space-to-Earth)<br>Earth exploration-satellite (space-to-Earth)<br>5.547 | | 37.5-38.6<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE | Satellite Communications (25) |
| 38-39.5<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE<br>Earth exploration-satellite (space-to-Earth)<br>5.547 | 38-38.6<br>FIXED<br>MOBILE<br>38.6-39.5 | 38.6-39.5<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE NG175 | Satellite Communications (25)<br>Fixed Microwave (101) |

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| 39.5-40<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.516B<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth)<br>Earth exploration-satellite (space-to-Earth)<br>5.547 | | | 39.5-40<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth) US382<br>G117 | 39.5-40<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE NG175<br>US382 | Satellite Communications (25)<br>Fixed Microwave (101) |
| 40-40.5<br>EARTH EXPLORATION-SATELLITE (Earth-to-space)<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.516B<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth)<br>SPACE RESEARCH (Earth-to-space)<br>Earth exploration-satellite (space-to-Earth) | | | 40-40.5<br>EARTH EXPLORATION-SATELLITE (Earth-to-space)<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth)<br>SPACE RESEARCH (Earth-to-space)<br>Earth exploration-satellite (space-to-Earth)<br>G117 | 40-40.5<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE-SATELLITE (space-to-Earth) | Satellite Communications (25) |
| 40.5-41<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>Mobile<br>5.547 | 40.5-41<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.516B<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>Mobile<br>Mobile-satellite (space-to-Earth)<br>5.547 | 40.5-41<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>Mobile<br>5.547 | 40.5-41<br>FIXED-SATELLITE (space-to-Earth)<br>Mobile-satellite (space-to-Earth)<br>US211 G117 | 40.5-41<br>FIXED-SATELLITE (space-to-Earth)<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>Fixed<br>Mobile<br>Mobile-satellite (space-to-Earth)<br>US211 | |
| 41-42.5<br>FIXED<br>FIXED-SATELLITE (space-to-Earth) 5.516B<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>Mobile<br>5.547 5.551F 5.551H 5.551I | | | 41-42.5<br>US211 | 41-42<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>US211 | |
| | | | | 42-42.5<br>FIXED<br>MOBILE<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>US211 | |
| 42.5-43.5<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.552<br>MOBILE except aeronautical mobile<br>RADIO ASTRONOMY<br>5.149 5.547 | | | 42.5-43.5<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE except aeronautical mobile<br>RADIO ASTRONOMY<br>US342 | 42.5-43.5<br>RADIO ASTRONOMY<br>US342 | |

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| 43.5-47<br>MOBILE 5.553<br>MOBILE-SATELLITE<br>RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE<br><br>5.554 | | 43.5-45.5<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE-SATELLITE (Earth-to-space)<br><br>G117 | 43.5-45.5 | |
| | | 45.5-46.9<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br>RADIONAVIGATION-SATELLITE<br><br>5.554 | | RF Devices (15) |
| | | 46.9-47<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br>RADIONAVIGATION-SATELLITE<br><br>5.554 | 46.9-47<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br>RADIONAVIGATION-SATELLITE<br><br>5.554 | |
| 47-47.2<br>AMATEUR<br>AMATEUR-SATELLITE | | 47-48.2 | 47-47.2<br>AMATEUR<br>AMATEUR-SATELLITE | Amateur Radio (97) |
| 47.2-47.5<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.552<br>MOBILE<br><br>5.552A | | | 47.2-48.2<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) US297<br>MOBILE | Satellite Communications (25) |
| 47.5-47.9<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.552 (space-to-Earth) 5.516B 5.554A<br>MOBILE | 47.5-47.9<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.552<br>MOBILE | | | |
| 47.9-48.2<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.552<br>MOBILE<br><br>5.552A | | | | |
| 48.2-48.54<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.552 (space-to-Earth) 5.516B 5.554A 5.555B<br>MOBILE | 48.2-50.2<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.338A 5.516B 5.552<br>MOBILE | 48.2-50.2<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) US297<br>MOBILE US264 | | |
| 48.54-49.44<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.552<br>MOBILE<br><br>5.149 5.340 5.555 | | | | |
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| 49.44-50.2<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>5.338A 5.552 (space-to-Earth)<br>5.516B 5.554A 5.555B<br>MOBILE | (See previous page) | | (See previous page) | | |
| 50.2-50.4<br>EARTH EXPLORATION-SATELLITE (passive)<br>SPACE RESEARCH (passive)<br><br>5.340 | | | 50.2-50.4<br>EARTH EXPLORATION-SATELLITE (passive)<br>SPACE RESEARCH (passive)<br><br>US246 | | |
| 50.4-51.4<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.338A<br>MOBILE<br>Mobile-satellite (Earth-to-space) | | | 50.4-51.4<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br><br>G117 | 50.4-51.4<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space) | |
| 51.4-52.6<br>FIXED 5.338A<br>MOBILE<br><br>5.547 5.556 | | | 51.4-52.6<br>FIXED<br>MOBILE | | |
| 52.6-54.25<br>EARTH EXPLORATION-SATELLITE (passive)<br>SPACE RESEARCH (passive)<br><br>5.340 5.556 | | | 52.6-54.25<br>EARTH EXPLORATION-SATELLITE (passive)<br>SPACE RESEARCH (passive)<br><br>US246 | | |
| 54.25-55.78<br>EARTH EXPLORATION-SATELLITE (passive)<br>INTER-SATELLITE 5.556A<br>SPACE RESEARCH (passive)<br><br>5.556B | | | 54.25-55.78<br>EARTH EXPLORATION-SATELLITE (passive)<br>INTER-SATELLITE 5.556A<br>SPACE RESEARCH (passive) | | Satellite Communications (25) |
| 55.78-56.9<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED 5.557A<br>INTER-SATELLITE 5.556A<br>MOBILE 5.558<br>SPACE RESEARCH (passive)<br><br>5.547 5.557 | | | 55.78-56.9<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED US379<br>INTER-SATELLITE 5.556A<br>MOBILE 5.558<br>SPACE RESEARCH (passive)<br><br>US263 US353 | | |
| 56.9-57<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>INTER-SATELLITE 5.558A<br>MOBILE 5.558<br>SPACE RESEARCH (passive)<br><br>5.547 5.557 | | | 56.9-57<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>INTER-SATELLITE G128<br>MOBILE 5.558<br>SPACE RESEARCH (passive)<br><br>US263 | 56.9-57<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>MOBILE 5.558<br>SPACE RESEARCH (passive)<br><br>US263 | |

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| 57-58.2<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>INTER-SATELLITE 5.556A<br>MOBILE 5.558<br>SPACE RESEARCH (passive)<br>5.547 5.557 | 57-58.2<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>INTER-SATELLITE 5.556A<br>MOBILE 5.558<br>SPACE RESEARCH (passive)<br>US263 | | RF Devices (15)<br>Satellite Communications (25) |
| 58.2-59<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>MOBILE<br>SPACE RESEARCH (passive)<br>5.547 5.556 | 58.2-59<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>MOBILE<br>SPACE RESEARCH (passive)<br>US353 US354 | | RF Devices (15) |
| 59-59.3<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>INTER-SATELLITE 5.556A<br>MOBILE 5.558<br>RADIOLOCATION 5.559<br>SPACE RESEARCH (passive) | 59-59.3<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>INTER-SATELLITE 5.556A<br>MOBILE 5.558<br>RADIOLOCATION 5.559<br>SPACE RESEARCH (passive)<br>US353 | 59-59.3<br>EARTH EXPLORATION-SATELLITE (passive)<br>FIXED<br>MOBILE 5.558<br>RADIOLOCATION 5.559<br>SPACE RESEARCH (passive)<br>US353 | |
| 59.3-64<br>FIXED<br>INTER-SATELLITE<br>MOBILE 5.558<br>RADIOLOCATION 5.559<br>5.138 | 59.3-64<br>FIXED<br>INTER-SATELLITE<br>MOBILE 5.558<br>RADIOLOCATION 5.559<br>5.138 US353 | 59.3-64<br>FIXED<br>MOBILE 5.558<br>RADIOLOCATION 5.559<br>5.138 US353 | RF Devices (15)<br>ISM Equipment (18) |
| 64-65<br>FIXED<br>INTER-SATELLITE<br>MOBILE except aeronautical mobile<br>5.547 5.556 | 64-65<br>FIXED<br>INTER-SATELLITE<br>MOBILE except aeronautical mobile | 64-65<br>FIXED<br>MOBILE except aeronautical mobile | |
| 65-66<br>EARTH EXPLORATION-SATELLITE<br>FIXED<br>INTER-SATELLITE<br>MOBILE except aeronautical mobile<br>SPACE RESEARCH<br>5.547 | 65-66<br>EARTH EXPLORATION-SATELLITE<br>FIXED<br>MOBILE except aeronautical mobile<br>SPACE RESEARCH | 65-66<br>EARTH EXPLORATION-SATELLITE<br>FIXED<br>INTER-SATELLITE<br>MOBILE except aeronautical mobile<br>SPACE RESEARCH | Satellite Communications (25) |
| 66-71<br>INTER-SATELLITE<br>MOBILE 5.553 5.558<br>MOBILE-SATELLITE<br>RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE<br>5.554 | 66-71<br>MOBILE 5.553 5.558<br>MOBILE-SATELLITE<br>RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE<br>5.554 | 66-71<br>INTER-SATELLITE<br>MOBILE 5.553 5.558<br>MOBILE-SATELLITE<br>RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE<br>5.554 | Page 60 |

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| 74-76<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>Space research (space-to-Earth)<br>5.561 | | | 74-76<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE<br>Space research (space-to-Earth)<br>US389 | 74-76<br>FIXED<br>FIXED-SATELLITE (space-to-Earth)<br>MOBILE<br>BROADCASTING<br>BROADCASTING-SATELLITE<br>Space research (space-to-Earth)<br>US389 | |
| 76-77.5<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite<br>Space research (space-to-Earth)<br>5.149 | | | 76-77.5<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Space research (space-to-Earth)<br>US342 | 76-77<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Amateur<br>Space research (space-to-Earth)<br>US342 | RF Devices (15) |
| | | | | 77-77.5<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite<br>Space research (space-to-Earth)<br>US342 | Amateur Radio (97) |
| 77.5-78<br>AMATEUR<br>AMATEUR-SATELLITE<br>Radio astronomy<br>Space research (space-to-Earth)<br>5.149 | | | 77.5-78<br>Radio astronomy<br>Space research (space-to-Earth)<br>US342 | 77.5-78<br>AMATEUR<br>AMATEUR-SATELLITE<br>Radio astronomy<br>Space research (space-to-Earth)<br>US342 | |
| 78-79<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite<br>Radio astronomy<br>Space research (space-to-Earth)<br>5.149 5.560 | | | 78-79<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Space research (space-to-Earth)<br>5.560 US342 | 78-79<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite<br>Space research (space-to-Earth)<br>5.560 US342 | |
| 79-81<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite<br>Space research (space-to-Earth)<br>5.149 | | | 79-81<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Space research (space-to-Earth)<br>US342 | 79-81<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>Amateur<br>Amateur-satellite<br>Space research (space-to-Earth)<br>US342 | |

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| 81-84<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br>RADIO ASTRONOMY<br>Space research (space-to-Earth)<br>5.149 5.561A | 81-84<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) US297<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br>RADIO ASTRONOMY<br>Space research (space-to-Earth)<br>US342 US388 US389 | | Fixed Microwave (101) |
| 84-86<br>FIXED<br>FIXED-SATELLITE (Earth-to-space) 5.561B<br>MOBILE<br>RADIO ASTRONOMY<br>5.149 | 84-86<br>FIXED<br>FIXED-SATELLITE (Earth-to-space)<br>MOBILE<br>RADIO ASTRONOMY<br>US342 US388 US389 | | |
| 86-92<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br>5.340 | 86-92<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY US74<br>SPACE RESEARCH (passive)<br>US246 | | |
| 92-94<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>5.149 | 92-94<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>US342 US388 | | RF Devices (15)<br>Fixed Microwave (101) |
| 94-94.1<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION<br>SPACE RESEARCH (active)<br>Radio astronomy<br>5.562 5.562A | 94-94.1<br>EARTH EXPLORATION-SATELLITE (active)<br>RADIOLOCATION<br>SPACE RESEARCH (active)<br>Radio astronomy<br>5.562 5.562A | 94-94.1<br>RADIOLOCATION<br>Radio astronomy<br>5.562A | RF Devices (15) |
| 94.1-95<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>5.149 | 94.1-95<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>US342 US388 | | RF Devices (15)<br>Fixed Microwave (101) |
| 95-100<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE<br>5.149 5.554 | 95-100<br>FIXED<br>MOBILE<br>RADIO ASTRONOMY<br>RADIOLOCATION<br>RADIONAVIGATION<br>RADIONAVIGATION-SATELLITE<br>5.554 US342 | | Page 62 |

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INTERNATIONAL FOOTNOTES

5.53 Administrations authorizing the use of frequencies below 9 kHz shall ensure that no harmful interference is caused thereby to the services to which the bands above 9 kHz are allocated.

5.54 Administrations conducting scientific research using frequencies below 9

kHz are urged to advise other administrations that may be concerned in order that such research may be afforded all practicable protection from harmful interference.

5.55 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan, the band 14–17 kHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.56 The stations of services to which the bands 14–19.95 kHz and 20.05–70 kHz and in Region 1 also the bands 72–84 kHz and 86–90 kHz are allocated may transmit standard frequency and time signals. Such stations shall be afforded protection from harmful interference. In Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Georgia, Kazakhstan, Mongolia, Kyrgyzstan, Slovakia, Tajikistan and Turkmenistan, the frequencies 25 kHz and 50 kHz will be used for this purpose under the same conditions. (WRC–07)

5.57 The use of the bands 14–19.95 kHz, 20.05–70 kHz and 70–90 kHz (72–84 kHz and 86–90 kHz in Region 1) by the maritime mobile service is limited to coast radiotelegraph stations (A1A and F1B only). Exceptionally, the use of class J2B or J7B emissions is authorized subject to the necessary bandwidth not exceeding that normally used for class A1A or F1B emissions in the band concerned.

5.58 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, the band 67–70 kHz is also allocated to the radionavigation service on a primary basis.

5.59 *Different category of service:* in Bangladesh and Pakistan, the allocation of the bands 70–72 kHz and 84–86 kHz to the fixed and maritime mobile services is on a primary basis (*see* No. 5.33).

5.60 In the bands 70–90 kHz (70–86 kHz in Region 1) and 110–130 kHz (112–130 kHz in Region 1), pulsed radionavigation systems may be used on condition that they do not cause harmful interference to other services to which these bands are allocated.

5.61 In Region 2, the establishment and operation of stations in the maritime radionavigation service in the bands 70–90 kHz and 110–130 kHz shall be subject to agreement obtained under No. 9.21 with administrations whose services, operating in accordance with the Table, may be affected. However, stations of the fixed, maritime mobile and radiolocation services shall not cause harmful interference to stations in the maritime radionavigation service established under such agreements.

5.62 Administrations which operate stations in the radionavigation service in the band 90–110 kHz are urged to coordinate technical and operating characteristics in such a way as to avoid harmful interference to the services provided by these stations.

5.64 Only classes A1A or F1B, A2C, A3C, F1C or F3C emissions are authorized for stations of the fixed service in the bands allocated to this service between 90 kHz and 160 kHz (148.5 kHz in Region 1) and for stations of the maritime mobile service in the bands allocated to this service between 110 kHz and 160 kHz (148.5 kHz in Region 1). Exceptionally, class J2B or J7B emissions are also authorized in the bands between 110 kHz and 160 kHz (148.5 kHz in Region 1) for stations of the maritime mobile service.

5.65 *Different category of service:* in Bangladesh, the allocation of the bands 112–117.6 kHz and 126–129 kHz to the fixed and maritime mobile services is on a primary basis (*see* No. 5.33).

5.66 *Different category of service:* in Germany, the allocation of the band 115–117.6 kHz to the fixed and maritime mobile services is on a primary basis (*see* No. 5.33) and to the radionavigation service on a secondary basis (*see* No. 5.32).

5.67 *Additional allocation:* in Mongolia, Kyrgyzstan and Turkmenistan, the band 130–148.5 kHz is also allocated to the radionavigation service on a secondary basis. Within and between these countries this service shall have an equal right to operate. (WRC–07)

5.67A Stations in the amateur service using frequencies in the band 135.7–137.8 kHz shall not exceed a maximum radiated power of 1 W (e.i.r.p.) and shall not cause harmful interference to stations of the radionavigation service operating in countries listed in No. 5.67. (WRC–07)

5.67B The use of the band 135.7–137.8 kHz in Algeria, Egypt, Iran (Islamic Republic of), Iraq, Libyan Arab Jamahiriya, Lebanon, Syrian Arab Republic, Sudan and Tunisia is limited to the fixed and maritime mobile services. The amateur service shall not be used in the above-mentioned countries in the band 135.7–137.8 kHz, and this should be taken into account by the countries authorizing such use. (WRC–07)

5.68 *Alternative allocation:* in Angola, Burundi, Congo (Rep. of the), Malawi, the Dem. Rep. of the Congo, Rwanda and South Africa, the band 160–200 kHz is allocated to the fixed service on a primary basis.

5.69 *Additional allocation:* in Somalia, the band 200–255 kHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.70 *Alternative allocation:* in Angola, Botswana, Burundi, the Central African Rep., Congo (Rep. of the), Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Oman, the Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Tanzania, Chad, Zambia and Zimbabwe, the band 200–283.5 kHz is allocated to the aeronautical radionavigation service on a primary basis. (WRC–07)

5.71 *Alternative allocation:* in Tunisia, the band 255–283.5 kHz is allocated to the broadcasting service on a primary basis.

5.72 Norwegian stations of the fixed service situated in northern areas (north of 60° N) subject to auroral disturbances are allowed to continue operation on four frequencies in the bands 283.5–490 kHz and 510–526.5 kHz.

5.73 The band 285–325 kHz (283.5–325 kHz in Region 1) in the maritime radionavigation service may be used to transmit supplementary navigational information using narrow-band techniques, on condition that no harmful interference is caused to radiobeacon stations operating in the radionavigation service.

5.74 *Additional Allocation:* in Region 1, the frequency band 285.3–285.7 kHz is also allocated to the maritime radionavigation service (other than radiobeacons) on a primary basis.

5.75 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Moldova, Kyrgyzstan, Tajikistan, Turkmenistan, Ukraine and the Black Sea areas of Romania, the allocation of the band 315–325 kHz to the maritime radionavigation service is on a primary basis under the condition that in the Baltic Sea area, the assignment of frequencies in this band to new stations in the maritime or aeronautical radionavigation services shall be subject to prior consultation between the administrations concerned. (WRC–07)

5.76 The frequency 410 kHz is designated for radio direction-finding in the maritime radionavigation service. The other radionavigation services to which the band 405–415 kHz is allocated shall not cause harmful interference to radio direction-finding in the band 406.5–413.5 kHz.

5.77 *Different category of service:* in Australia, China, the French overseas communities of Region 3, India, Iran (Islamic Republic of), Japan, Pakistan, Papua New Guinea and Sri Lanka, the allocation of the band 415–495 kHz to the aeronautical radionavigation service is on a primary basis. Administrations in these countries shall take all practical steps necessary to ensure that aeronautical radionavigation stations in the band 435–495 kHz do not cause interference to reception by coast stations of ship stations transmitting on frequencies designated for ship stations on a worldwide basis (*see* No. 52.39). (WRC–07)

5.78 *Different category of service:* in Cuba, the United States of America and Mexico, the allocation of the band 415–435 kHz to the aeronautical radionavigation service is on a primary basis.

5.79 The use of the bands 415–495 kHz and 505–526.5 kHz (505–510 kHz in Region 2) by the maritime mobile service is limited to radiotelegraphy.

5.79A When establishing coast stations in the NAVTEX service on the frequencies 490 kHz, 518 kHz and 4209.5 kHz, administrations are strongly recommended to coordinate the operating characteristics in accordance with the procedures of the International Maritime Organization (IMO) (see Resolution 339 (Rev.WRC–07)). (WRC–07)

5.80 In Region 2, the use of the band 435–495 kHz by the aeronautical radionavigation service is limited to non-directional beacons not employing voice transmission.

5.82 In the maritime mobile service, the frequency 490 kHz is to be used exclusively for the transmission by coast stations of navigational and meteorological warnings and urgent information to ships, by means of narrow-band direct-printing telegraphy. The conditions for use of the frequency 490 kHz are prescribed in Articles 31 and 52. In using the band 415–495 kHz for the aeronautical radionavigation service, administrations are requested to ensure that no harmful interference is caused to the frequency 490 kHz. (WRC–07)

5.82A The use of the band 495–505 kHz is limited to radiotelegraphy. (WRC–07)

5.82B Administrations authorizing the use of frequencies in the band 495–505 kHz by services other than the maritime mobile service shall ensure that no harmful interference is caused to the maritime mobile service in this band or to the services having allocations in the adjacent bands, noting in particular the conditions of use of the frequencies 490 kHz and 518 kHz, as prescribed in Articles 31 and 52. (WRC–07)

5.84 The conditions for the use of the frequency 518 kHz by the maritime mobile service are prescribed in Articles 31 and 52. (WRC–07)

5.86 In Region 2, in the band 525–535 kHz the carrier power of broadcasting stations shall not exceed 1 kW during the day and 250 W at night.

5.87 *Additional allocation:* in Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland and Zimbabwe, the band 526.5–535 kHz is also allocated to the mobile service on a secondary basis.

5.87A *Additional allocation:* in Uzbekistan, the band 526.5–1606.5 kHz is also allocated to the radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime.

5.88 *Additional allocation:* in China, the band 526.5–535 kHz is also allocated to the aeronautical radionavigation service on a secondary basis.

5.89 In Region 2, the use of the band 1605–1705 kHz by stations of the broadcasting service is subject to the Plan established by

the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

The examination of frequency assignments to stations of the fixed and mobile services in the band 1625–1705 kHz shall take account of the allotments appearing in the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

5.90 In the band 1605–1705 kHz, in cases where a broadcasting station of Region 2 is concerned, the service area of the maritime mobile stations in Region 1 shall be limited to that provided by ground-wave propagation.

5.91 *Additional allocation:* in the Philippines and Sri Lanka, the band 1606.5–1705 kHz is also allocated to the broadcasting service on a secondary basis.

5.92 Some countries of Region 1 use radiodetermination systems in the bands 1606.5–1625 kHz, 1635–1800 kHz, 1850–2160 kHz, 2194–2300 kHz, 2502–2850 kHz and 3500–3800 kHz, subject to agreement obtained under No. 9.21. The radiated mean power of these stations shall not exceed 50 W.

5.93 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Hungary, Kazakhstan, Latvia, Lithuania, Moldova, Mongolia, Nigeria, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Tajikistan, Chad, Turkmenistan and Ukraine, the bands 1625–1635 kHz, 1800–1810 kHz and 2160–2170 kHz are also allocated to the fixed and land mobile services on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.96 In Germany, Armenia, Austria, Azerbaijan, Belarus, Denmark, Estonia, the Russian Federation, Finland, Georgia, Hungary, Ireland, Iceland, Israel, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Norway, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the United Kingdom, Sweden, Switzerland, Tajikistan, Turkmenistan and Ukraine, administrations may allocate up to 200 kHz to their amateur service in the bands 1715–1800 kHz and 1850–2000 kHz. However, when allocating the bands within this range to their amateur service, administrations shall, after prior consultation with administrations of neighbouring countries, take such steps as may be necessary to prevent harmful interference from their amateur service to the fixed and mobile services of other countries. The mean power of any amateur station shall not exceed 10 W.

5.97 In Region 3, the Loran system operates either on 1850 kHz or 1950 kHz, the bands occupied being 1825–1875 kHz and 1925–1975 kHz respectively. Other services to which the band 1800–2000 kHz is allocated may use any frequency therein on condition that no harmful interference is caused to the Loran system operating on 1850 kHz or 1950 kHz.

5.98 *Alternative allocation:* in Angola, Armenia, Azerbaijan, Belarus, Belgium, Cameroon, Congo (Rep. of the), Denmark, Egypt, Eritrea, Spain, Ethiopia, the Russian Federation, Georgia, Greece, Italy, Kazakhstan, Lebanon, Lithuania, Moldova, the Syrian Arab Republic, Kyrgyzstan, Somalia, Tajikistan, Tunisia, Turkmenistan, Turkey and Ukraine, the band 1810–1830 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.99 *Additional allocation:* in Saudi Arabia, Austria, Iraq, the Libyan Arab Jamahiriya, Uzbekistan, Slovakia, Romania, Serbia, Slovenia, Chad, and Togo, the band 1810–1830 kHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.100 In Region 1, the authorization to use the band 1810–1830 kHz by the amateur service in countries situated totally or partially north of 40° N shall be given only after consultation with the countries mentioned in Nos. 5.98 and 5.99 to define the necessary steps to be taken to prevent harmful interference between amateur stations and stations of other services operating in accordance with Nos. 5.98 and 5.99.

5.101 *Alternative allocation:* in Burundi and Lesotho, the band 1810–1850 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.102 *Alternative allocation:* in Bolivia, Chile, Mexico, Paraguay, Peru and Uruguay, the band 1850–2000 kHz is allocated to the fixed, mobile except aeronautical mobile, radiolocation and radionavigation services on a primary basis. (WRC–07)

5.103 In Region 1, in making assignments to stations in the fixed and mobile services in the bands 1850–2045 kHz, 2194–2498 kHz, 2502–2625 kHz and 2650–2850 kHz, administrations should bear in mind the special requirements of the maritime mobile service.

5.104 In Region 1, the use of the band 2025–2045 kHz by the meteorological aids service is limited to oceanographic buoy stations.

5.105 In Region 2, except in Greenland, coast stations and ship stations using radiotelephony in the band 2065–2107 kHz shall be limited to class J3E emissions and to a peak envelope power not exceeding 1 kW. Preferably, the following carrier frequencies should be used: 2065.0 kHz, 2079.0 kHz, 2082.5 kHz, 2086.0 kHz, 2093.0 kHz, 2096.5 kHz, 2100.0 kHz and 2103.5 kHz. In Argentina and Uruguay, the carrier frequencies 2068.5 kHz and 2075.5 kHz are also used for this purpose, while the frequencies within the band 2072–2075.5 kHz are used as provided in No. 52.165.

5.106 In Regions 2 and 3, provided no harmful interference is caused to the maritime mobile service, the frequencies between 2065 kHz and 2107 kHz may be used by stations of the fixed service communicating only within national borders and whose

mean power does not exceed 50 W. In notifying the frequencies, the attention of the Bureau should be drawn to these provisions.

5.107 *Additional allocation:* in Saudi Arabia, Eritrea, Ethiopia, Iraq, the Libyan Arab Jamahiriya, Lesotho, Somalia and Swaziland, the band 2160–2170 kHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis. The mean power of stations in these services shall not exceed 50 W.

5.108 The carrier frequency 2182 kHz is an international distress and calling frequency for radiotelephony. The conditions for the use of the band 2173.5–2190.5 kHz are prescribed in Articles 31 and 52. (WRC–07)

5.109 The frequencies 2187.5 kHz, 4207.5 kHz, 6312 kHz, 8414.5 kHz, 12577 kHz and 16804.5 kHz are international distress frequencies for digital selective calling. The conditions for the use of these frequencies are prescribed in Article 31.

5.110 The frequencies 2174.5 kHz, 4177.5 kHz, 6268 kHz, 8376.5 kHz, 12520 kHz and 16695 kHz are international distress frequencies for narrow-band direct-printing telegraphy. The conditions for the use of these frequencies are prescribed in Article 31.

5.111 The carrier frequencies 2182 kHz, 3023 kHz, 5680 kHz, 8364 kHz and the frequencies 121.5 MHz, 156.525 MHz, 156.8 MHz and 243 MHz may also be used, in accordance with the procedures in force for terrestrial radiocommunication services, for search and rescue operations concerning manned space vehicles. The conditions for the use of the frequencies are prescribed in Article 31.

The same applies to the frequencies 10003 kHz, 14993 kHz and 19993 kHz, but in each of these cases emissions must be confined in a band of ± 3 kHz about the frequency. (WRC–07)

5.112 *Alternative allocation:* in Denmark, Malta, Serbia and Sri Lanka, the band 2194–2300 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.113 For the conditions for the use of the bands 2300–2495 kHz (2498 kHz in Region 1), 3200–3400 kHz, 4750–4995 kHz and 5005–5060 kHz by the broadcasting service, *see* Nos. 5.16 to 5.20, 5.21 and 23.3 to 23.10.

5.114 *Alternative allocation:* in Denmark, Iraq, Malta and Serbia, the band 2502–2625 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.115 The carrier (reference) frequencies 3023 kHz and 5680 kHz may also be used, in accordance with Article 31, by stations of the maritime mobile service engaged in coordinated search and rescue operations. (WRC–07)

5.116 Administrations are urged to authorize the use of the band 3155–3195 kHz to provide a common worldwide channel for low power wireless hearing aids. Additional channels for these devices may be assigned by administrations in the bands between 3155 kHz and 3400 kHz to suit local needs.

It should be noted that frequencies in the range 3000 kHz to 4000 kHz are suitable for hearing aid devices which are designed to operate over short distances within the induction field.

5.117 *Alternative allocation:* in Côte d'Ivoire, Denmark, Egypt, Liberia, Malta, Serbia, Sri Lanka and Togo, the band 3155–3200 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.118 *Additional allocation:* in the United States, Mexico, Peru and Uruguay, the band 3230–3400 kHz is also allocated to the radiolocation service on a secondary basis.

5.119 *Additional allocation:* in Honduras, Mexico and Peru, the band 3500–3750 kHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.122 *Alternative allocation:* in Bolivia, Chile, Ecuador, Paraguay, Peru and Uruguay, the band 3750–4000 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.123 *Additional allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the band 3900–3950 kHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

5.125 *Additional allocation:* in Greenland, the band 3950–4000 kHz is also allocated to the broadcasting service on a primary basis. The power of the broadcasting stations operating in this band shall not exceed that necessary for a national service and shall in no case exceed 5 kW.

5.126 In Region 3, the stations of those services to which the band 3995–4005 kHz is allocated may transmit standard frequency and time signals.

5.127 The use of the band 4000–4063 kHz by the maritime mobile service is limited to ship stations using radiotelephony (*see* No. 52.220 and Appendix 17).

5.128 Frequencies in the bands 4063–4123 kHz and 4130–4438 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W, on condition that harmful interference is not caused to the maritime mobile service. In addition, in Afghanistan, Argentina, Armenia, Azerbaijan, Belarus, Botswana, Burkina Faso, the Central African Rep., China, the Russian Federation, Georgia, India, Kazakhstan, Mali, Niger, Kyrgyzstan, Tajikistan, Chad, Turkmenistan and Ukraine, in the bands 4063–4123 kHz, 4130–4133 kHz and 4408–4438 kHz, stations in the fixed service, with a

mean power not exceeding 1 kW, can be operated on condition that they are situated at least 600 km from the coast and that harmful interference is not caused to the maritime mobile service. (WRC–07)

5.130 The conditions for the use of the carrier frequencies 4125 kHz and 6215 kHz are prescribed in Articles 31 and 52. (WRC–07)

5.131 The frequency 4209.5 kHz is used exclusively for the transmission by coast stations of meteorological and navigational warnings and urgent information to ships by means of narrow-band direct-printing techniques.

5.132 The frequencies 4210 kHz, 6314 kHz, 8416.5 kHz, 12579 kHz, 16806.5 kHz, 19680.5 kHz, 22376 kHz and 26100.5 kHz are the international frequencies for the transmission of maritime safety information (MSI) (*see* Appendix 17).

5.133 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Latvia, Lithuania, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 5130–5250 kHz to the mobile, except aeronautical mobile, service is on a primary basis (*see* No. 5.33). (WRC–07)

5.134 The use of the bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz and 18900–19020 kHz by the broadcasting service is subject to the application of the procedure of Article 12. Administrations are encouraged to use these bands to facilitate the introduction of digitally modulated emissions in accordance with the provisions of Resolution 517 (Rev. WRC–07). (WRC–07)

5.136 *Additional allocation:* frequencies in the band 5900–5950 kHz may be used by stations in the following services, communicating only within the boundary of the country in which they are located: fixed service (in all three Regions), land mobile service (in Region 1), mobile except aeronautical mobile (R) service (in Regions 2 and 3), on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.137 On condition that harmful interference is not caused to the maritime mobile service, the bands 6200–6213.5 kHz and 6220.5–6525 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W. At the time of notification of these frequencies, the attention of the Bureau will be drawn to the above conditions.

5.138 The following bands:

6765–6795 kHz (centre frequency 6780 kHz),
433.05–434.79 MHz (centre frequency 433.92 MHz) in Region 1 except in the countries mentioned in No. 5.280,
61–61.5 GHz (centre frequency 61.25 GHz),
122–123 GHz (centre frequency 122.5 GHz), and
244–246 GHz (centre frequency 245 GHz)

are designated for industrial, scientific and medical (ISM) applications. The use of these frequency bands for ISM applications shall be subject to special authorization by the administration concerned, in agreement with other administrations whose radiocommunication services might be affected. In applying this provision, administrations shall have due regard to the latest relevant ITU–R Recommendations.

5.138A and 5.139 (Expired 2009) (FCC)

5.140 *Additional allocation:* in Angola, Iraq, Kenya, Rwanda, Somalia and Togo, the band 7000–7050 kHz is also allocated to the fixed service on a primary basis.

5.141 *Alternative allocation:* in Egypt, Eritrea, Ethiopia, Guinea, the Libyan Arab Jamahiriya and Madagascar, the band 7000–7050 kHz is allocated to the fixed service on a primary basis.

5.141A *Additional allocation:* in Uzbekistan and Kyrgyzstan, the bands 7000–7100 kHz and 7100–7200 kHz are also allocated to the fixed and land mobile services on a secondary basis.

5.141B *Additional allocation:* after 29 March 2009, in Algeria, Saudi Arabia, Australia, Bahrain, Botswana, Brunei Darussalam, China, Comoros, Korea (Rep. of), Diego Garcia, Djibouti, Egypt, United Arab Emirates, Eritrea, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Kuwait, the Libyan Arab Jamahiriya, Morocco, Mauritania, New Zealand, Oman, Papua New Guinea, Qatar, the Syrian Arab Republic, Singapore, Sudan, Tunisia, Viet Nam and Yemen, the band 7100–7200 kHz is also allocated to the fixed and the mobile, except aeronautical mobile (R), services on a primary basis.

5.141C (Expired 2009) (FCC)

5.142 Until 29 March 2009, the use of the band 7100–7300 kHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3. After 29 March 2009 the use of the band 7200–7300 kHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

5.143 *Additional allocation:* frequencies in the band 7300–7350 kHz may be used by stations in the fixed service and in the land mobile service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use

the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.143A In Region 3, the band 7350–7450 kHz is allocated, until 29 March 2009, to the fixed service on a primary basis and to the land mobile service on a secondary basis. After 29 March 2009, frequencies in this band may be used by stations in the above-mentioned services, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.143B In Region 1, the band 7350–7450 kHz is allocated, until 29 March 2009, to the fixed service on a primary basis and to the land mobile service on a secondary basis. After 29 March 2009, on condition that harmful interference is not caused to the broadcasting service, frequencies in the band 7350–7450 kHz may be used by stations in the fixed and land mobile services communicating only within the boundary of the country in which they are located, each station using a total radiated power that shall not exceed 24 dBW.

5.143C *Additional allocation:* after 29 March 2009 in Algeria, Saudi Arabia, Bahrain, Comoros, Djibouti, Egypt, United Arab Emirates, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, Jordan, Kuwait, Morocco, Mauritania, Oman, Qatar, the Syrian Arab Republic, Sudan, Tunisia and Yemen, the bands 7350–7400 kHz and 7400–7450 kHz are also allocated to the fixed service on a primary basis.

5.143D In Region 2, the band 7350–7400 kHz is allocated, until 29 March 2009, to the fixed service on a primary basis and to the land mobile service on a secondary basis. After 29 March 2009, frequencies in this band may be used by stations in the above-mentioned services, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.143E (Expired 2009) (FCC)

5.144 In Region 3, the stations of those services to which the band 7995–8005 kHz is allocated may transmit standard frequency and time signals.

5.145 The conditions for the use of the carrier frequencies 8291 kHz, 12290 kHz and 16420 kHz are prescribed in Articles 31 and 52. (WRC–07)

5.146 *Additional allocation:* frequencies in the bands 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 15600–15800 kHz, 17480–17550 kHz and 18900–19020 kHz may be used by stations in the fixed service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies in the fixed service, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.147 On condition that harmful interference is not caused to the broadcasting service, frequencies in the bands 9775–9900 kHz, 11650–11700 kHz and 11975–12050 kHz may be used by stations in the fixed service communicating only within the boundary of the country in which they are located, each station using a total radiated power not exceeding 24 dBW.

5.149 In making assignments to stations of other services to which the bands:

13360–13410 kHz,
25550–25670 kHz,
37.5–38.25 MHz,
73–74.6 MHz in Regions 1 and 3,
150.05–153 MHz in Region 1,
322–328.6 MHz,
406.1–410 MHz,
608–614 MHz in Regions 1 and 3,
1330–1400 MHz,
1610.6–1613.8 MHz,
1660–1670 MHz,
1718.8–1722.2 MHz,
2655–2690 MHz,
3260–3267 MHz,
3332–3339 MHz,
3345.8–3352.5 MHz,
4825–4835 MHz,
4950–4990 MHz,
4990–5000 MHz,
6650–6675.2 MHz,
10.6–10.68 GHz,
14.47–14.5 GHz,
22.01–22.21 GHz,
22.21–22.5 GHz,
22.81–22.86 GHz,
23.07–23.12 GHz,
31.2–31.3 GHz,
31.5–31.8 GHz in Regions 1 and 3,
36.43–36.5 GHz,
42.5–43.5 GHz,
48.94–49.04 GHz,
76–86 GHz,
92–94 GHz,
94.1–100 GHz,
102–109.5 GHz,
111.8–114.25 GHz,
128.33–128.59 GHz,
129.23–129.49 GHz,
130–134 GHz,
136–148.5 GHz,
151.5–158.5 GHz,
168.59–168.93 GHz,
171.11–171.45 GHz,
172.31–172.65 GHz,
173.52–173.85 GHz,
195.75–196.15 GHz,
209–226 GHz,
241–250 GHz,
252–275 GHz

are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (*see* Nos. 4.5 and 4.6 and Article 29). (WRC–07)

5.150 The following bands:

13553–13567 kHz (centre frequency 13560 kHz),
26957–27283 kHz (centre frequency 27120 kHz),
40.66–40.70 MHz (centre frequency 40.68 MHz),
902–928 MHz in Region 2 (centre frequency 915 MHz),
2400–2500 MHz (centre frequency 2450 MHz),
5725–5875 MHz (centre frequency 5800 MHz), and
24–24.25 GHz (centre frequency 24.125 GHz)

are also designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within these bands must accept harmful interference which may be caused by these applications. ISM equipment operating in these bands is subject to the provisions of No. 15.13.

5.151 *Additional allocation:* frequencies in the bands 13570–13600 kHz and 13800–13870 kHz may be used by stations in the fixed service and in the mobile except aeronautical mobile (R) service, communicating only within the boundary of the country in which they are located, on the condition that harmful interference is not caused to the broadcasting service. When using frequencies in these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.152 *Additional allocation:* in Armenia, Azerbaijan, China, Côte d'Ivoire, the Russian Federation, Georgia, Iran (Islamic Republic of), Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 14250–14350 kHz is also allocated to the fixed service on a primary basis. Stations of the fixed service shall not use a radiated power exceeding 24 dBW.

5.153 In Region 3, the stations of those services to which the band 15995–16005 kHz is allocated may transmit standard frequency and time signals.

5.154 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 18068–18168 kHz is also allocated to the fixed service on a primary basis for use within their boundaries, with a peak envelope power not exceeding 1 kW.

5.155 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the band 21850–21870 kHz is also allocated to the aeronautical mobile (R) service on a primary basis. (WRC–07)

5.155A In Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the use of the band 21850–21870 kHz by the fixed service is limited to provision of services related to aircraft flight safety. (WRC–07)

5.155B The band 21870–21924 kHz is used by the fixed service for provision of services related to aircraft flight safety.

5.156 *Additional allocation:* in Nigeria, the band 22720–23200 kHz is also allocated to the meteorological aids service (radiosondes) on a primary basis.

5.156A The use of the band 23200–23350 kHz by the fixed service is limited to provision of services related to aircraft flight safety.

5.157 The use of the band 23350–24000 kHz by the maritime mobile service is limited to inter-ship radiotelegraphy.

5.160 *Additional allocation:* in Botswana, Burundi, Lesotho, Malawi, Dem. Rep. of the Congo, Rwanda and Swaziland, the band 41–44 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.161 *Additional allocation:* in Iran (Islamic Republic of) and Japan, the band 41–44 MHz is also allocated to the radiolocation service on a secondary basis.

5.162 *Additional allocation:* in Australia and New Zealand, the band 44–47 MHz is also allocated to the broadcasting service on a primary basis.

5.162A *Additional allocation:* in Germany, Austria, Belgium, Bosnia and Herzegovina, China, Vatican, Denmark, Spain, Estonia, the Russian Federation, Finland, France, Ireland, Iceland, Italy, Latvia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Lithuania, Luxembourg, Monaco, Montenegro, Norway, the Netherlands, Poland, Portugal, Slovakia, the Czech Rep., the United Kingdom, Serbia, Slovenia, Sweden and Switzerland the band 46–68 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97). (WRC–07)

5.163 *Additional allocation:* in Armenia, Belarus, the Russian Federation, Georgia, Hungary, Kazakhstan, Latvia, Lithuania, Moldova, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., Tajikistan, Turkmenistan and Ukraine, the bands 47–48.5 MHz and 56.5–58 MHz are also allocated to the fixed and land mobile services on a secondary basis. (WRC–07)

5.164 *Additional allocation:* in Albania, Germany, Austria, Belgium, Bosnia and Herzegovina, Botswana, Bulgaria, Côte d'Ivoire, Denmark, Spain, Estonia, Finland, France, Gabon, Greece, Ireland, Israel, Italy, the Libyan Arab Jamahiriya, Jordan, Lebanon, Liechtenstein, Luxembourg, Madagascar, Mali, Malta, Morocco, Mauritania, Monaco, Montenegro, Nigeria, Norway, the Netherlands, Poland, Syrian Arab Republic, Romania, the United Kingdom, Serbia, Slovenia, Sweden, Switzerland, Swaziland, Chad, Togo, Tunisia and Turkey, the band

47–68 MHz, in South Africa the band 47–50 MHz, in the Czech Rep. the band 66–68 MHz, and in Latvia and Lithuania the band 48.5–56.5 MHz, are also allocated to the land mobile service on a primary basis. However, stations of the land mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations of countries other than those mentioned in connection with the band. (WRC–07)

5.165 *Additional allocation:* in Angola, Cameroon, Congo (Rep. of the), Madagascar, Mozambique, Somalia, Sudan, Tanzania and Chad, the band 47–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.166 *Alternative allocation:* in New Zealand, the band 50–51 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis; the band 53–54 MHz is allocated to the fixed and mobile services on a primary basis.

5.167 *Alternative allocation:* in Bangladesh, Brunei Darussalam, India, Iran (Islamic Republic of), Pakistan, Singapore and Thailand, the band 50–54 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis. (WRC–07)

5.167A *Additional allocation:* in Indonesia, the band 50–54 MHz is also allocated to the fixed, mobile and broadcasting services on a primary basis. (WRC–07)

5.168 *Additional allocation:* in Australia, China and the Dem. People's Rep. of Korea, the band 50–54 MHz is also allocated to the broadcasting service on a primary basis.

5.169 *Alternative allocation:* in Botswana, Burundi, Lesotho, Malawi, Namibia, the Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Zambia and Zimbabwe, the band 50–54 MHz is allocated to the amateur service on a primary basis.

5.170 *Additional allocation:* in New Zealand, the band 51–53 MHz is also allocated to the fixed and mobile services on a primary basis.

5.171 *Additional allocation:* in Botswana, Burundi, Lesotho, Malawi, Mali, Namibia, Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland and Zimbabwe, the band 54–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.172 *Different category of service:* in the French overseas departments and communities in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 54–68 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.173 *Different category of service:* in the French overseas departments and communities in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 68–72 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.175 *Alternative allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the bands 68–73 MHz and 76–87.5 MHz are allocated to the broadcasting service on a primary basis. In Latvia and Lithuania, the bands 68–73 MHz and 76–87.5 MHz are allocated to the broadcasting and mobile, except aeronautical mobile, services on a primary basis. The services to which these bands are allocated in other countries and the broadcasting service in the countries listed above are subject to agreements with the neighbouring countries concerned. (WRC–07)

5.176 *Additional allocation:* in Australia, China, Korea (Rep. of), the Philippines, the Dem. People's Rep. of Korea and Samoa, the band 68–74 MHz is also allocated to the broadcasting service on a primary basis. (WRC–07)

5.177 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 73–74 MHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.178 *Additional allocation:* in Colombia, Costa Rica, Cuba, El Salvador, Guatemala, Guyana, Honduras and Nicaragua, the band 73–74.6 MHz is also allocated to the fixed and mobile services on a secondary basis.

5.179 *Additional allocation:* in Armenia, Azerbaijan, Belarus, China, the Russian Federation, Georgia, Kazakhstan, Lithuania, Mongolia, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the bands 74.6–74.8 MHz and 75.2–75.4 MHz are also allocated to the aeronautical radionavigation service, on a primary basis, for ground-based transmitters only. (WRC–07)

5.180 The frequency 75 MHz is assigned to marker beacons. Administrations shall refrain from assigning frequencies close to the limits of the guardband to stations of other services which, because of their power or geographical position, might cause harmful interference or otherwise place a constraint on marker beacons.

Every effort should be made to improve further the characteristics of airborne receivers and to limit the power of transmitting stations close to the limits 74.8 MHz and 75.2 MHz.

5.181 *Additional allocation:* in Egypt, Israel and the Syrian Arab Republic, the band 74.8–75.2 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band

until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21.

5.182 *Additional allocation:* in Western Samoa, the band 75.4–87 MHz is also allocated to the broadcasting service on a primary basis.

5.183 *Additional allocation:* in China, Korea (Rep. of), Japan, the Philippines and the Dem. People's Rep. of Korea, the band 76–87 MHz is also allocated to the broadcasting service on a primary basis.

5.185 *Different category of service:* in the United States, the French overseas departments and communities in Region 2, Guyana, Jamaica, Mexico and Paraguay, the allocation of the band 76–88 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.187 *Alternative allocation:* in Albania, the band 81–87.5 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions contained in the Final Acts of the Special Regional Conference (Geneva, 1960).

5.188 *Additional allocation:* in Australia, the band 85–87 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service in Australia is subject to special agreements between the administrations concerned.

5.190 *Additional allocation:* in Monaco, the band 87.5–88 MHz is also allocated to the land mobile service on a primary basis, subject to agreement obtained under No. 9.21.

5.192 *Additional allocation:* in China and Korea (Rep. of), the band 100–108 MHz is also allocated to the fixed and mobile services on a primary basis.

5.194 *Additional allocation:* in Azerbaijan, Kyrgyzstan, Somalia and Turkmenistan, the band 104–108 MHz is also allocated to the mobile, except aeronautical mobile (R), service on a secondary basis. (WRC–07)

5.197 *Additional allocation:* in Pakistan and the Syrian Arab Republic, the band 108–111.975 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedures invoked under No. 9.21. (WRC–07)

5.197A *Additional allocation:* the band 108–117.975 MHz is also allocated on a primary basis to the aeronautical mobile (R) service, limited to systems operating in accordance with recognized international aeronautical standards. Such use shall be in accordance with Resolution 413 (Rev.WRC–07). The use of the band 108–112 MHz by the aeronautical mobile (R) service shall be limited to systems composed of ground-based transmitters and associated receivers that provide navigational information in support of air navigation functions in accordance with recognized international aeronautical standards. (WRC–07)

5.200 In the band 117.975–137 MHz, the frequency 121.5 MHz is the aeronautical emergency frequency and, where required, the frequency 123.1 MHz is the aeronautical frequency auxiliary to 121.5 MHz. Mobile stations of the maritime mobile service may communicate on these frequencies under the conditions laid down in Article 31 for distress and safety purposes with stations of the aeronautical mobile service. (WRC–07)

5.201 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Bulgaria, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Japan, Kazakhstan, Latvia, Moldova, Mongolia, Mozambique, Uzbekistan, Papua New Guinea, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 132–136 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

5.202 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Bulgaria, the United Arab Emirates, the Russian Federation, Georgia, Iran (Islamic Republic of), Jordan, Latvia, Moldova, Oman, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 136–137 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

5.204 *Different category of service:* in Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, Cuba, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Kuwait, Montenegro, Oman, Pakistan, the Philippines, Qatar, Serbia, Singapore, Thailand and Yemen, the band 137–138 MHz is allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis (*see* No. 5.33). (WRC–07)

5.205 *Different category of service:* in Israel and Jordan, the allocation of the band 137–138 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33).

5.206 *Different category of service:* in Armenia, Azerbaijan, Belarus, Bulgaria, Egypt,

the Russian Federation, Finland, France, Georgia, Greece, Kazakhstan, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, the Syrian Arab Republic, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 137–138 MHz to the aeronautical mobile (OR) service is on a primary basis (*see* No. 5.33).

5.207 *Additional allocation:* in Australia, the band 137–144 MHz is also allocated to the broadcasting service on a primary basis until that service can be accommodated within regional broadcasting allocations.

5.208 The use of the band 137–138 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

5.208A In making assignments to space stations in the mobile-satellite service in the bands 137–138 MHz, 387–390 MHz and 400.15–401 MHz, administrations shall take all practicable steps to protect the radio astronomy service in the bands 150.05–153 MHz, 322–328.6 MHz, 406.1–410 MHz and 608–614 MHz from harmful interference from unwanted emissions. The threshold levels of interference detrimental to the radio astronomy service are shown in the relevant ITU–R Recommendation. (WRC–07)

5.208B In the bands:

137–138 MHz,
387–390 MHz,
400.15–401 MHz,
1452–1492 MHz,
1525–1610 MHz,
1613.8–1626.5 MHz,
2655–2690 MHz,
21.4–22 GHz,

Resolution 739 (Rev.WRC–07) applies. (WRC–07) (FCC)

5.209 The use of the bands 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, 400.15–401 MHz, 454–456 MHz and 459–460 MHz by the mobile-satellite service is limited to non-geostationary-satellite systems.

5.210 *Additional allocation:* in Italy, the Czech Rep. and the United Kingdom, the bands 138–143.6 MHz and 143.65–144 MHz are also allocated to the space research service (space-to-Earth) on a secondary basis. (WRC–07)

5.211 *Additional allocation:* in Germany, Saudi Arabia, Austria, Bahrain, Belgium, Denmark, the United Arab Emirates, Spain, Finland, Greece, Ireland, Israel, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Liechtenstein, Luxembourg, Mali, Malta, Montenegro, Norway, the Netherlands, Qatar, the United Kingdom, Serbia, Slovenia, Somalia, Sweden, Switzerland, Tanzania, Tunisia and Turkey, the band 138–144 MHz is also allocated to the maritime mobile and land mobile services on a primary basis. (WRC–07)

5.212 *Alternative allocation:* in Angola, Botswana, Burundi, Cameroon, the Central African Rep., Congo (Rep. of the), Gabon, Gambia, Ghana, Guinea, Iraq, Libyan Arab Jamahiriya, Jordan, Lesotho, Liberia, Malawi, Mozambique, Namibia, Oman, Uganda, Syrian Arab Republic, the Dem. Rep. of the Congo, Rwanda, Sierra Leone, South Africa, Swaziland, Chad, Togo, Zambia and Zimbabwe, the band 138–144 MHz is allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.213 *Additional allocation:* in China, the band 138–144 MHz is also allocated to the radiolocation service on a primary basis.

5.214 *Additional allocation:* in Eritrea, Ethiopia, Kenya, The Former Yugoslav Republic of Macedonia, Malta, Montenegro, Serbia, Somalia, Sudan and Tanzania, the band 138–144 MHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.216 *Additional allocation:* in China, the band 144–146 MHz is also allocated to the aeronautical mobile (OR) service on a secondary basis.

5.217 *Alternative allocation:* in Afghanistan, Bangladesh, Cuba, Guyana and India, the band 146–148 MHz is allocated to the fixed and mobile services on a primary basis.

5.218 *Additional allocation:* the band 148–149.9 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21. The bandwidth of any individual transmission shall not exceed ± 25 kHz.

5.219 The use of the band 148–149.9 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the fixed, mobile and space operation services in the band 148–149.9 MHz.

5.220 The use of the bands 149.9–150.05 MHz and 399.9–400.05 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the radionavigation-satellite service in the bands 149.9–150.05 MHz and 399.9–400.05 MHz.

5.221 Stations of the mobile-satellite service in the band 148–149.9 MHz shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations in the following countries: Albania, Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Cameroon, China, Cyprus, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Croatia, Cuba, Denmark, Egypt, the United Arab Emirates, Eritrea, Spain, Estonia, Ethiopia, the Russian Federation, Finland, France, Gabon, Ghana, Greece, Guinea, Guinea Bissau, Hungary, India, Iran (Islamic Republic of), Ireland, Iceland, Israel, Italy, the Libyan Arab Jamahiriya, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lesotho,

Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mali, Malta, Mauritania, Moldova, Mongolia, Montenegro, Mozambique, Namibia, Norway, New Zealand, Oman, Uganda, Uzbekistan, Pakistan, Panama, Papua New Guinea, Paraguay, the Netherlands, the Philippines, Poland, Portugal, Qatar, the Syrian Arab Republic, Kyrgyzstan, Dem. People's Rep. of Korea, Slovakia, Romania, the United Kingdom, Senegal, Serbia, Sierra Leone, Singapore, Slovenia, Sri Lanka, South Africa, Sweden, Switzerland, Swaziland, Tanzania, Chad, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Viet Nam, Yemen, Zambia and Zimbabwe. (WRC–07)

5.222 Emissions of the radionavigation-satellite service in the bands 149.9–150.05 MHz and 399.9–400.05 MHz may also be used by receiving earth stations of the space research service.

5.223 Recognizing that the use of the band 149.9–150.05 MHz by the fixed and mobile services may cause harmful interference to the radionavigation-satellite service, administrations are urged not to authorize such use in application of No. 4.4.

5.224A The use of the bands 149.9–150.05 MHz and 399.9–400.05 MHz by the mobile-satellite service (Earth-to-space) is limited to the land mobile-satellite service (Earth-to-space) until 1 January 2015.

5.224B The allocation of the bands 149.9–150.05 MHz and 399.9–400.05 MHz to the radionavigation-satellite service shall be effective until 1 January 2015.

5.225 *Additional allocation:* in Australia and India, the band 150.05–153 MHz is also allocated to the radio astronomy service on a primary basis.

5.226 The frequency 156.525 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service using digital selective calling (DSC). The conditions for the use of this frequency and the band 156.4875–156.5625 MHz are contained in Articles 31 and 52, and in Appendix 18.

The frequency 156.8 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service. The conditions for the use of this frequency and the band 156.7625–156.8375 MHz are contained in Article 31 and Appendix 18.

In the bands 156–156.4875 MHz, 156.5625–156.7625 MHz, 156.8375–157.45 MHz, 160.6–160.975 MHz and 161.475–162.05 MHz, each administration shall give priority to the maritime mobile service on only such frequencies as are assigned to stations of the maritime mobile service by the administration (*see* Articles 31 and 52, and Appendix 18).

Any use of frequencies in these bands by stations of other services to which they are allocated should be avoided in areas where such use might cause harmful interference to the maritime mobile VHF radiocommunication service.

However, the frequencies 156.8 MHz and 156.525 MHz and the frequency bands in which priority is given to the maritime mobile service may be used for radiocommunications on inland waterways subject to agreement between interested and affected administrations and taking into account current frequency usage and existing agreements. (WRC–07)

5.227 *Additional allocation:* the bands 156.4875–156.5125 MHz and 156.5375–156.5625 MHz are also allocated to the fixed and land mobile services on a primary basis. The use of these bands by the fixed and land mobile services shall not cause harmful interference to nor claim protection from the maritime mobile VHF radiocommunication service. (WRC–07)

5.227A *Additional allocation:* the bands 161.9625–161.9875 MHz and 162.0125–162.0375 MHz are also allocated to the mobile-satellite service (Earth-to-space) on a secondary basis for the reception of automatic identification system (AIS) emissions from stations operating in the maritime-mobile service (see Appendix 18). (WRC–07)

5.229 *Alternative allocation:* in Morocco, the band 162–174 MHz is allocated to the broadcasting service on a primary basis. The use of this band shall be subject to agreement with administrations having services, operating or planned, in accordance with the Table which are likely to be affected. Stations in existence on 1 January 1981, with their technical characteristics as of that date, are not affected by such agreement.

5.230 *Additional allocation:* in China, the band 163–167 MHz is also allocated to the space operation service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21.

5.231 *Additional allocation:* in Afghanistan, China and Pakistan, the band 167–174 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service into this band shall be subject to agreement with the neighbouring countries in Region 3 whose services are likely to be affected.

5.232 *Additional allocation:* in Japan, the band 170–174 MHz is also allocated to the broadcasting service on a primary basis.

5.233 *Additional allocation:* in China, the band 174–184 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis, subject to agreement obtained under No. 9.21. These services shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations.

5.234 *Different category of service:* in Mexico, the allocation of the band 174–216 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.235 *Additional allocation:* in Germany, Austria, Belgium, Denmark, Spain, Finland, France, Israel, Italy, Liechtenstein, Malta, Monaco, Norway, the Netherlands, the United Kingdom, Sweden and Switzerland, the band 174–223 MHz is also allocated to the land mobile service on a primary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

5.237 *Additional allocation:* in Congo (Rep. of the), Eritrea, Ethiopia, Gambia, Guinea, the Libyan Arab Jamahiriya, Malawi, Mali, Sierra Leone, Somalia and Chad, the band 174–223 MHz is also allocated to the fixed and mobile services on a secondary basis. (WRC–07)

5.238 *Additional allocation:* in Bangladesh, India, Pakistan and the Philippines, the band 200–216 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.240 *Additional allocation:* in China and India, the band 216–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

5.241 In Region 2, no new stations in the radiolocation service may be authorized in the band 216–225 MHz. Stations authorized prior to 1 January 1990 may continue to operate on a secondary basis.

5.242 *Additional allocation:* in Canada, the band 216–220 MHz is also allocated to the land mobile service on a primary basis.

5.243 *Additional allocation:* in Somalia, the band 216–225 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to not causing harmful interference to existing or planned broadcasting services in other countries.

5.245 *Additional allocation:* in Japan, the band 222–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

5.246 *Alternative allocation:* in Spain, France, Israel and Monaco, the band 223–230 MHz is allocated to the broadcasting and land mobile services on a primary basis (*see* No. 5.33) on the basis that, in the preparation of frequency plans, the broadcasting service shall have prior choice of frequencies; and allocated to the fixed and mobile, except land mobile, services on a secondary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations in Morocco and Algeria.

5.247 *Additional allocation:* in Saudi Arabia, Bahrain, the United Arab Emirates, Jordan, Oman, Qatar and Syrian Arab Republic, the band 223–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.250 *Additional allocation:* in China, the band 225–235 MHz is also allocated to the radio astronomy service on a secondary basis.

5.251 *Additional allocation:* in Nigeria, the band 230–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to agreement obtained under No. 9.21.

5.252 *Alternative allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the bands 230–238 MHz and 246–254 MHz are allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

5.254 The bands 235–322 MHz and 335.4–399.9 MHz may be used by the mobile-satellite service, subject to agreement obtained under No. 9.21, on condition that stations in this service do not cause harmful interference to those of other services operating or planned to be operated in accordance with the Table of Frequency Allocations except for the additional allocation made in footnote No. 5.256A.

5.255 The bands 312–315 MHz (Earth-to-space) and 387–390 MHz (space-to-Earth) in the mobile-satellite service may also be used by non-geostationary-satellite systems. Such use is subject to coordination under No. 9.11A.

5.256 The frequency 243 MHz is the frequency in this band for use by survival craft stations and equipment used for survival purposes. (WRC–07)

5.256A *Additional allocation:* in China, the Russian Federation, Kazakhstan and Ukraine, the band 258–261 MHz is also allocated to the space research service (Earth-to-space) and space operation service (Earth-to-space) on a primary basis. Stations in the space research service (Earth-to-space) and space operation service (Earth-to-space) shall not cause harmful interference to, nor claim protection from, nor constrain the use and development of the mobile service systems and mobile-satellite service systems operating in the band. Stations in space research service (Earth-to-space) and space operation service (Earth-to-space) shall not constrain the future development of fixed service systems of other countries.

5.257 The band 267–272 MHz may be used by administrations for space telemetry in their countries on a primary basis, subject to agreement obtained under No. 9.21.

5.258 The use of the band 328.6–335.4 MHz by the aeronautical radionavigation service is limited to Instrument Landing Systems (glide path).

5.259 *Additional allocation:* in Egypt, Israel and the Syrian Arab Republic, the band 328.6–335.4 MHz is also allocated to the mobile service on a secondary basis, subject to

agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21. (WRC–07)

5.260 Recognizing that the use of the band 399.9–400.05 MHz by the fixed and mobile services may cause harmful interference to the radionavigation satellite service, administrations are urged not to authorize such use in application of No. 4.4.

5.261 Emissions shall be confined in a band of ± 25 kHz about the standard frequency 400.1 MHz.

5.262 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Botswana, Colombia, Costa Rica, Cuba, Egypt, the United Arab Emirates, Ecuador, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Liberia, Malaysia, Moldova, Uzbekistan, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, Kyrgyzstan, Romania, Singapore, Somalia, Tajikistan, Turkmenistan and Ukraine, the band 400.05–401 MHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.263 The band 400.15–401 MHz is also allocated to the space research service in the space-to-space direction for communications with manned space vehicles. In this application, the space research service will not be regarded as a safety service.

5.264 The use of the band 400.15–401 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The power flux-density limit indicated in Annex 1 of Appendix 5 shall apply until such time as a competent world radiocommunication conference revises it.

5.266 The use of the band 406–406.1 MHz by the mobile-satellite service is limited to low power satellite emergency position-indicating radiobeacons (*see* also Article 31). (WRC–07)

5.267 Any emission capable of causing harmful interference to the authorized uses of the band 406–406.1 MHz is prohibited.

5.268 Use of the band 410–420 MHz by the space research service is limited to communications within 5 km of an orbiting, manned space vehicle. The power flux-density at the surface of the Earth produced by emissions from extra-vehicular activities shall not exceed $-153$ dB(W/m$^2$) for $0° \leq \delta \leq 5°$, $-153 + 0.077\ (\delta - 5)$ dB(W/m$^2$;) for $5° \leq \delta \leq 70°$ and $-148$ dB(W/m$^2$) for $70° \leq \delta \leq 90°$, where $\delta$ is the angle of arrival of the radio-frequency wave and the reference bandwidth is 4 kHz. No. 4.10 does not apply to extra-vehicular activities. In this frequency band the space research (space-to-space) service shall not claim protection from, nor constrain the use and development of, stations of the fixed and mobile services.

5.269 *Different category of service:* in Australia, the United States, India, Japan and the United Kingdom, the allocation of the bands 420–430 MHz and 440–450 MHz to the radiolocation service is on a primary basis (*see* No. 5.33).

5.270 *Additional allocation:* in Australia, the United States, Jamaica and the Philippines, the bands 420–430 MHz and 440–450 MHz are also allocated to the amateur service on a secondary basis.

5.271 *Additional allocation:* in Belarus, China, India, Kyrgyzstan and Turkmenistan, the band 420–460 MHz is also allocated to the aeronautical radionavigation service (radio altimeters) on a secondary basis. (WRC–07)

5.272 *Different category of service:* in France, the allocation of the band 430–434 MHz to the amateur service is on a secondary basis (*see* No. 5.32).

5.273 *Different category of service:* in the Libyan Arab Jamahiriya, the allocation of the bands 430–432 MHz and 438–440 MHz to the radiolocation service is on a secondary basis (*see* No. 5.32).

5.274 *Alternative allocation:* in Denmark, Norway and Sweden, the bands 430–432 MHz and 438–440 MHz are allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.275 *Additional allocation:* in Croatia, Estonia, Finland, Libyan Arab Jamahiriya, The Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Slovenia, the bands 430–432 MHz and 438–440 MHz are also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.276 *Additional allocation:* in Afghanistan, Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burkina Faso, Burundi, Egypt, the United Arab Emirates, Ecuador, Eritrea, Ethiopia, Greece, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Malta, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Switzerland, Tanzania, Thailand, Togo, Turkey and Yemen, the band 430–440 MHz is also allocated to the fixed service on a primary basis and the bands 430–435 MHz and 438–440 MHz are also allocated to the mobile, except aeronautical mobile, service on a primary basis. (WRC–07)

5.277 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Cameroon, Congo (Rep. of the), Djibouti, the Russian Federation, Georgia, Hungary, Israel, Kazakhstan, Mali, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, Romania, Rwanda, Tajikistan, Chad,

Turkmenistan and Ukraine, the band 430–440 MHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.278 *Different category of service:* in Argentina, Colombia, Costa Rica, Cuba, Guyana, Honduras, Panama and Venezuela, the allocation of the band 430–440 MHz to the amateur service is on a primary basis (*see* No. 5.33).

5.279 *Additional allocation:* in Mexico, the bands 430–435 MHz and 438–440 MHz are also allocated on a primary basis to the land mobile service, subject to agreement obtained under No. 9.21.

5.279A The use of this band by sensors in the Earth exploration-satellite service (active) shall be in accordance with Recommendation ITU–R RS.1260–1. Additionally, the Earth exploration-satellite service (active) in the band 432–438 MHz shall not cause harmful interference to the aeronautical radionavigation service in China. The provisions of this footnote in no way diminish the obligation of the Earth exploration-satellite service (active) to operate as a secondary service in accordance with Nos. 5.29 and 5.30.

5.280 In Germany, Austria, Bosnia and Herzegovina, Croatia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Montenegro, Portugal, Serbia, Slovenia and Switzerland, the band 433.05–434.79 MHz (centre frequency 433.92 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services of these countries operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 15.13. (WRC–07)

5.281 *Additional allocation:* in the French overseas departments and communities in Region 2 and India, the band 433.75–434.25 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis. In France and in Brazil, the band is allocated to the same service on a secondary basis.

5.282 In the bands 435–438 MHz, 1260–1270 MHz, 2400–2450 MHz, 3400–3410 MHz (in Regions 2 and 3 only) and 5650–5670 MHz, the amateur-satellite service may operate subject to not causing harmful interference to other services operating in accordance with the Table (*see* No. 5.43). Administrations authorizing such use shall ensure that any harmful interference caused by emissions from a station in the amateur-satellite service is immediately eliminated in accordance with the provisions of No. 25.11. The use of the bands 1260–1270 MHz and 5650–5670 MHz by the amateur-satellite service is limited to the Earth-to-space direction.

5.283 *Additional allocation:* in Austria, the band 438–440 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.284 *Additional allocation:* in Canada, the band 440–450 MHz is also allocated to the amateur service on a secondary basis.

5.285 *Different category of service:* in Canada, the allocation of the band 440–450 MHz to the radiolocation service is on a primary basis (*see* No. 5.33).

5.286 The band 449.75–450.25 MHz may be used for the space operation service (Earth-to-space) and the space research service (Earth-to-space), subject to agreement obtained under No. 9.21.

5.286A The use of the bands 454–456 MHz and 459–460 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

5.286AA The band 450–470 MHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). *See* Resolution 224 (Rev.WRC–07). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. (WRC–07)

5.286B The use of the band 454–455 MHz in the countries listed in No. 5.286D, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations.

5.286C The use of the band 454–455 MHz in the countries listed in No. 5.286D, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-satellite service, shall not constrain the development and use of the fixed and mobile services operating in accordance with the Table of Frequency Allocations.

5.286D *Additional allocation:* in Canada, the United States and Panama, the band 454–455 MHz is also allocated to the mobile-satellite service (Earth-to-space) on a primary basis. (WRC–07)

5.286E *Additional allocation:* in Cape Verde, Nepal and Nigeria, the bands 454–456 MHz and 459–460 MHz are also allocated to the mobile-satellite (Earth-to-space) service on a primary basis. (WRC–07)

5.287 In the maritime mobile service, the frequencies 457.525 MHz, 457.550 MHz, 457.575 MHz, 467.525 MHz, 467.550 MHz and 467.575 MHz may be used by on-board communication stations. Where needed, equipment designed for 12.5 kHz channel spacing using also the additional frequencies 457.5375 MHz, 457.5625 MHz, 467.5375 MHz and 467.5625 MHz may be introduced for on-board communications. The use of these frequencies in territorial waters may be subject to the national regulations of the administration concerned. The characteristics of the equipment used

shall conform to those specified in Recommendation ITU–R M.1174–2. (WRC–07)

5.288 In the territorial waters of the United States and the Philippines, the preferred frequencies for use by on-board communication stations shall be 457.525 MHz, 457.550 MHz, 457.575 MHz and 457.600 MHz paired, respectively, with 467.750 MHz, 467.775 MHz, 467.800 MHz and 467.825 MHz. The characteristics of the equipment used shall conform to those specified in Recommendation ITU–R M.1174–2. (WRC–07) (FCC)

5.289 Earth exploration-satellite service applications, other than the meteorological-satellite service, may also be used in the bands 460–470 MHz and 1690–1710 MHz for space-to-Earth transmissions subject to not causing harmful interference to stations operating in accordance with the Table.

5.290 *Different category of service:* in Afghanistan, Azerbaijan, Belarus, China, the Russian Federation, Japan, Mongolia, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 460–470 MHz to the meteorological-satellite service (space-to-Earth) is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. (WRC–07)

5.291 *Additional allocation:* in China, the band 470–485 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis subject to agreement obtained under No. 9.21 and subject to not causing harmful interference to existing and planned broadcasting stations.

5.291A *Additional allocation:* in Germany, Austria, Denmark, Estonia, Finland, Liechtenstein, Norway, Netherlands, the Czech Rep. and Switzerland, the band 470–494 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97).

5.292 *Different category of service:* in Mexico, the allocation of the band 470–512 MHz to the fixed and mobile services, and in Argentina, Uruguay and Venezuela to the mobile service, is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. (WRC–07)

5.293 *Different category of service:* in Canada, Chile, Colombia, Cuba, the United States, Guyana, Honduras, Jamaica, Mexico, Panama and Peru, the allocation of the bands 470–512 MHz and 614–806 MHz to the fixed service is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. In Canada, Chile, Colombia, Cuba, the United States, Guyana, Honduras, Jamaica, Mexico, Panama and Peru, the allocation of the bands 470–512 MHz and 614–698 MHz to the mobile service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21. In Argentina and Ecuador, the allocation of the band 470–512 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. (WRC–07)

5.294 *Additional allocation:* in Saudi Arabia, Burundi, Cameroon, Côte d'Ivoire, Egypt, Ethiopia, Israel, the Libyan Arab Jamahiriya, Kenya, Malawi, the Syrian Arab Republic, Sudan, Chad and Yemen, the band 470–582 MHz is also allocated to the fixed service on a secondary basis. (WRC–07)

5.296 *Additional allocation:* in Germany, Saudi Arabia, Austria, Belgium, Côte d'Ivoire, Denmark, Egypt, Spain, Finland, France, Ireland, Israel, Italy, the Libyan Arab Jamahiriya, Jordan, Lithuania, Malta, Morocco, Monaco, Norway, Oman, the Netherlands, Portugal, the Syrian Arab Republic, the United Kingdom, Sweden, Switzerland, Swaziland and Tunisia, the band 470–790 MHz is also allocated on a secondary basis to the land mobile service, intended for applications ancillary to broadcasting. Stations of the land mobile service in the countries listed in this footnote shall not cause harmful interference to existing or planned stations operating in accordance with the Table in countries other than those listed in this footnote. (WRC–07)

5.297 *Additional allocation:* in Canada, Costa Rica, Cuba, El Salvador, the United States, Guatemala, Guyana, Honduras, Jamaica and Mexico, the band 512–608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.298 *Additional allocation:* in India, the band 549.75–550.25 MHz is also allocated to the space operation service (space-to-Earth) on a secondary basis.

5.300 *Additional allocation:* in Saudi Arabia, Egypt, Israel, the Libyan Arab Jamahiriya, Jordan, Oman, the Syrian Arab Republic and Sudan, the band 582–790 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis. (WRC–07)

5.302 *Additional allocation:* in the United Kingdom, the band 590–598 MHz is also allocated to the aeronautical radionavigation service on a primary basis. All new assignments to stations in the aeronautical radionavigation service, including those transferred from the adjacent bands, shall be subject to coordination with the Administrations of the following countries: Germany, Belgium, Denmark, Spain, France, Ireland, Luxembourg, Morocco, Norway and the Netherlands.

5.304 *Additional allocation:* in the African Broadcasting Area (*see* Nos. 5.10 to 5.13), the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.305 *Additional allocation:* in China, the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.306 *Additional allocation:* in Region 1, except in the African Broadcasting Area (*see* Nos. 5.10 to 5.13), and in Region 3, the band

608–614 MHz is also allocated to the radio astronomy service on a secondary basis.

5.307 *Additional allocation:* in India, the band 608–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.309 *Different category of service:* in Costa Rica, El Salvador and Honduras, the allocation of the band 614–806 MHz to the fixed service is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21.

5.311A For the frequency band 620–790 MHz, see also Resolution 549 (WRC–07). (WRC–07)

5.312 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Georgia, Hungary, Kazakhstan, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 645–862 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.313A The band, or portions of the band 698–790 MHz, in Bangladesh, China, Korea (Rep. of), India, Japan, New Zealand, Papua New Guinea, Philippines and Singapore are identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. In China, the use of IMT in this band will not start until 2015. (WRC–07)

5.313B *Different category of service:* in Brazil, the allocation of the band 698–806 MHz to the mobile service is on a secondary basis (*see* No. 5.32). (WRC–07)

5.314 *Additional allocation:* in Austria, Italy, Moldova, Uzbekistan, Kyrgyzstan, the United Kingdom and Swaziland, the band 790–862 MHz is also allocated to the land mobile service on a secondary basis. (WRC–07)

5.315 *Alternative allocation:* in Greece, Italy and Tunisia, the band 790–838 MHz is allocated to the broadcasting service on a primary basis.

5.316 *Additional allocation:* in Germany, Saudi Arabia, Bosnia and Herzegovina, Burkina Faso, Cameroon, Côte d'Ivoire, Croatia, Denmark, Egypt, Finland, Greece, Israel, the Libyan Arab Jamahiriya, Jordan, Kenya, The Former Yugoslav Republic of Macedonia, Liechtenstein, Mali, Monaco, Montenegro, Norway, the Netherlands, Portugal, the United Kingdom, the Syrian Arab Republic, Serbia, Sweden and Switzerland, the band 790–830 MHz, and in these same countries and in Spain, France, Gabon and Malta, the band 830–862 MHz, are also allocated to the mobile, except aeronautical mobile, service on a primary basis. However, stations of the mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with the band. This allocation is effective until 16 June 2015. (WRC–07)

5.316A *Additional allocation:* in Spain, France, Gabon and Malta, the band 790–830 MHz, in Angola, Bahrain, Benin, Botswana, Congo (Rep. of the), French overseas departments and communities of Region 1, Gambia, Ghana, Guinea, Kuwait, Lesotho, Lebanon, Malawi, Morocco, Mauritania, Mozambique, Namibia, Niger, Oman, Uganda, Poland, Qatar, Rwanda, Senegal, Sudan, South Africa, Swaziland, Tanzania, Chad, Togo, Yemen, Zambia and Zimbabwe, the band 790–862 MHz, in Georgia, the band 806–862 MHz, and in Lithuania, the band 830–862 MHz is also allocated to the mobile, except aeronautical mobile, service on a primary basis subject to the agreement by the administrations concerned obtained under No. 9.21 and under the GE06 Agreement, as appropriate, including those administrations mentioned in No. 5.312 where appropriate. However, stations of the mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause unacceptable interference to, nor claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with the band. Frequency assignments to the mobile service under this allocation in Lithuania and Poland shall not be used without the agreement of the Russian Federation and Belarus. This allocation is effective until 16 June 2015. (WRC–07)

5.316B In Region 1, the allocation to the mobile, except aeronautical mobile, service on a primary basis in the frequency band 790–862 MHz shall come into effect from 17 June 2015 and shall be subject to agreement obtained under No. 9.21 with respect to the aeronautical radionavigation service in countries mentioned in No. 5.312. For countries party to the GE06 Agreement, the use of stations of the mobile service is also subject to the successful application of the procedures of that Agreement. Resolutions 224 (Rev.WRC–07) and 749 (WRC–07) shall apply. (WRC–07)

5.317 *Additional allocation:* in Region 2 (except Brazil and the United States), the band 806–890 MHz is also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service is intended for operation within national boundaries.

5.317A Those parts of the band 698–960 MHz in Region 2 and the band 790–960 MHz in Regions 1 and 3 which are allocated to the mobile service on a primary basis are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). *See* Resolutions 224

(Rev.WRC–07) and 749 (WRC–07). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. (WRC–07)

5.318 *Additional allocation:* in Canada, the United States and Mexico, the bands 849–851 MHz and 894–896 MHz are also allocated to the aeronautical mobile service on a primary basis, for public correspondence with aircraft. The use of the band 849–851 MHz is limited to transmissions from aeronautical stations and the use of the band 894–896 MHz is limited to transmissions from aircraft stations.

5.319 *Additional allocation:* in Belarus, the Russian Federation and Ukraine, the bands 806–840 MHz (Earth-to-space) and 856–890 MHz (space-to-Earth) are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service. The use of these bands by this service shall not cause harmful interference to, or claim protection from, services in other countries operating in accordance with the Table of Frequency Allocations and is subject to special agreements between the administrations concerned.

5.320 *Additional allocation:* in Region 3, the bands 806–890 MHz and 942–960 MHz are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service is limited to operation within national boundaries. In seeking such agreement, appropriate protection shall be afforded to services operating in accordance with the Table, to ensure that no harmful interference is caused to such services.

5.322 In Region 1, in the band 862–960 MHz, stations of the broadcasting service shall be operated only in the African Broadcasting Area (*see* Nos. 5.10 to 5.13) excluding Algeria, Egypt, Spain, the Libyan Arab Jamahiriya, Morocco, Namibia, Nigeria, South Africa, Tanzania, Zimbabwe and Zambia, subject to agreement obtained under No. 9.21.

5.323 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Hungary, Kazakhstan, Moldova, Uzbekistan, Poland, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the band 862–960 MHz is also allocated to the aeronautical radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime. (WRC–07)

5.325 *Different category of service:* in the United States, the allocation of the band 890–942 MHz to the radiolocation service is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21.

5.325A *Different category of service:* in Cuba, the allocation of the band 902–915 MHz to the land mobile service is on a primary basis.

5.326 *Different category of service:* in Chile, the band 903–905 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21.

5.327 *Different category of service:* in Australia, the allocation of the band 915–928 MHz to the radiolocation service is on a primary basis (*see* No. 5.33).

5.327A The use of the band 960–1164 MHz by the aeronautical mobile (R) service is limited to systems that operate in accordance with recognized international aeronautical standards. Such use shall be in accordance with Resolution 417. (WRC–07)

5.328 The use of the band 960–1215 MHz by the aeronautical radionavigation service is reserved on a worldwide basis for the operation and development of airborne electronic aids to air navigation and any directly associated ground-based facilities.

5.328A Stations in the radionavigation-satellite service in the band 1164–1215 MHz shall operate in accordance with the provisions of Resolution 609 (Rev.WRC–07) and shall not claim protection from stations in the aeronautical radionavigation service in the band 960–1215 MHz. No. 5.43A does not apply. The provisions of No. 21.18 shall apply. (WRC–07)

5.328B The use of the bands 1164–1300 MHz, 1559–1610 MHz and 5010–5030 MHz by systems and networks in the radionavigation-satellite service for which complete coordination or notification information, as appropriate, is received by the Radiocommunication Bureau after 1 January 2005 is subject to the application of the provisions of Nos. 9.12, 9.12A and 9.13. Resolution 610 (WRC–03) shall also apply; however, in the case of radionavigation-satellite service (space-to-space) networks and systems, Resolution 610 (WRC–03) shall only apply to transmitting space stations. In accordance with No. 5.329A, for systems and networks in the radionavigation-satellite service (space-to-space) in the bands 1215–1300 MHz and 1559–1610 MHz, the provisions of Nos. 9.7, 9.12, 9.12A and 9.13 shall only apply with respect to other systems and networks in the radionavigation-satellite service (space-to-space). (WRC–07)

5.329 Use of the radionavigation-satellite service in the band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to, and no protection is claimed from, the radionavigation service authorized under No. 5.331. Furthermore, the use of the radionavigation-satellite service in the band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to the radiolocation service. No. 5.43

shall not apply in respect of the radiolocation service. Resolution 608 (WRC–03) shall apply.

5.329A Use of systems in the radionavigation-satellite service (space-to-space) operating in the bands 1215–1300 MHz and 1559–1610 MHz is not intended to provide safety service applications, and shall not impose any additional constraints on radionavigation-satellite service (space-to-Earth) systems or on other services operating in accordance with the Table of Frequency Allocations. (WRC–07)

5.330 *Additional allocation:* in Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, China, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Japan, Jordan, Kuwait, Lebanon, Mozambique, Nepal, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, Somalia, Sudan, Chad, Togo and Yemen, the band 1215–1300 MHz is also allocated to the fixed and mobile services on a primary basis.

5.331 *Additional allocation:* in Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Burkina Faso, Burundi, Cameroon, China, Korea (Rep. of), Croatia, Denmark, Egypt, the United Arab Emirates, Estonia, the Russian Federation, Finland, France, Ghana, Greece, Guinea, Equatorial Guinea, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jordan, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lesotho, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Mauritania, Montenegro, Nigeria, Norway, Oman, the Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the United Kingdom, Serbia, Slovenia, Somalia, Sudan, Sri Lanka, South Africa, Sweden, Switzerland, Thailand, Togo, Turkey, Venezuela and Viet Nam, the band 1215–1300 MHz is also allocated to the radionavigation service on a primary basis. In Canada and the United States, the band 1240–1300 MHz is also allocated to the radionavigation service, and use of the radionavigation service shall be limited to the aeronautical radionavigation service. (WRC–07)

5.332 In the band 1215–1260 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service, the radionavigation-satellite service and other services allocated on a primary basis.

5.334 *Additional allocation:* in Canada and the United States, the band 1350–1370 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.335 In Canada and the United States in the band 1240–1300 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause interference to, claim protection from, or otherwise impose constraints on operation or development of the aeronautical radionavigation service. (FCC)

5.335A In the band 1260–1300 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service and other services allocated by footnotes on a primary basis.

5.337 The use of the bands 1300–1350 MHz, 2700–2900 MHz and 9000–9200 MHz by the aeronautical radionavigation service is restricted to ground-based radars and to associated airborne transponders which transmit only on frequencies in these bands and only when actuated by radars operating in the same band.

5.337A The use of the band 1300–1350 MHz by earth stations in the radionavigation-satellite service and by stations in the radiolocation service shall not cause harmful interference to, nor constrain the operation and development of, the aeronautical-radionavigation service.

5.338 In Mongolia, Kyrgyzstan, Slovakia, the Czech Rep. and Turkmenistan, existing installations of the radionavigation service may continue to operate in the band 1350–1400 MHz. (WRC–07)

5.338A In the bands 1350–1400 MHz, 1427–1452 MHz, 22.55–23.55 GHz, 30–31.3 GHz, 49.7–50.2 GHz, 50.4–50.9 GHz and 51.4–52.6 GHz, Resolution 750 (WRC–07) applies. (WRC–07)

5.339 The bands 1370–1400 MHz, 2640–2655 MHz, 4950–4990 MHz and 15.20–15.35 GHz are also allocated to the space research (passive) and Earth exploration-satellite (passive) services on a secondary basis.

5.340 All emissions are prohibited in the following bands:

1400–1427 MHz,
2690–2700 MHz, except those provided for by No. 5.422,
10.68–10.7 GHz, except those provided for by No. 5.483,
15.35–15.4 GHz, except those provided for by No. 5.511,
23.6–24 GHz,
31.3–31.5 GHz,
31.5–31.8 GHz, in Region 2,
48.94–49.04 GHz, from airborne stations
50.2–50.4 GHz,[2]

[2] 5.340.1 The allocation to the Earth exploration-satellite service (passive) and the space research service (passive) in the band 50.2–50.4 GHz should not impose undue constraints on the use of the adjacent bands by the primary allocated services in those bands.

52.6–54.25 GHz,
86–92 GHz,
100–102 GHz,
109.5–111.8 GHz,
114.25–116 GHz,
148.5–151.5 GHz,
164–167 GHz,
182–185 GHz,
190–191.8 GHz,
200–209 GHz,
226–231.5 GHz,
250–252 GHz.

5.341 In the bands 1400–1727 MHz, 101–120 GHz and 197–220 GHz, passive research is being conducted by some countries in a programme for the search for intentional emissions of extraterrestrial origin.

5.342 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Uzbekistan, Kyrgystan and Ukraine, the band 1429–1535 MHz is also allocated to the aeronautical mobile service on a primary basis exclusively for the purposes of aeronautical telemetry within the national territory. As of 1 April 2007, the use of the band 1452–1492 MHz is subject to agreement between the administrations concerned.

5.343 In Region 2, the use of the band 1435–1535 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

5.344 *Alternative allocation:* in the United States, the band 1452–1525 MHz is allocated to the fixed and mobile services on a primary basis (*see* also No. 5.343).

5.345 Use of the band 1452–1492 MHz by the broadcasting-satellite service, and by the broadcasting service, is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–03). (FCC)

5.348 The use of the band 1518–1525 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. In the band 1518–1525 MHz stations in the mobile-satellite service shall not claim protection from the stations in the fixed service. No. 5.43A does not apply.

5.348A In the band 1518–1525 MHz, the coordination threshold in terms of the power flux-density levels at the surface of the Earth in application of No. 9.11A for space stations in the mobile-satellite (space-to-Earth) service, with respect to the land mobile service use for specialized mobile radios or used in conjunction with public switched telecommunication networks (PSTN) operating within the territory of Japan, shall be $-150$ dB(W/m$^2$) in any 4 kHz band for all angles of arrival, instead of those given in Table 5–2 of Appendix 5. In the band 1518–1525 MHz stations in the mobile-satellite service shall not claim protection from stations in the mobile service in the territory of Japan. No. 5.43A does not apply.

5.348B In the band 1518–1525 MHz, stations in the mobile-satellite service shall not claim protection from aeronautical mobile telemetry stations in the mobile service in the territory of the United States (see Nos. 5.343 and 5.344) and in the countries listed in No. 5.342. No. 5.43A does not apply.

5.349 *Different category of service:* in Saudi Arabia, Azerbaijan, Bahrain, Cameroon, Egypt, France, Iran (Islamic Republic of), Iraq, Israel, Kazakhstan, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Morocco, Qatar, Syrian Arab Republic, Kyrgyzstan, Turkmenistan and Yemen, the allocation of the band 1525–1530 MHz to the mobile, except aeronautical mobile, service is on a primary basis (*see* No. 5.33). (WRC–07)

5.350 *Additional allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the band 1525–1530 MHz is also allocated to the aeronautical mobile service on a primary basis.

5.351 The bands 1525–1544 MHz, 1545–1559 MHz, 1626.5–1645.5 MHz and 1646.5–1660.5 MHz shall not be used for feeder links of any service. In exceptional circumstances, however, an earth station at a specified fixed point in any of the mobile-satellite services may be authorized by an administration to communicate via space stations using these bands.

5.351A For the use of the bands 1518–1544 MHz, 1545–1559 MHz, 1610–1645.5 MHz, 1646.5–1660.5 MHz, 1668–1675 MHz, 1980–2010 MHz, 2170–2200 MHz, 2483.5–2520 MHz and 2670–2690 MHz by the mobile-satellite service, see Resolutions 212 (Rev.WRC–07) and 225 (Rev.WRC–07). (WRC–07)

5.352A In the band 1525–1530 MHz, stations in the mobile-satellite service, except stations in the maritime mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed service in France and French overseas communities of Region 3, Algeria, Saudi Arabia, Egypt, Guinea, India, Israel, Italy, Jordan, Kuwait, Mali, Malta, Morocco, Mauritania, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, Tanzania, Viet Nam and Yemen notified prior to 1 April 1998.

5.353A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the bands 1530–1544 MHz and 1626.5–1645.5 MHz, priority shall be given to accommodating the spectrum requirements for distress, urgency and safety communications of the Global Maritime Distress and Safety System (GMDSS). Maritime mobile-satellite distress, urgency and safety communications shall have priority access and immediate availability over all other mobile satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, distress, urgency and safety communications of the GMDSS. Account shall be taken of the priority of safety-related communications in the other mobile-satellite

services. (The provisions of Resolution 222 (Rev.WRC–07) shall apply.) (FCC)

5.354 The use of the bands 1525–1559 MHz and 1626.5–1660.5 MHz by the mobile-satellite services is subject to coordination under No. 9.11A.

5.355 *Additional allocation:* in Bahrain, Bangladesh, Congo (Rep. of the), Egypt, Eritrea, Iraq, Israel, Kuwait, Lebanon, Malta, Qatar, Syrian Arab Republic, Somalia, Sudan, Chad, Togo and Yemen, the bands 1540–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a secondary basis.

5.356 The use of the band 1544–1545 MHz by the mobile-satellite service (space-to-Earth) is limited to distress and safety communications (*see* Article 31).

5.357 Transmissions in the band 1545–1555 MHz from terrestrial aeronautical stations directly to aircraft stations, or between aircraft stations, in the aeronautical mobile (R) service are also authorized when such transmissions are used to extend or supplement the satellite-to-aircraft links.

5.357A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the bands 1545–1555 MHz and 1646.5–1656.5 MHz, priority shall be given to accommodating the spectrum requirements of the aeronautical mobile-satellite (R) service providing transmission of messages with priority 1 to 6 in Article 44. Aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44 shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services. (The provisions of Resolution 222 (Rev.WRC–07) shall apply.) (FCC)

5.359 *Additional allocation:* in Germany, Saudi Arabia, Armenia, Austria, Azerbaijan, Belarus, Benin, Bulgaria, Cameroon, Spain, the Russian Federation, France, Gabon, Georgia, Greece, Guinea, Guinea-Bissau, the Libyan Arab Jamahiriya, Jordan, Kazakhstan, Kuwait, Lebanon, Lithuania, Mauritania, Moldova, Uganda, Uzbekistan, Pakistan, Poland, the Syrian Arab Republic, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, Swaziland, Tajikistan, Tanzania, Tunisia, Turkmenistan and Ukraine, the bands 1550–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a primary basis. Administrations are urged to make all practicable efforts to avoid the implementation of new fixed-service stations in these bands. (WRC–07)

5.362A In the United States, in the bands 1555–1559 MHz and 1656.5–1660.5 MHz, the aeronautical mobile-satellite (R) service shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services.

5.362B *Additional allocation:* The band 1559–1610 MHz is also allocated to the fixed service on a primary basis until 1 January 2010 in Algeria, Saudi Arabia, Cameroon, Libyan Arab Jamahiriya, Jordan, Mali, Mauritania, Syrian Arab Republic and Tunisia. After this date, the fixed service may continue to operate on a secondary basis until 1 January 2015, at which time this allocation shall no longer be valid. The band 1559–1610 MHz is also allocated to the fixed service on a secondary basis in Algeria, Germany, Armenia, Azerbaijan, Belarus, Benin, Bulgaria, Spain, Russian Federation, France, Gabon, Georgia, Guinea, Guinea-Bissau, Kazakhstan, Lithuania, Moldova, Nigeria, Uganda, Uzbekistan, Pakistan, Poland, Kyrgyzstan, Dem. People's Rep. of Korea, Romania, Senegal, Swaziland, Tajikistan, Tanzania, Turkmenistan and Ukraine until 1 January 2015, at which time this allocation shall no longer be valid. Administrations are urged to take all practicable steps to protect the radionavigation-satellite service and the aeronautical radionavigation service and not authorize new frequency assignments to fixed-service systems in this band. (WRC–07)

5.362C *Additional allocation:* in Congo (Rep. of the), Egypt, Eritrea, Iraq, Israel, Jordan, Malta, Qatar, the Syrian Arab Republic, Somalia, Sudan, Chad, Togo and Yemen, the band 1559–1610 MHz is also allocated to the fixed service on a secondary basis until 1 January 2015, at which time this allocation shall no longer be valid. Administrations are urged to take all practicable steps to protect the radionavigation-satellite service and not authorize new frequency assignments to fixed-service systems in this band. (WRC–07)

5.364 The use of the band 1610–1626.5 MHz by the mobile-satellite service (Earth-to-space) and by the radiodetermination-satellite service (Earth-to-space) is subject to coordination under No. 9.11A. A mobile earth station operating in either of the services in this band shall not produce a peak e.i.r.p. density in excess of −15 dB(W/4 kHz) in the part of the band used by systems operating in accordance with the provisions of No. 5.366 (to which No. 4.10 applies), unless otherwise agreed by the affected administrations. In the part of the band where such systems are not operating, the mean e.i.r.p. density of a

mobile earth station shall not exceed −3 dB(W/4 kHz). Stations of the mobile-satellite service shall not claim protection from stations in the aeronautical radionavigation service, stations operating in accordance with the provisions of No. 5.366 and stations in the fixed service operating in accordance with the provisions of No. 5.359. Administrations responsible for the coordination of mobile-satellite networks shall make all practicable efforts to ensure protection of stations operating in accordance with the provisions of No. 5.366.

5.365 The use of the band 1613.8–1626.5 MHz by the mobile-satellite service (space-to-Earth) is subject to coordination under No. 9.11A.

5.366 The band 1610–1626.5 MHz is reserved on a worldwide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities. Such satellite use is subject to agreement obtained under No. 9.21.

5.367 *Additional allocation:* The bands 1610–1626.5 MHz and 5000–5150 MHz are also allocated to the aeronautical mobile-satellite (R) service on a primary basis, subject to agreement obtained under No. 9.21.

5.368 With respect to the radiodetermination-satellite and mobile-satellite services the provisions of No. 4.10 do not apply in the band 1610–1626.5 MHz, with the exception of the aeronautical radionavigation-satellite service.

5.369 *Different category of service:* in Angola, Australia, Burundi, China, Eritrea, Ethiopia, India, Iran (Islamic Republic of), Israel, the Libyan Arab Jamahiriya, Lebanon, Liberia, Madagascar, Mali, Pakistan, Papua New Guinea, Syrian Arab Republic, the Dem. Rep. of the Congo, Sudan, Swaziland, Togo and Zambia, the allocation of the band 1610–1626.5 MHz to the radiodetermination-satellite service (Earth-to-space) is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21 from countries not listed in this provision.

5.370 *Different category of service:* in Venezuela, the allocation to the radiodetermination-satellite service in the band 1610–1626.5 MHz (Earth-to-space) is on a secondary basis.

5.371 *Additional allocation:* in Region 1, the bands 1610–1626.5 MHz (Earth-to-space) and 2483.5–2500 MHz (space-to-Earth) are also allocated to the radiodetermination-satellite service on a secondary basis, subject to agreement obtained under No. 9.21.

5.372 Harmful interference shall not be caused to stations of the radio astronomy service using the band 1610.6–1613.8 MHz by stations of the radiodetermination-satellite and mobile-satellite services (No. 29.13 applies).

5.374 Mobile earth stations in the mobile-satellite service operating in the bands 1631.5–1634.5 MHz and 1656.5–1660 MHz shall not cause harmful interference to stations in the fixed service operating in the countries listed in No. 5.359.

5.375 The use of the band 1645.5–1646.5 MHz by the mobile-satellite service (Earth-to-space) and for inter-satellite links is limited to distress and safety communications (*see* Article 31).

5.376 Transmissions in the band 1646.5–1656.5 MHz from aircraft stations in the aeronautical mobile (R) service directly to terrestrial aeronautical stations, or between aircraft stations, are also authorized when such transmissions are used to extend or supplement the aircraft-to-satellite links.

5.376A Mobile earth stations operating in the band 1660–1660.5 MHz shall not cause harmful interference to stations in the radio astronomy service.

5.379 *Additional allocation:* in Bangladesh, India, Indonesia, Nigeria and Pakistan, the band 1660.5–1668.4 MHz is also allocated to the meteorological aids service on a secondary basis.

5.379A Administrations are urged to give all practicable protection in the band 1660.5–1668.4 MHz for future research in radio astronomy, particularly by eliminating air-to-ground transmissions in the meteorological aids service in the band 1664.4–1668.4 MHz as soon as practicable.

5.379B The use of the band 1668–1675 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. In the band 1668–1668.4 MHz, Resolution 904 (WRC–07) shall apply. (WRC–07)

5.379C In order to protect the radio astronomy service in the band 1668–1670 MHz, the aggregate power flux-density values produced by mobile earth stations in a network of the mobile-satellite service operating in this band shall not exceed −181 dB(W/m$^2$) in 10 MHz and −194 dB(W/m$^2$) in any 20 kHz at any radio astronomy station recorded in the Master International Frequency Register, for more than 2% of integration periods of 2000s.

5.379D For sharing of the band 1668.4–1675 MHz between the mobile-satellite service and the fixed and mobile services, Resolution 744 (Rev.WRC–07) shall apply. (WRC–07)

5.379E In the band 1668.4–1675 MHz, stations in the mobile-satellite service shall not cause harmful interference to stations in the meteorological aids service in China, Iran (Islamic Republic of), Japan and Uzbekistan. In the band 1668.4–1675 MHz, administrations are urged not to implement new systems in the meteorological aids service and are encouraged to migrate existing meteorological aids service operations to other bands as soon as practicable.

5.380A In the band 1670–1675 MHz, stations in the mobile-satellite service shall not cause harmful interference to, nor constrain the development of, existing earth stations

in the meteorological-satellite service notified before 1 January 2004. Any new assignment to these earth stations in this band shall also be protected from harmful interference from stations in the mobile-satellite service. (WRC–07)

5.381 *Additional allocation:* in Afghanistan, Costa Rica, Cuba, India, Iran (Islamic Republic of) and Pakistan, the band 1690–1700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.382 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Congo (Rep. of the), Egypt, the United Arab Emirates, Eritrea, Ethiopia, the Russian Federation, Guinea, Iraq, Israel, Jordan, Kazakhstan, Kuwait, the Former Yugoslav Republic of Macedonia, Lebanon, Mauritania, Moldova, Mongolia, Oman, Uzbekistan, Poland, Qatar, the Syrian Arab Republic, Kyrgyzstan, Serbia, Somalia, Tajikistan, Tanzania, Turkmenistan, Ukraine and Yemen, the allocation of the band 1690–1700 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (*see* No. 5.33), and in the Dem. People's Rep. of Korea, the allocation of the band 1690–1700 MHz to the fixed service is on a primary basis (*see* No. 5.33) and to the mobile, except aeronautical mobile, service on a secondary basis. (WRC–07)

5.384 *Additional allocation:* in India, Indonesia and Japan, the band 1700–1710 MHz is also allocated to the space research service (space-to-Earth) on a primary basis.

5.384A The bands, or portions of the bands, 1710–1885 MHz, 2300–2400 MHz and 2500–2690 MHz, are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–07). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. (WRC–07)

5.385 *Additional allocation:* the band 1718.8–1722.2 MHz is also allocated to the radio astronomy service on a secondary basis for spectral line observations.

5.386 *Additional allocation:* the band 1750–1850 MHz is also allocated to the space operation (Earth-to-space) and space research (Earth-to-space) services in Region 2, in Australia, Guam, India, Indonesia and Japan on a primary basis, subject to agreement obtained under No. 9.21, having particular regard to troposcatter systems.

5.387 *Additional allocation:* in Belarus, Georgia, Kazakhstan, Mongolia, Kyrgyzstan, Slovakia, Romania, Tajikistan and Turkmenistan, the band 1770–1790 MHz is also allocated to the meteorological-satellite service on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.388 The bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement International Mobile Telecommunications–2000 (IMT–2000). Such use does not preclude the use of these bands by other services to which they are allocated. The bands should be made available for IMT–2000 in accordance with Resolution 212 (Rev. WRC–07). (*See* also Resolution 223 (Rev. WRC–07).) (FCC)

5.388A In Regions 1 and 3, the bands 1885–1980 MHz, 2010–2025 MHz and 2110–2170 MHz and, in Region 2, the bands 1885–1980 MHz and 2110–2160 MHz may be used by high altitude platform stations as base stations to provide International Mobile Telecommunications–2000 (IMT–2000), in accordance with Resolution 221 (Rev. WRC–07). Their use by IMT–2000 applications using high altitude platform stations as base stations does not preclude the use of these bands by any station in the services to which they are allocated and does not establish priority in the Radio Regulations. (FCC)

5.388B In Algeria, Saudi Arabia, Bahrain, Benin, Burkina Faso, Cameroon, Comoros, Côte d'Ivoire, China, Cuba, Djibouti, Egypt, United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, India, Iran (Islamic Republic of), Israel, the Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Mali, Morocco, Mauritania, Nigeria, Oman, Uganda, Qatar, the Syrian Arab Republic, Senegal, Singapore, Sudan, Tanzania, Chad, Togo, Tunisia, Yemen, Zambia and Zimbabwe, for the purpose of protecting fixed and mobile services, including IMT–2000 mobile stations, in their territories from co-channel interference, a high altitude platform station (HAPS) operating as an IMT–2000 base station in neighbouring countries, in the bands referred to in No. 5.388A, shall not exceed a co-channel power flux-density of $-127$ dB(W/(m$^2$ · MHz)) at the Earth's surface outside a country's borders unless explicit agreement of the affected administration is provided at the time of the notification of HAPS.

5.389A The use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (Rev.WRC–2000). (WRC–07)

5.389B The use of the band 1980–1990 MHz by the mobile-satellite service shall not cause harmful interference to or constrain the development of the fixed and mobile services in Argentina, Brazil, Canada, Chile, Ecuador, the United States, Honduras, Jamaica, Mexico, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

5.389C The use of the bands 2010–2025 MHz and 2160–2170 MHz in Region 2 by the mobile-satellite service is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (Rev. WRC–2000). (WRC–07)

5.389E The use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service in Region 2 shall not cause harmful interference to or constrain the development of the fixed and mobile services in Regions 1 and 3.

5.389F In Algeria, Benin, Cape Verde, Egypt, Iran (Islamic Republic of), Mali, Syrian Arab Republic and Tunisia, the use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service shall neither cause harmful interference to the fixed and mobile services, nor hamper the development of those services prior to 1 January 2005, nor shall the former service request protection from the latter services.

5.391 In making assignments to the mobile service in the bands 2025–2110 MHz and 2200–2290 MHz, administrations shall not introduce high-density mobile systems, as described in Recommendation ITU–R SA.1154, and shall take that Recommendation into account for the introduction of any other type of mobile system.

5.392 Administrations are urged to take all practicable measures to ensure that space-to-space transmissions between two or more non-geostationary satellites, in the space research, space operations and Earth exploration-satellite services in the bands 2025–2110 MHz and 2200–2290 MHz, shall not impose any constraints on Earth-to-space, space-to-Earth and other space-to-space transmissions of those services and in those bands between geostationary and non-geostationary satellites.

5.393 *Additional allocation:* in Canada, the United States, India and Mexico, the band 2310–2360 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial sound broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev. WRC–03), with the exception of *resolves* 3 in regard to the limitation on broadcasting-satellite systems in the upper 25 MHz. (WRC–07)

5.394 In the United States, the use of the band 2300–2390 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services. In Canada, the use of the band 2360–2400 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services. (WRC–07)

5.395 In France and Turkey, the use of the band 2310–2360 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

5.396 Space stations of the broadcasting-satellite service in the band 2310–2360 MHz operating in accordance with No. 5.393 that may affect the services to which this band is allocated in other countries shall be coordinated and notified in accordance with Resolution 33 (Rev. WRC–03). Complementary terrestrial broadcasting stations shall be subject to bilateral coordination with neighbouring countries prior to their bringing into use. (FCC)

5.397 *Different category of service:* in France, the band 2450–2500 MHz is allocated on a primary basis to the radiolocation service (*see* No. 5.33). Such use is subject to agreement with administrations having services operating or planned to operate in accordance with the Table of Frequency Allocations which may be affected.

5.398 In respect of the radiodetermination-satellite service in the band 2483.5–2500 MHz, the provisions of No. 4.10 do not apply.

5.399 In Region 1, in countries other than those listed in No. 5.400, harmful interference shall not be caused to, or protection shall not be claimed from, stations of the radiolocation service by stations of the radiodetermination satellite service.

5.400 *Different category of service:* in Angola, Australia, Bangladesh, Burundi, China, Eritrea, Ethiopia, India, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, Lebanon, Liberia, Madagascar, Mali, Pakistan, Papua New Guinea, the Dem. Rep. of the Congo, the Syrian Arab Republic, Sudan, Swaziland, Togo and Zambia, the allocation of the band 2483.5–2500 MHz to the radiodetermination-satellite service (space-to-Earth) is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21 from countries not listed in this provision.

5.402 The use of the band 2483.5–2500 MHz by the mobile-satellite and the radiodetermination-satellite services is subject to the coordination under No. 9.11A. Administrations are urged to take all practicable steps to prevent harmful interference to the radio astronomy service from emissions in the 2483.5–2500 MHz band, especially those caused by second-harmonic radiation that would fall into the 4990–5000 MHz band allocated to the radio astronomy service worldwide.

5.403 Subject to agreement obtained under No. 9.21, the band 2520–2535 MHz may also be used for the mobile-satellite (space-to-Earth), except aeronautical mobile-satellite, service for operation limited to within national boundaries. The provisions of No. 9.11A apply. (WRC–07)

5.404 *Additional allocation:* in India and Iran (Islamic Republic of), the band 2500–2516.5 MHz may also be used for the radiodetermination-satellite service (space-to-Earth) for operation limited to within national boundaries, subject to agreement obtained under No. 9.21.

5.405 *Additional allocation:* in France, the band 2500–2550 MHz is also allocated to the radiolocation service on a primary basis. Such use is subject to agreement with the administrations having services operating or planned to operate in accordance with the Table which may be affected.

5.407 In the band 2500–2520 MHz, the power flux-density at the surface of the Earth from space stations operating in the mobile-satellite (space-to-Earth) service shall not exceed $-152$ dB (W/(m$^2$ · 4 kHz)) in Argentina, unless otherwise agreed by the administrations concerned.

5.410 The band 2500–2690 MHz may be used for tropospheric scatter systems in Region 1, subject to agreement obtained under No. 9.21. Administrations shall make all practicable efforts to avoid developing new tropospheric scatter systems in this band. When planning new tropospheric scatter radio-relay links in this band, all possible measures shall be taken to avoid directing the antennas of these links towards the geostationary-satellite orbit. (WRC–07)

5.412 *Alternative allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the band 2500–2690 MHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.413 In the design of systems in the broadcasting-satellite service in the bands between 2500 MHz and 2690 MHz, administrations are urged to take all necessary steps to protect the radio astronomy service in the band 2690–2700 MHz.

5.414 The allocation of the frequency band 2500–2520 MHz to the mobile-satellite service (space-to-Earth) is subject to coordination under No. 9.11A. (WRC–07)

5.414A In Japan and India, the use of the bands 2500–2520 MHz and 2520–2535 MHz, under No. 5.403, by a satellite network in the mobile-satellite service (space-to-Earth) is limited to operation within national boundaries and subject to the application of No. 9.11A. The following pfd values shall be used as a threshold for coordination under No. 9.11A, for all conditions and for all methods of modulation, in an area of 1000 km around the territory of the administration notifying the mobile-satellite service network:

$-136$ dB(W/(m$^2$ · MHz)) for $0° \leq \theta \leq 5°$

$-136 + 0.55\ (\theta - 5)$ dB(W/(m$^2$ · MHz)) for $5° < \theta \leq 25°$

$-125$ dB(W/(m$^2$ · MHz)) for $25° < \theta \leq 90°$

where $\theta$ is the angle of arrival of the incident wave above the horizontal plane, in degrees. Outside this area Table 21–4 of Article 21 shall apply. Furthermore, the coordination thresholds in Table 5–2 of Annex 1 to Appendix 5 of the Radio Regulations (Edition of 2004), in conjunction with the applicable provisions of Articles 9 and 11 associated with No. 9.11A, shall apply to systems for which complete notification information has been received by the Radicommunication Bureau by 14 November 2007 and that have been brought into use by that date. (WRC–07)

5.415 The use of the bands 2500–2690 MHz in Region 2 and 2500–2535 MHz and 2655–2690 MHz in Region 3 by the fixed-satellite service is limited to national and regional systems, subject to agreement obtained under No. 9.21, giving particular attention to the broadcasting-satellite service in Region 1. (WRC–07)

5.415A *Additional allocation:* in India and Japan, subject to agreement obtained under No. 9.21, the band 2515–2535 MHz may also be used for the aeronautical mobile-satellite service (space-to-Earth) for operation limited to within their national boundaries.

5.416 The use of the band 2520–2670 MHz by the broadcasting-satellite service is limited to national and regional systems for community reception, subject to agreement obtained under No. 9.21. The provisions of No. 9.19 shall be applied by administrations in this band in their bilateral and multilateral negotiations. (WRC–07)

5.417A In applying provision No. 5.418, in Korea (Rep. of) and Japan, *resolves* 3 of Resolution 528 (Rev. WRC–03) is relaxed to allow the broadcasting-satellite service (sound) and the complementary terrestrial broadcasting service to additionally operate on a primary basis in the band 2605–2630 MHz. This use is limited to systems intended for national coverage. An administration listed in this provision shall not have simultaneously two overlapping frequency assignments, one under this provision and the other under No. 5.416. The provisions of No. 5.416 and Table 21–4 of Article 21 do not apply. Use of non-geostationary-satellite systems in the broadcasting-satellite service (sound) in the band 2605–2630 MHz is subject to the provisions of Resolution 539 (Rev. WRC–03). The power flux-density at the Earth's surface produced by emissions from a geostationary broadcasting-satellite service (sound) space station operating in the band 2605–2630 MHz for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003, for all conditions and for all methods of modulation, shall not exceed the following limits:

$-130$ dB(W/(m$^2$ · MHz)) for $0° \leq \theta \leq 5°$

$-130 + 0.4\ (\theta - 5)$ dB(W/(m$^2$ · MHz)) for $5° < \theta \leq 25°$

$-122$ dB(W/(m$^2$ · MHz)) for $25° < \theta \leq 90°$

where $\theta$ is the angle of arrival of the incident wave above the horizontal plane, in degrees. These limits may be exceeded on the territory of any country whose administration has so agreed. In the case of the broadcasting-satellite service (sound) networks of Korea (Rep. of), as an exception to the limits above, the power flux-density value of $-122$ dB(W/(m$^2$ · MHz)) shall be used as a threshold for coordination under No. 9.11 in an area of 1000 km around the territory of the administration notifying the broadcasting-satellite service (sound) system, for angles of arrival greater than 35°.

5.417B In Korea (Rep. of) and Japan, use of the band 2605–2630 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.417A, for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003, is subject to the application of the provisions of No. 9.12A, in respect of geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received after 4 July 2003, and No. 22.2 does not apply. No. 22.2 shall continue to apply with respect to geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received before 5 July 2003.

5.417C Use of the band 2605–2630 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.417A, for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003, is subject to the application of the provisions of No. 9.12.

5.417D Use of the band 2605–2630 MHz by geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003 is subject to the application of the provisions of No. 9.13 with respect to non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.417A, and No. 22.2 does not apply.

5.418 *Additional allocation:* in Korea (Rep. of), India, Japan, Pakistan and Thailand, the band 2535–2655 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev. WRC–03). The provisions of No. 5.416 and Table 21–4 of Article 21, do not apply to this additional allocation. Use of non-geostationary-satellite systems in the broadcasting-satellite service (sound) is subject to Resolution 539 (Rev. WRC–03). Geostationary broadcasting-satellite service (sound) systems for which complete Appendix 4 coordination information has been received after 1 June 2005 are limited to systems intended for national coverage. The power flux-density at the Earth's surface produced by emissions from a geostationary broadcasting-satellite service (sound) space station operating in the band 2630–2655 MHz, and for which complete Appendix 4 coordination information has been received after 1 June 2005, shall not exceed the following limits, for all conditions and for all methods of modulation:

$-130$ dB(W/(m$^2$ · MHz)) for $0° \leq \theta \leq 5°$

$-130 + 0.4\ (\theta - 5)$ dB(W/(m$^2$ · MHz)) for $5° < \theta \leq 25°$

$-122$ dB(W/(m$^2$ · MHz)) for $25° < \theta \leq 90°$

where θ is the angle of arrival of the incident wave above the horizontal plane, in degrees. These limits may be exceeded on the territory of any country whose administration has so agreed. As an exception to the limits above, the pfd value of –122 dB(W/(m$^2$ · MHz)) shall be used as a threshold for coordination under No. 9.11 in an area of 1500 km around the territory of the administration notifying the broadcasting-satellite service (sound) system.

In addition, an administration listed in this provision shall not have simultaneously two overlapping frequency assignments, one under this provision and the other under No. 5.416 for systems for which complete Appendix 4 coordination information has been received after 1 June 2005. (WRC–07)

5.418A In certain Region 3 countries listed in No. 5.418, use of the band 2630–2655 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound) for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12A, in respect of geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received after 2 June 2000, and No. 22.2 does not apply. No. 22.2 shall continue to apply with respect to geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received before 3 June 2000.

5.418B Use of the band 2630–2655 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.418, for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12.

5.418C Use of the band 2630–2655 MHz by geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000 is subject to the application of the provisions of No. 9.13 with respect to non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.418 and No. 22.2 does not apply.

5.419 When introducing systems of the mobile-satellite service in the band 2670–2690 MHz, administrations shall take all necessary steps to protect the satellite systems operating in this band prior to 3 March 1992. The coordination of mobile-satellite systems in the band shall be in accordance with No. 9.11A. (WRC–07)

5.420 The band 2655–2670 MHz may also be used for the mobile-satellite (Earth-to-space), except aeronautical mobile-satellite,

service for operation limited to within national boundaries, subject to agreement obtained under No. 9.21. The coordination under No. 9.11A applies. (WRC–07)

5.422 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Brunei Darussalam, Congo (Rep. of the), Côte d'Ivoire, Cuba, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Georgia, Guinea, Guinea-Bissau, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Mauritania, Moldova, Mongolia, Montenegro, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, Kyrgyzstan, the Dem. Rep. of the Congo, Romania, Somalia, Tajikistan, Tunisia, Turkmenistan, Ukraine and Yemen, the band 2690–2700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985. (WRC–07)

5.423 In the band 2700–2900 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the aeronautical radionavigation service.

5.424 *Additional allocation:* in Canada, the band 2850–2900 MHz is also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars.

5.424A In the band 2900–3100 MHz, stations in the radiolocation service shall not cause harmful interference to, nor claim protection from, radar systems in the radionavigation service.

5.425 In the band 2900–3100 MHz, the use of the shipborne interrogator-transponder (SIT) system shall be confined to the sub-band 2930–2950 MHz.

5.426 The use of the band 2900–3100 MHz by the aeronautical radionavigation service is limited to ground-based radars.

5.427 In the bands 2900–3100 MHz and 9300–9500 MHz, the response from radar transponders shall not be capable of being confused with the response from radar beacons (racons) and shall not cause interference to ship or aeronautical radars in the radionavigation service, having regard, however, to No. 4.9.

5.428 *Additional allocation:* in Azerbaijan, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3100–3300 MHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.429 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Japan, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Oman, Uganda, Pakistan, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea and Yemen, the band 3300–3400 MHz is also allocated to the fixed and mobile services on a primary basis. The countries bordering the Mediterranean shall not claim protection for their fixed and mobile services from the radiolocation service. (WRC–07)

5.430 *Additional allocation:* in Azerbaijan, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3300–3400 MHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.430A *Different category of service:* in Albania, Algeria, Germany, Andorra, Saudi Arabia, Austria, Azerbaijan, Bahrain, Belgium, Benin, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Cameroon, Cyprus, Vatican, Congo (Rep. of the), Côte d'Ivoire, Croatia, Denmark, Egypt, Spain, Estonia, Finland, France and French overseas departments and communities in Region 1, Gabon, Georgia, Greece, Guinea, Hungary, Ireland, Iceland, Israel, Italy, Jordan, Kuwait, Lesotho, Latvia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Lithuania, Malawi, Mali, Malta, Morocco, Mauritania, Moldova, Monaco, Mongolia, Montenegro, Mozambique, Namibia, Niger, Norway, Oman, Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Slovakia, Czech Rep., Romania, United Kingdom, San Marino, Senegal, Serbia, Sierra Leone, Slovenia, South Africa, Sweden, Switzerland, Swaziland, Chad, Togo, Tunisia, Turkey, Ukraine, Zambia and Zimbabwe, the band 3400–3600 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis subject to agreement obtained under No. 9.21 with other administrations and is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band, it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed −154.5 dB(W/(m$^2$ 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile

service in the band 3400–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). This allocation is effective from 17 November 2010. (WRC–07)

5.431 *Additional allocation:* in Germany, Israel and the United Kingdom, the band 3400–3475 MHz is also allocated to the amateur service on a secondary basis.

5.431A *Different category of service:* in Argentina, Brazil, Chile, Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Mexico, Paraguay, Suriname, Uruguay, Venezuela and French overseas departments and communities in Region 2, the band 3400–3500 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21. Stations of the mobile service in the band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). (WRC–07)

5.432 *Different category of service:* in Korea (Rep. of), Japan and Pakistan, the allocation of the band 3400–3500 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

5.432A In Korea (Rep. of), Japan and Pakistan, the band 3400–3500 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed −154.5 dB(W/(m² 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile service in the band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). (WRC–07)

5.432B *Different category of service:* in Bangladesh, China, India, Iran (Islamic Republic of), New Zealand, Singapore and French overseas communities in Region 3, the band 3400–3500 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21 with other administrations and is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed −154.5 dB(W/(m² 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station) with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile service in the band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). This allocation is effective from 17 November 2010. (WRC–07)

5.433 In Regions 2 and 3, in the band 3400–3600 MHz the radiolocation service is allocated on a primary basis. However, all administrations operating radiolocation systems in this band are urged to cease operations by 1985. Thereafter, administrations shall take all practicable steps to protect the fixed-satellite service and coordination requirements shall not be imposed on the fixed-satellite service.

5.433A In Bangladesh, China, Korea (Rep. of), India, Iran (Islamic Republic of), Japan, New Zealand, Pakistan and French overseas communities in Region 3, the band 3500–3600 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed −154.5 dB (W/(m² 4 kHz)) for more than 20% of time at the

border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile service in the band 3500–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). (WRC–07)

5.435 In Japan, in the band 3620–3700 MHz, the radiolocation service is excluded.

5.438 Use of the band 4200–4400 MHz by the aeronautical radionavigation service is reserved exclusively for radio altimeters installed on board aircraft and for the associated transponders on the ground. However, passive sensing in the Earth exploration-satellite and space research services may be authorized in this band on a secondary basis (no protection is provided by the radio altimeters).

5.439 *Additional allocation:* in Iran (Islamic Republic of) and Libyan Arab Jamahiriya, the band 4200–4400 MHz is also allocated to the fixed service on a secondary basis.

5.440 The standard frequency and time signal-satellite service may be authorized to use the frequency 4202 MHz for space-to-Earth transmissions and the frequency 6427 MHz for Earth-to-space transmissions. Such transmissions shall be confined within the limits of ± 2 MHz of these frequencies, subject to agreement obtained under No. 9.21.

5.440A In Region 2 (except Brazil, Cuba, French overseas departments and communities, Guatemala, Paraguay, Uruguay and Venezuela), and in Australia, the band 4400–4940 MHz may be used for aeronautical mobile telemetry for flight testing by aircraft stations (*see* No. 1.83). Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to, nor claim protection from, the fixed-satellite and fixed services. Any such use does not preclude the use of these bands by other mobile service applications or by other services to which these bands are allocated on a co-primary basis and does not establish priority in the Radio Regulations. (WRC–07)

5.441 The use of the bands 4500–4800 MHz (space-to-Earth), 6725–7025 MHz (Earth-to-space) by the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to-Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by geostationary-satellite systems in the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to-Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.442 In the bands 4825–4835 MHz and 4950–4990 MHz, the allocation to the mobile service is restricted to the mobile, except aeronautical mobile, service. In Region 2 (except Brazil, Cuba, Guatemala, Paraguay, Uruguay and Venezuela), and in Australia, the band 4825–4835 MHz is also allocated to the aeronautical mobile service, limited to aeronautical mobile telemetry for flight testing by aircraft stations. Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to the fixed service. (WRC–07)

5.443 *Different category of service:* in Argentina, Australia and Canada, the allocation of the bands 4825–4835 MHz and 4950–4990 MHz to the radio astronomy service is on a primary basis (see No. 5.33).

5.443B In order not to cause harmful interference to the microwave landing system operating above 5030 MHz, the aggregate power flux-density produced at the Earth's surface in the band 5030–5150 MHz by all the space stations within any radionavigation-satellite service system (space-to-Earth) operating in the band 5010–5030 MHz shall not exceed –124.5 dB(W/m$^2$) in a 150 kHz band. In order not to cause harmful interference to the radio astronomy service in the band 4990–5000 MHz, radionavigation-satellite service systems operating in the band 5010–5030 MHz shall comply with the limits in the band 4990–5000 MHz defined in Resolution 741 (WRC–03).

5.444 The band 5030–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for

precision approach and landing. In the band 5030–5091 MHz, the requirements of this system shall take precedence over other uses of this band. For the use of the band 5091–5150 MHz, No. 5.444A and Resolution 114 (Rev.WRC–03) apply. (WRC–07)

5.444A *Additional allocation:* the band 5091–5150 MHz is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis. This allocation is limited to feeder links of non-geostationary satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A.

In the band 5091–5150 MHz, the following conditions also apply:

—Prior to 1 January 2018, the use of the band 5091–5150 MHz by feeder links of non-geostationary-satellite systems in the mobile-satellite service shall be made in accordance with Resolution 114 (Rev.WRC–03);

—After 1 January 2016, no new assignments shall be made to earth stations providing feeder links of non-geostationary mobile-satellite systems;

—After 1 January 2018, the fixed-satellite service will become secondary to the aeronautical radionavigation service. (WRC–07)

5.444B The use of the band 5091–5150 MHz by the aeronautical mobile service is limited to:

—Systems operating in the aeronautical mobile (R) service and in accordance with international aeronautical standards, limited to surface applications at airports. Such use shall be in accordance with Resolution 748 (WRC–07);

—Aeronautical telemetry transmissions from aircraft stations (*see* No. 1.83) in accordance with Resolution 418 (WRC–07);

—Aeronautical security transmissions. Such use shall be in accordance with Resolution 419 (WRC–07). (WRC–07)

5.446 *Additional allocation:* in the countries listed in Nos. 5.369 and 5.400, the band 5150–5216 MHz is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21. In Region 2, the band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis. In Regions 1 and 3, except those countries listed in Nos. 5.369 and 5.400, the band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a secondary basis. The use by the radiodetermination-satellite service is limited to feeder links in conjunction with the radiodetermination-satellite service operating in the bands 1610–1626.5 MHz and/or 2483.5–2500 MHz. The total power flux-density at the Earth's surface shall in no case exceed –159 dB (W/m$^2$) in any 4 kHz band for all angles of arrival.

5.446A The use of the bands 5150–5350 MHz and 5470–5725 MHz by the stations in the mobile, except aeronautical mobile, service shall be in accordance with Resolution 229 (WRC–03). (WRC–07)

5.446B In the band 5150–5250 MHz, stations in the mobile service shall not claim protection from earth stations in the fixed-satellite service. No. 5.43A does not apply to the mobile service with respect to fixed-satellite service earth stations.

5.446C *Additional allocation:* in Region 1 (except in Algeria, Saudi Arabia, Bahrain, Egypt, United Arab Emirates, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Syrian Arab Republic, Sudan and Tunisia) and in Brazil, the band 5150–5250 MHz is also allocated to the aeronautical mobile service on a primary basis, limited to aeronautical telemetry transmissions from aircraft stations (see No. 1.83), in accordance with Resolution 418 (WRC–07). These stations shall not claim protection from other stations operating in accordance with Article 5. No. 5.43A does not apply. (WRC–07)

5.447 *Additional allocation:* in Côte d'Ivoire, Israel, Lebanon, Pakistan, the Syrian Arab Republic and Tunisia, the band 5150–5250 MHz is also allocated to the mobile service, on a primary basis, subject to agreement obtained under No. 9.21. In this case, the provisions of Resolution 229 (WRC–03) do not apply. (WRC–07)

5.447A The allocation to the fixed-satellite service (Earth-to-space) is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A.

5.447B *Additional allocation:* the band 5150–5216 MHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. This allocation is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to provisions of No. 9.11A. The power flux-density at the Earth's surface produced by space stations of the fixed-satellite service operating in the space-to-Earth direction in the band 5150–5216 MHz shall in no case exceed –164 dB (W/m$^2$) in any 4 kHz band for all angles of arrival.

5.447C Administrations responsible for fixed-satellite service networks in the band 5150–5250 MHz operated under Nos. 5.447A and 5.447B shall coordinate on an equal basis in accordance with No. 9.11A with administrations responsible for non-geostationary-satellite networks operated under No. 5.446 and brought into use prior to 17 November 1995. Satellite networks operated under No. 5.446 brought into use after 17 November 1995 shall not claim protection from, and shall not cause harmful interference to, stations of the fixed-satellite service operated under Nos. 5.447A and 5.447B.

5.447D The allocation of the band 5250–5255 MHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the band by the space research service are on a secondary basis.

5.447E *Additional allocation:* The band 5250–5350 MHz is also allocated to the fixed service on a primary basis in the following countries in Region 3: Australia, Korea (Rep. of), India, Indonesia, Iran (Islamic Republic of), Japan, Malaysia, Papua New Guinea, the Philippines, Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam. The use of this band by the fixed service is intended for the implementation of fixed wireless access systems and shall comply with Recommendation ITU–R F.1613. In addition, the fixed service shall not claim protection from the radiodetermination, Earth exploration-satellite (active) and space research (active) services, but the provisions of No. 5.43A do not apply to the fixed service with respect to the Earth exploration-satellite (active) and space research (active) services. After implementation of fixed wireless access systems in the fixed service with protection for the existing radiodetermination systems, no more stringent constraints should be imposed on the fixed wireless access systems by future radiodetermination implementations. (WRC–07)

5.447F In the band 5250–5350 MHz, stations in the mobile service shall not claim protection from the radiolocation service, the Earth exploration-satellite service (active) and the space research service (active). These services shall not impose on the mobile service more stringent protection criteria, based on system characteristics and interference criteria, than those stated in Recommendations ITU–R M.1638 and ITU–R RS.1632.

5.448 *Additional allocation:* in Azerbaijan, Libyan Arab Jamahiriya, Mongolia, Kyrgyzstan, Slovakia, Romania and Turkmenistan, the band 5250–5350 MHz is also allocated to the radionavigation service on a primary basis.

5.448A The Earth exploration-satellite (active) and space research (active) services in the frequency band 5250–5350 MHz shall not claim protection from the radiolocation service. No. 5.43A does not apply.

5.448B The Earth exploration-satellite service (active) operating in the band 5350–5570 MHz and space research service (active) operating in the band 5460–5570 MHz shall not cause harmful interference to the aeronautical radionavigation service in the band 5350–5460 MHz, the radionavigation service in the band 5460–5470 MHz and the maritime radionavigation service in the band 5470–5570 MHz.

5.448C The space research service (active) operating in the band 5350–5460 MHz shall not cause harmful interference to nor claim protection from other services to which this band is allocated.

5.448D In the frequency band 5350–5470 MHz, stations in the radiolocation service shall not cause harmful interference to, nor claim protection from, radar systems in the aeronautical radionavigation service operating in accordance with No. 5.449.

5.449 The use of the band 5350–5470 MHz by the aeronautical radionavigation service is limited to airborne radars and associated airborne beacons.

5.450 *Additional allocation:* in Austria, Azerbaijan, Iran (Islamic Republic of), Mongolia, Kyrgyzstan, Romania, Turkmenistan and Ukraine, the band 5470–5650 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.450A In the band 5470–5725 MHz, stations in the mobile service shall not claim protection from radiodetermination services. Radiodetermination services shall not impose on the mobile service more stringent protection criteria, based on system characteristics and interference criteria, than those stated in Recommendation ITU–R M.1638.

5.450B In the frequency band 5470–5650 MHz, stations in the radiolocation service, except ground-based radars used for meteorological purposes in the band 5600–5650 MHz, shall not cause harmful interference to, nor claim protection from, radar systems in the maritime radionavigation service.

5.451 *Additional allocation:* in the United Kingdom, the band 5470–5850 MHz is also allocated to the land mobile service on a secondary basis. The power limits specified in Nos. 21.2, 21.3, 21.4 and 21.5 shall apply in the band 5725–5850 MHz.

5.452 Between 5600 MHz and 5650 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the maritime radionavigation service.

5.453 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Egypt, the United Arab Emirates, Gabon, Guinea, Equatorial Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Japan, Jordan, Kenya, Kuwait, Lebanon, Madagascar, Malaysia, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Sri Lanka, Swaziland, Tanzania, Chad, Thailand, Togo, Viet Nam and Yemen, the band 5650–5850 MHz is also allocated to the fixed and mobile services on a primary basis. In this case, the provisions of Resolution 229 (WRC–03) do not apply.

5.454 *Different category of service:* in Azerbaijan, the Russian Federation, Georgia, Mongolia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 5670–5725 MHz to the space research service is on a primary basis (*see* No. 5.33). (WRC–07)

5.455 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan,

Tajikistan, Turkmenistan and Ukraine, the band 5670–5850 MHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.456 *Additional allocation:* in Cameroon, the band 5755–5850 MHz is also allocated to the fixed service on a primary basis.

5.457A In the bands 5925–6425 MHz and 14–14.5 GHz, earth stations located on board vessels may communicate with space stations of the fixed-satellite service. Such use shall be in accordance with Resolution 902 (WRC–03).

5.457B In the bands 5925–6425 MHz and 14–14.5 GHz, earth stations located on board vessels may operate with the characteristics and under the conditions contained in Resolution 902 (WRC–03) in Algeria, Saudi Arabia, Bahrain, Comoros, Djibouti, Egypt, United Arab Emirates, the Libyan Arab Jamahiriya, Jordan, Kuwait, Morocco, Mauritania, Oman, Qatar, the Syrian Arab Republic, Sudan, Tunisia and Yemen, in the maritime mobile-satellite service on a secondary basis. Such use shall be in accordance with Resolution 902 (WRC–03).

5.457C In Region 2 (except Brazil, Cuba, French overseas departments and communities, Guatemala, Paraguay, Uruguay and Venezuela), the band 5925–6700 MHz may be used for aeronautical mobile telemetry for flight testing by aircraft stations (*see* No. 1.83). Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to, nor claim protection from, the fixed-satellite and fixed services. Any such use does not preclude the use of these bands by other mobile service applications or by other services to which these bands are allocated on a co-primary basis and does not establish priority in the Radio Regulations. (WRC–07)

5.458 In the band 6425–7075 MHz, passive microwave sensor measurements are carried out over the oceans. In the band 7075–7250 MHz, passive microwave sensor measurements are carried out. Administrations should bear in mind the needs of the Earth exploration-satellite (passive) and space research (passive) services in their future planning of the bands 6425–7025 MHz and 7075–7250 MHz.

5.458A In making assignments in the band 6700–7075 MHz to space stations of the fixed-satellite service, administrations are urged to take all practicable steps to protect spectral line observations of the radio astronomy service in the band 6650–6675.2 MHz from harmful interference from unwanted emissions.

5.458B The space-to-Earth allocation to the fixed-satellite service in the band 6700–7075 MHz is limited to feeder links for non-geostationary satellite systems of the mobile-satellite service and is subject to coordination under No. 9.11A. The use of the band 6700–7075 MHz (space-to-Earth) by feeder links for non-geostationary satellite systems in the mobile-satellite service is not subject to No. 22.2.

5.458C Administrations making submissions in the band 7025–7075 MHz (Earth-to-space) for geostationary-satellite systems in the fixed-satellite service after 17 November 1995 shall consult on the basis of relevant ITU–R Recommendations with the administrations that have notified and brought into use non-geostationary-satellite systems in this frequency band before 18 November 1995 upon request of the latter administrations. This consultation shall be with a view to facilitating shared operation of both geostationary-satellite systems in the fixed-satellite service and non-geostationary-satellite systems in this band.

5.459 *Additional allocation:* in the Russian Federation, the frequency bands 7100–7155 MHz and 7190–7235 MHz are also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21.

5.460 The use of the band 7145–7190 MHz by the space research service (Earth-to-space) is restricted to deep space; no emissions to deep space shall be effected in the band 7190–7235 MHz. Geostationary satellites in the space research service operating in the band 7190–7235 MHz shall not claim protection from existing and future stations of the fixed and mobile services and No. 5.43A does not apply.

5.461 *Additional allocation:* the bands 7250–7375 MHz (space-to-Earth) and 7900–8025 MHz (Earth-to-space) are also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21.

5.461A The use of the band 7450–7550 MHz by the meteorological-satellite service (space-to-Earth) is limited to geostationary-satellite systems. Non-geostationary meteorological-satellite systems in this band notified before 30 November 1997 may continue to operate on a primary basis until the end of their lifetime.

5.461B The use of the band 7750–7850 MHz by the meteorological-satellite service (space-to-Earth) is limited to non-geostationary satellite systems.

5.462A In Regions 1 and 3 (except for Japan), in the band 8025–8400 MHz, the Earth exploration-satellite service using geostationary satellites shall not produce a power flux-density in excess of the following provisional values for angles of arrival ($\theta$), without the consent of the affected administration:

$-174$ dB(W/m$^2$) in a 4 kHz band for $0° \leq \theta < 5°$

$-174 + 0.5\ (\theta - 5)$ dB(W/m$^2$) in a 4 kHz band for $5° \leq \theta < 25°$

$-164$ dB(W/m$^2$) in a 4 kHz band for $25° \leq \theta \leq 90°$

These values are subject to study under Resolution 124 (Rev. WRC–2000). (FCC)

5.463 Aircraft stations are not permitted to transmit in the band 8025–8400 MHz.

5.465 In the space research service, the use of the band 8400–8450 MHz is limited to deep space.

5.466 *Different category of service:* in Israel, Singapore and Sri Lanka, the allocation of the band 8400–8500 MHz to the space research service is on a secondary basis (see No. 5.32).

5.468 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burundi, Cameroon, China, Congo (Rep. of the), Costa Rica, Egypt, the United Arab Emirates, Gabon, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, the Libyan Arab Jamahiriya, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Senegal, Singapore, Somalia, Swaziland, Tanzania, Chad, Togo, Tunisia and Yemen, the band 8500–8750 MHz is also allocated to the fixed and mobile services on a primary basis.

5.469 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Hungary, Lithuania, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 8500–8750 MHz is also allocated to the land mobile and radionavigation services on a primary basis.

5.469A In the band 8550–8650 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, or constrain the use and development of, stations of the radiolocation service.

5.470 The use of the band 8750–8850 MHz by the aeronautical radionavigation service is limited to airborne Doppler navigation aids on a centre frequency of 8800 MHz.

5.471 *Additional allocation:* in Algeria, Germany, Bahrain, Belgium, China, Egypt, the United Arab Emirates, France, Greece, Indonesia, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, the Netherlands, Qatar and Sudan, the bands 8825–8850 MHz and 9000–9200 MHz are also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars only. (WRC–07)

5.472 In the bands 8850–9000 MHz and 9200–9225 MHz, the maritime radionavigation service is limited to shore-based radars.

5.473 *Additional allocation:* in Armenia, Austria, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the bands 8850–9000 MHz and 9200–9300 MHz are also allocated to the radionavigation service on a primary basis. (WRC–07)

5.473A In the band 9000–9200 MHz, stations operating in the radiolocation service shall not cause harmful interference to, nor claim protection from, systems identified in No. 5.337 operating in the aeronautical radionavigation service, or radar systems in the maritime radionavigation service operating in this band on a primary basis in the countries listed in No. 5.471. (WRC–07)

5.474 In the band 9200–9500 MHz, search and rescue transponders (SART) may be used, having due regard to the appropriate ITU–R Recommendation (*see* also Article 31).

5.475 The use of the band 9300–9500 MHz by the aeronautical radionavigation service is limited to airborne weather radars and ground-based radars. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9300–9320 MHz on condition that harmful interference is not caused to the maritime radionavigation service. (WRC–07)

5.475A The use of the band 9300–9500 MHz by the Earth exploration-satellite service (active) and the space research service (active) is limited to systems requiring necessary bandwidth greater than 300 MHz that cannot be fully accommodated within the 9500–9800 MHz band. (WRC–07)

5.475B In the band 9300–9500 MHz, stations operating in the radiolocation service shall not cause harmful interference to, nor claim protection from, radars operating in the radionavigation service in conformity with the Radio Regulations. Ground-based radars used for meteorological purposes have priority over other radiolocation uses. (WRC–07)

5.476A In the band 9300–9800 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, nor claim protection from, stations of the radionavigation and radiolocation services. (WRC–07)

5.477 *Different category of service:* in Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Liberia, Malaysia, Nigeria, Oman, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Trinidad and Tobago, and Yemen, the allocation of the band 9800–10000 MHz to the fixed service is on a primary basis (*see* No. 5.33). (WRC–07)

5.478 *Additional allocation:* in Azerbaijan, Mongolia, Kyrgyzstan, Romania, Turkmenistan and Ukraine, the band 9800–10000 MHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.478A The use of the band 9800–9900 MHz by the Earth exploration-satellite service (active) and the space research service (active) is limited to systems requiring necessary bandwidth greater than 500 MHz that cannot be fully accommodated within the 9300–9800 MHz band. (WRC–07)

5.478B In the band 9800–9900 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, nor claim protection from stations of the fixed service to which this band is allocated on a secondary basis. (WRC–07)

5.479 The band 9975–10025 MHz is also allocated to the meteorological-satellite service on a secondary basis for use by weather radars.

5.480 *Additional allocation:* in Argentina, Brazil, Chile, Costa Rica, Cuba, El Salvador, Ecuador, Guatemala, Honduras, Mexico, Paraguay, the Netherlands Antilles, Peru and Uruguay, the band 10–10.45 GHz is also allocated to the fixed and mobile services on a primary basis. In Venezuela, the band 10–10.45 GHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.481 *Additional allocation:* in Germany, Angola, Brazil, China, Costa Rica, Côte d'Ivoire, El Salvador, Ecuador, Spain, Guatemala, Hungary, Japan, Kenya, Morocco, Nigeria, Oman, Uzbekistan, Paraguay, Peru, the Dem. People's Rep. of Korea, Romania, Tanzania, Thailand and Uruguay, the band 10.45–10.5 GHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.482 In the band 10.6–10.68 GHz, the power delivered to the antenna of stations of the fixed and mobile, except aeronautical mobile, services shall not exceed −3 dBW. This limit may be exceeded, subject to agreement obtained under No. 9.21. However, in Algeria, Saudi Arabia, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Egypt, United Arab Emirates, Georgia, India, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Libyan Arab Jamahiriya, Kazakhstan, Kuwait, Lebanon, Morocco, Mauritania, Moldova, Nigeria, Oman, Uzbekistan, Pakistan, Philippines, Qatar, Syrian Arab Republic, Kyrgyzstan, Singapore, Tajikistan, Tunisia, Turkmenistan and Viet Nam, this restriction on the fixed and mobile, except aeronautical mobile, services is not applicable. (WRC–07) (FCC)

5.482A For sharing of the band 10.6–10.68 GHz between the Earth exploration-satellite (passive) service and the fixed and mobile, except aeronautical mobile, services, Resolution 751 (WRC–07) applies. (WRC–07)

5.483 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, China, Colombia, Korea (Rep. of), Costa Rica, Egypt, the United Arab Emirates, Georgia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Lebanon, Mongolia, Qatar, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, Tajikistan, Turkmenistan and Yemen, the band 10.68–10.7 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985. (WRC–07)

5.484 In Region 1, the use of the band 10.7–11.7 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

5.484A The use of the bands 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), 11.7–12.2 GHz (space-to-Earth) in Region 2, 12.2–12.75 GHz (space-to-Earth) in Region 3, 12.5–12.75 GHz (space-to-Earth) in Region 1, 13.75–14.5 GHz (Earth-to-space), 17.8–18.6 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 27.5–28.6 GHz (Earth-to-space), 29.5–30 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.485 In Region 2, in the band 11.7–12.2 GHz, transponders on space stations in the fixed-satellite service may be used additionally for transmissions in the broadcasting-satellite service, provided that such transmissions do not have a maximum e.i.r.p. greater than 53 dBW per television channel and do not cause greater interference or require more protection from interference than the coordinated fixed-satellite service frequency assignments. With respect to the space services, this band shall be used principally for the fixed-satellite service.

5.486 *Different category of service:* in Mexico and the United States, the allocation of the band 11.7–12.1 GHz to the fixed service is on a secondary basis (*see* No. 5.32).

5.487 In the band 11.7–12.5 GHz in Regions 1 and 3, the fixed, fixed-satellite, mobile, except aeronautical mobile, and broadcasting services, in accordance with their respective allocations, shall not cause harmful interference to, or claim protection from, broadcasting-satellite stations operating in accordance with the Regions 1 and 3 Plan in Appendix 30.

5.487A *Additional allocation:* in Region 1, the band 11.7–12.5 GHz, in Region 2, the band 12.2–12.7 GHz and, in Region 3, the band 11.7–

12.2 GHz, are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis, limited to non-geostationary systems and subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the broadcasting-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.488 The use of the band 11.7–12.2 GHz by geostationary-satellite networks in the fixed-satellite service in Region 2 is subject to application of the provisions of No. 9.14 for coordination with stations of terrestrial services in Regions 1, 2 and 3. For the use of the band 12.2–12.7 GHz by the broadcasting-satellite service in Region 2, *see* Appendix 30.

5.489 *Additional allocation:* in Peru, the band 12.1–12.2 GHz is also allocated to the fixed service on a primary basis.

5.490 In Region 2, in the band 12.2–12.7 GHz, existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in conformity with the broadcasting-satellite Plan for Region 2 contained in Appendix 30.

5.492 Assignments to stations of the broadcasting-satellite service which are in conformity with the appropriate regional Plan or included in the Regions 1 and 3 List in Appendix 30 may also be used for transmissions in the fixed-satellite service (space-to-Earth), provided that such transmissions do not cause more interference, or require more protection from interference, than the broadcasting-satellite service transmissions operating in conformity with the Plan or the List, as appropriate.

5.493 The broadcasting-satellite service in the band 12.5–12.75 GHz in Region 3 is limited to a power flux-density not exceeding $-111$ dB(W/(m$^2$ · 27 MHz)) for all conditions and for all methods of modulation at the edge of the service area.

5.494 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Cameroon, the Central African Rep., Congo (Rep. of the), Côte d'Ivoire, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Iraq, Israel, the Libyan Arab Jamahiriya, Jordan, Kuwait, Lebanon, Madagascar, Mali, Morocco, Mongolia, Nigeria, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, Somalia, Sudan, Chad, Togo and Yemen, the band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.495 *Additional allocation:* in Bosnia and Herzegovina, France, Greece, Liechtenstein, Monaco, Montenegro, Uganda, Romania, Serbia, Switzerland, Tanzania and Tunisia, the band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis. (WRC–07)

5.496 *Additional allocation:* in Austria, Azerbaijan, Kyrgyzstan and Turkmenistan, the band 12.5–12.75 GHz is also allocated to the fixed service and the mobile, except aeronautical mobile, service on a primary basis. However, stations in these services shall not cause harmful interference to fixed-satellite service earth stations of countries in Region 1 other than those listed in this footnote. Coordination of these earth stations is not required with stations of the fixed and mobile services of the countries listed in this footnote. The power flux-density limit at the Earth's surface given in Table 21–4 of Article 21, for the fixed-satellite service shall apply on the territory of the countries listed in this footnote.

5.497 The use of the band 13.25–13.4 GHz by the aeronautical radionavigation service is limited to Doppler navigation aids.

5.498A The Earth exploration-satellite (active) and space research (active) services operating in the band 13.25–13.4 GHz shall not cause harmful interference to, or constrain the use and development of, the aeronautical radionavigation service.

5.499 *Additional allocation:* in Bangladesh, India and Pakistan, the band 13.25–14 GHz is also allocated to the fixed service on a primary basis.

5.500 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, Egypt, the United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Madagascar, Malaysia, Mali, Malta, Morocco, Mauritania, Nigeria, Pakistan, Qatar, the Syrian Arab Republic, Singapore, Sudan, Chad and Tunisia, the band 13.4–14 GHz is also allocated to the fixed and mobile services on a primary basis.

5.501 *Additional allocation:* In Azerbaijan, Hungary, Japan, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 13.4–14 GHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.501A The allocation of the band 13.4–13.75 GHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the band by the space research service are on a secondary basis.

5.501B In the band 13.4–13.75 GHz, the Earth exploration-satellite (active) and

space research (active) services shall not cause harmful interference to, or constrain the use and development of, the radiolocation service.

5.502 In the band 13.75–14 GHz, an earth station of a geostationary fixed-satellite service network shall have a minimum antenna diameter of 1.2 m and an earth station of a non-geostationary fixed-satellite service system shall have a minimum antenna diameter of 4.5 m. In addition, the e.i.r.p., averaged over one second, radiated by a station in the radiolocation or radionavigation services shall not exceed 59 dBW for elevation angles above 2° and 65 dBW at lower angles. Before an administration brings into use an earth station in a geostationary-satellite network in the fixed-satellite service in this band with an antenna diameter smaller than 4.5 m, it shall ensure that the power flux-density produced by this earth station does not exceed:

— −115 dB(W/(m$^2$ · 10 MHz)) for more than 1% of the time produced at 36 m above sea level at the low water mark, as officially recognized by the coastal State;

— −115 dB(W/(m$^2$ · 10 MHz)) for more than 1% of the time produced 3 m above ground at the border of the territory of an administration deploying or planning to deploy land mobile radars in this band, unless prior agreement has been obtained.

For earth stations within the fixed-satellite service having an antenna diameter greater than or equal to 4.5 m, the e.i.r.p. of any emission should be at least 68 dBW and should not exceed 85 dBW.

5.503 In the band 13.75–14 GHz, geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 shall operate on an equal basis with stations in the fixed-satellite service; after that date, new geostationary space stations in the space research service will operate on a secondary basis. Until those geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 cease to operate in this band:

—In the band 13.77–13.78 GHz, the e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in geostationary-satellite orbit shall not exceed:

(i) 4.7$D$ + 28 dB (W/40 kHz), where $D$ is the fixed-satellite service earth station antenna diameter (m) for antenna diameters equal to or greater than 1.2 m and less than 4.5 m;

(ii) 49.2 + 20 log ($D$/4.5) dB(W/40 kHz), where $D$ is the fixed-satellite service earth station antenna diameter (m) for antenna diameters equal to or greater than 4.5 m and less than 31.9 m;

(iii) 66.2 dB(W/40 kHz) for any fixed-satellite service earth station for antenna diameters (m) equal to or greater than 31.9 m;

(iv) 56.2 dB(W/4 kHz) for narrow-band (less than 40 kHz of necessary bandwidth) fixed-satellite service earth station emissions from any fixed-satellite service earth station having an antenna diameter of 4.5 m or greater;

— the e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in non-geostationary-satellite orbit shall not exceed 51 dBW in the 6 MHz band from 13.772 to 13.778 GHz.

Automatic power control may be used to increase the e.i.r.p. density in these frequency ranges to compensate for rain attenuation, to the extent that the power flux-density at the fixed-satellite service space station does not exceed the value resulting from use by an earth station of an e.i.r.p. meeting the above limits in clear-sky conditions.

5.504 The use of the band 14–14.3 GHz by the radionavigation service shall be such as to provide sufficient protection to space stations of the fixed-satellite service.

5.504A In the band 14–14.5 GHz, aircraft earth stations in the secondary aeronautical mobile-satellite service may also communicate with space stations in the fixed-satellite service. The provisions of Nos. 5.29, 5.30 and 5.31 apply.

5.504B Aircraft earth stations operating in the aeronautical mobile-satellite service in the band 14–14.5 GHz shall comply with the provisions of Annex 1, Part C of Recommendation ITU–R M.1643, with respect to any radio astronomy station performing observations in the 14.47–14.5 GHz band located on the territory of Spain, France, India, Italy, the United Kingdom and South Africa.

5.504C In the band 14–14.25 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, Côte d'Ivoire, Egypt, Guinea, India, Iran (Islamic Republic of), Kuwait, Lesotho, Nigeria, Oman, the Syrian Arab Republic and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

5.505 *Additional allocation:* In Algeria, Angola, Saudi Arabia, Bahrain, Botswana, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Egypt, the United Arab Emirates, Gabon, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq,

Israel, Japan, Jordan, Kuwait, Lesotho, Lebanon, Malaysia, Mali, Morocco, Mauritania, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Swaziland, Tanzania, Chad, Viet Nam and Yemen, the band 14–14.3 GHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.506 The band 14–14.5 GHz may be used, within the fixed-satellite service (Earth-to-space), for feeder links for the broadcasting-satellite service, subject to coordination with other networks in the fixed-satellite service. Such use of feeder links is reserved for countries outside Europe.

5.506A In the band 14–14.5 GHz, ship earth stations with an e.i.r.p. greater than 21 dBW shall operate under the same conditions as earth stations located on board vessels, as provided in Resolution 902 (WRC–03). This footnote shall not apply to ship earth stations for which the complete Appendix 4 information has been received by the Bureau prior to 5 July 2003.

5.506B Earth stations located on board vessels communicating with space stations in the fixed-satellite service may operate in the frequency band 14–14.5 GHz without the need for prior agreement from Cyprus, Greece and Malta, within the minimum distance given in Resolution 902 (WRC–03) from these countries.

5.508 *Additional allocation:* In Germany, Bosnia and Herzegovina, France, Italy, Libyan Arab Jamahiriya, The Former Yugoslav Rep. of Macedonia and the United Kingdom, the band 14.25–14.3 GHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.508A In the band 14.25–14.3 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, China, Côte d'Ivoire, Egypt, France, Guinea, India, Iran (Islamic Republic of), Italy, Kuwait, Lesotho, Nigeria, Oman, the Syrian Arab Republic, the United Kingdom and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

5.509A In the band 14.3–14.5 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, Cameroon, China, Côte d'Ivoire, Egypt, France, Gabon, Guinea, India, Iran (Islamic Republic of), Italy, Kuwait, Lesotho, Morocco, Nigeria, Oman, the Syrian Arab Republic, the United Kingdom, Sri Lanka, Tunisia and Viet Nam by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

5.510 The use of the band 14.5–14.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. This use is reserved for countries outside Europe.

5.511 *Additional allocation:* In Saudi Arabia, Bahrain, Bosnia and Herzegovina, Cameroon, Egypt, the United Arab Emirates, Guinea, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Kuwait, Lebanon, Pakistan, Qatar, the Syrian Arab Republic and Somalia, the band 15.35–15.4 GHz is also allocated to the fixed and mobile services on a secondary basis. (WRC–07)

5.511A The band 15.43–15.63 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. Use of the band 15.43–15.63 GHz by the fixed-satellite service (space-to-Earth and Earth-to-space) is limited to feeder links of non-geostationary systems in the mobile-satellite service, subject to coordination under No. 9.11A. The use of the frequency band 15.43–15.63 GHz by the fixed-satellite service (space-to-Earth) is limited to feeder links of non-geostationary systems in the mobile-satellite service for which advance publication information has been received by the Bureau prior to 2 June 2000. In the space-to-Earth direction, the minimum earth station elevation angle above and gain towards the local horizontal plane and the minimum coordination distances to protect an earth station from harmful interference shall be in accordance with Recommendation ITU–R S.1341. In order to protect the radio astronomy service in the band 15.35–15.4 GHz, the aggregate power flux-density radiated in the 15.35–15.4 GHz band by all the space stations within any feeder-link of a non-geostationary system in the mobile-satellite service (space-to-Earth) operating in the 15.43–15.63 GHz band shall not exceed the level of $-156$ dB(W/m$^2$) in a 50 MHz bandwidth, into any radio astronomy observatory site for more than 2% of the time.

5.511C Stations operating in the aeronautical radionavigation service shall limit the effective e.i.r.p. in accordance with Recommendation ITU–R S.1340. The minimum coordination distance required to protect the aeronautical radionavigation stations (No. 4.10 applies) from harmful interference from feeder-link earth stations and the maximum e.i.r.p. transmitted towards the local horizontal plane by a feeder-link earth station shall be in accordance with Recommendation ITU–R S. 1340.

5.511D Fixed-satellite service systems for which complete information for advance publication has been received by the Bureau by 21 November 1997 may operate in the bands 15.4–15.43 GHz and 15.63–15.7 GHz in the space-to-Earth direction and 15.63–15.65 GHz in the Earth-to-space direction. In the bands 15.4–15.43 GHz and 15.65–15.7 GHz, emissions from a non-geostationary space station shall not exceed the power flux-density limits at the Earth's surface of $-146$ dB(W/(m$^2$ · MHz)) for any angle of arrival. In the band 15.63–15.65 GHz, where an administration plans emissions from a non-geostationary space station that exceed $-146$ dB(W/(m$^2$ · MHz)) for any angle of arrival, it shall coordinate under No. 9.11A with the affected administrations. Stations in the fixed-satellite service operating in the band 15.63–15.65 GHz in the Earth-to-space direction shall not cause harmful interference to stations in the aeronautical radionavigation service (No. 4.10 applies).

5.512 *Additional allocation:* In Algeria, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Congo (Rep. of the), Costa Rica, Egypt, El Salvador, the United Arab Emirates, Eritrea, Finland, Guatemala, India, Indonesia, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Montenegro, Mozambique, Nepal, Nicaragua, Oman, Pakistan, Qatar, Syrian Arab Republic, Serbia, Singapore, Somalia, Sudan, Swaziland, Tanzania, Chad, Togo and Yemen, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.513 *Additional allocation:* In Israel, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis. These services shall not claim protection from or cause harmful interference to services operating in accordance with the Table in countries other than those included in No. 5.512.

5.513A Spaceborne active sensors operating in the band 17.2–17.3 GHz shall not cause harmful interference to, or constrain the development of, the radiolocation and other services allocated on a primary basis.

5.514 *Additional allocation:* In Algeria, Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, Costa Rica, El Salvador, the United Arab Emirates, Guatemala, India, Iran (Islamic Republic of), Iraq, Israel, Italy, the Libyan Arab Jamahiriya, Japan, Jordan, Kuwait, Lithuania, Nepal, Nicaragua, Nigeria, Oman, Uzbekistan, Pakistan, Qatar, Kyrgyzstan and Sudan, the band 17.3–17.7 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits given in Nos. 21.3 and 21.5 shall apply. (WRC–07)

5.515 In the band 17.3–17.8 GHz, sharing between the fixed-satellite service (Earth-to-space) and the broadcasting-satellite service shall also be in accordance with the provisions of §1 of Annex 4 of Appendix 30A.

5.516 The use of the band 17.3–18.1 GHz by geostationary-satellite systems in the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. The use of the band 17.3–17.8 GHz in Region 2 by systems in the fixed-satellite service (Earth-to-space) is limited to geostationary satellites. For the use of the band 17.3–17.8 GHz in Region 2 by feeder links for the broadcasting-satellite service in the band 12.2–12.7 GHz, *see* Article 11. The use of the bands 17.3–18.1 GHz (Earth-to-space) in Regions 1 and 3 and 17.8–18.1 GHz (Earth-to-space) in Region 2 by non-geostationary-satellite systems in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.516A In the band 17.3–17.7 GHz, earth stations of the fixed-satellite service (space-to-Earth) in Region 1 shall not claim protection from the broadcasting-satellite service feeder-link earth stations operating under Appendix 30A, nor put any limitations or restrictions on the locations of the broadcasting-satellite service feeder-link earth stations anywhere within the service area of the feeder link.

5.516B The following bands are identified for use by high-density applications in the fixed-satellite service:

17.3–17.7 GHz (space-to-Earth) in Region 1,
18.3–19.3 GHz (space-to-Earth) in Region 2,
19.7–20.2 GHz (space-to-Earth) in all Regions,
39.5–40 GHz (space-to-Earth) in Region 1,
40–40.5 GHz (space-to-Earth) in all Regions,
40.5–42 GHz (space-to-Earth) in Region 2,
47.5–47.9 GHz (space-to-Earth) in Region 1,
48.2–48.54 GHz (space-to-Earth) in Region 1,
49.44–50.2 GHz (space-to-Earth) in Region 1, and
27.5–27.82 GHz (Earth-to-space) in Region 1,
28.35–28.45 GHz (Earth-to-space) in Region 2,
28.45–28.94 GHz (Earth-to-space) in all Regions,

28.94–29.1 GHz (Earth-to-space) in Regions 2 and 3,
29.25–29.46 GHz (Earth-to-space) in Region 2,
29.46–30 GHz (Earth-to-space) in all Regions,
48.2–50.2 GHz (Earth-to-space) in Region 2.

This identification does not preclude the use of these bands by other fixed-satellite service applications or by other services to which these bands are allocated on a co-primary basis and does not establish priority in these Radio Regulations among users of the bands. Administrations should take this into account when considering regulatory provisions in relation to these bands. See Resolution 143 (Rev.WRC–07). (FCC)

5.517 In Region 2, use of the fixed-satellite (space-to-Earth) service in the band 17.7–17.8 GHz shall not cause harmful interference to nor claim protection from assignments in the broadcasting-satellite service operating in conformity with the Radio Regulations. (WRC–07)

5.519 *Additional allocation:* The bands 18–18.3 GHz in Region 2 and 18.1–18.4 GHz in Regions 1 and 3 are also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis. Their use is limited to geostationary satellites. (WRC–07)

5.520 The use of the band 18.1–18.4 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links of geostationary-satellite systems in the broadcasting-satellite service.

5.521 *Alternative allocation:* In Germany, Denmark, the United Arab Emirates and Greece, the band 18.1–18.4 GHz is allocated to the fixed, fixed-satellite (space-to-Earth) and mobile services on a primary basis (see No. 5.33). The provisions of No. 5.519 also apply.

5.522A The emissions of the fixed service and the fixed-satellite service in the band 18.6–18.8 GHz are limited to the values given in Nos. 21.5A and 21.16.2, respectively.

5.522B The use of the band 18.6–18.8 GHz by the fixed-satellite service is limited to geostationary systems and systems with an orbit of apogee greater than 20000 km.

5.522C In the band 18.6–18.8 GHz, in Algeria, Saudi Arabia, Bahrain, Egypt, the United Arab Emirates, the Libyan Arab Jamahiriya, Jordan, Lebanon, Morocco, Oman, Qatar, the Syrian Arab Republic, Tunisia and Yemen, fixed-service systems in operation at the date of entry into force of the Final Acts of WRC–2000 are not subject to the limits of No. 21.5A.

5.523A The use of the bands 18.8–19.3 GHz (space-to-Earth) and 28.6–29.1 GHz (Earth-to-space) by geostationary and non-geostationary fixed-satellite service networks is subject to the application of the provisions of No. 9.11A and No. 22.2 does not apply. Administrations having geostationary-satellite networks under coordination prior to 18 November 1995 shall cooperate to the maximum extent possible to coordinate pursuant to No. 9.11A with non-geostationary-satellite networks for which notification information has been received by the Bureau prior to that date, with a view to reaching results acceptable to all the parties concerned. Non-geostationary-satellite networks shall not cause unacceptable interference to geostationary fixed-satellite service networks for which complete Appendix 4 notification information is considered as having been received by the Bureau prior to 18 November 1995.

5.523B The use of the band 19.3–19.6 GHz (Earth-to-space) by the fixed-satellite service is limited to feeder links for non-geostationary-satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, and No. 22.2 does not apply.

5.523C No. 22.2 shall continue to apply in the bands 19.3–19.6 GHz and 29.1–29.4 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau prior to 18 November 1995.

5.523D The use of the band 19.3–19.7 GHz (space-to-Earth) by geostationary fixed-satellite service systems and by feeder links for non-geostationary-satellite systems in the mobile-satellite service is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2. The use of this band for other non-geostationary fixed-satellite service systems, or for the cases indicated in Nos. 5.523C and 5.523E, is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

5.523E No. 22.2 shall continue to apply in the bands 19.6–19.7 GHz and 29.4–29.5 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau by 21 November 1997.

5.524 *Additional allocation:* In Afghanistan, Algeria, Angola, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Costa Rica, Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Tanzania, Chad, Togo and Tunisia, the band 19.7–21.2 GHz is also allocated to the fixed and mobile services on a primary basis. This additional use shall not impose any limitation on the power flux-density of space stations in the fixed-satellite service in the band 19.7–21.2 GHz and

of space stations in the mobile-satellite service in the band 19.7–20.2 GHz where the allocation to the mobile-satellite service is on a primary basis in the latter band. (WRC–07)

5.525 In order to facilitate interregional coordination between networks in the mobile-satellite and fixed-satellite services, carriers in the mobile-satellite service that are most susceptible to interference shall, to the extent practicable, be located in the higher parts of the bands 19.7–20.2 GHz and 29.5–30 GHz.

5.526 In the bands 19.7–20.2 GHz and 29.5–30 GHz in Region 2, and in the bands 20.1–20.2 GHz and 29.9–30 GHz in Regions 1 and 3, networks which are both in the fixed-satellite service and in the mobile-satellite service may include links between earth stations at specified or unspecified points or while in motion, through one or more satellites for point-to-point and point-to-multipoint communications.

5.527 In the bands 19.7–20.2 GHz and 29.5–30 GHz, the provisions of No. 4.10 do not apply with respect to the mobile-satellite service.

5.528 The allocation to the mobile-satellite service is intended for use by networks which use narrow spot-beam antennas and other advanced technology at the space stations. Administrations operating systems in the mobile-satellite service in the band 19.7–20.1 GHz in Region 2 and in the band 20.1–20.2 GHz shall take all practicable steps to ensure the continued availability of these bands for administrations operating fixed and mobile systems in accordance with the provisions of No. 5.524.

5.529 The use of the bands 19.7–20.1 GHz and 29.5–29.9 GHz by the mobile-satellite service in Region 2 is limited to satellite networks which are both in the fixed-satellite service and in the mobile-satellite service as described in No. 5.526.

5.530 In Regions 1 and 3, the use of the band 21.4–22 GHz by the broadcasting-satellite service is subject to the provisions of Resolution 525 (Rev.WRC–07). (WRC–07)

5.531 *Additional allocation:* in Japan, the band 21.4–22 GHz is also allocated to the broadcasting service on a primary basis.

5.532 The use of the band 22.21–22.5 GHz by the Earth exploration-satellite (passive) and space research (passive) services shall not impose constraints upon the fixed and mobile, except aeronautical mobile, services.

5.533 The inter-satellite service shall not claim protection from harmful interference from airport surface detection equipment stations of the radionavigation service.

5.535 In the band 24.75–25.25 GHz, feeder links to stations of the broadcasting-satellite service shall have priority over other uses in the fixed-satellite service (Earth-to-space). Such other uses shall protect and shall not claim protection from existing and future operating feeder-link networks to such broadcasting satellite stations.

5.535A The use of the band 29.1–29.5 GHz (Earth-to-space) by the fixed-satellite service is limited to geostationary-satellite systems and feeder links to non-geostationary-satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2, except as indicated in Nos. 5.523C and 5.523E where such use is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

5.536 Use of the 25.25–27.5 GHz band by the inter-satellite service is limited to space research and Earth exploration-satellite applications, and also transmissions of data originating from industrial and medical activities in space.

5.536A Administrations operating earth stations in the Earth exploration-satellite service or the space research service shall not claim protection from stations in the fixed and mobile services operated by other administrations. In addition, earth stations in the Earth exploration-satellite service or in the space research service should be operated taking into account Recommendations ITU–R SA.1278 and ITU–R SA.1625, respectively.

5.536B In Germany, Saudi Arabia, Austria, Belgium, Brazil, Bulgaria, China, Korea (Rep. of), Denmark, Egypt, United Arab Emirates, Spain, Estonia, Finland, France, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, the Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Lebanon, Liechtenstein, Lithuania, Moldova, Norway, Oman, Uganda, Pakistan, the Philippines, Poland, Portugal, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the Czech Rep., Romania, the United Kingdom, Singapore, Sweden, Switzerland, Tanzania, Turkey, Viet Nam and Zimbabwe, earth stations operating in the Earth exploration-satellite service in the band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services. (WRC–07)

5.536C In Algeria, Saudi Arabia, Bahrain, Botswana, Brazil, Cameroon, Comoros, Cuba, Djibouti, Egypt, United Arab Emirates, Estonia, Finland, Iran (Islamic Republic of), Israel, Jordan, Kenya, Kuwait, Lithuania, Malaysia, Morocco, Nigeria, Oman, Qatar, Syrian Arab Republic, Somalia, Sudan, Tanzania, Tunisia, Uruguay, Zambia and Zimbabwe, earth stations operating in the space research service in the band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services.

5.537 Space services using non-geostationary satellites operating in the inter-satellite service in the band 27–27.5 GHz are exempt from the provisions of No. 22.2.

5.537A In Bhutan, Cameroon, Korea (Rep. of), the Russian Federation, India, Indonesia, Iran (Islamic Republic of), Japan, Kazakhstan, Lesotho, Malaysia, Maldives, Mongolia, Myanmar, Uzbekistan, Pakistan, the Philippines, Kyrgyzstan, the Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 27.9–28.2 GHz may also be used by high altitude platform stations (HAPS) within the territory of these countries. Such use of 300 MHz of the fixed-service allocation by HAPS in the above countries is further limited to operation in the HAPS-to-ground direction and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems or other co-primary services. Furthermore, the development of these other services shall not be constrained by HAPS. See Resolution 145 (Rev.WRC–07). (WRC–07)

5.538 *Additional allocation:* the bands 27.500–27.501 GHz and 29.999–30.000 GHz are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis for the beacon transmissions intended for up-link power control. Such space-to-Earth transmissions shall not exceed an equivalent isotropically radiated power (e.i.r.p.) of + 10 dBW in the direction of adjacent satellites on the geostationary-satellite orbit. (WRC–07)

5.539 The band 27.5–30 GHz may be used by the fixed-satellite service (Earth-to-space) for the provision of feeder links for the broadcasting-satellite service.

5.540 *Additional allocation:* the band 27.501–29.999 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a secondary basis for beacon transmissions intended for up-link power control.

5.541 In the band 28.5–30 GHz, the earth exploration-satellite service is limited to the transfer of data between stations and not to the primary collection of information by means of active or passive sensors.

5.541A Feeder links of non-geostationary networks in the mobile-satellite service and geostationary networks in the fixed-satellite service operating in the band 29.1–29.5 GHz (Earth-to-space) shall employ uplink adaptive power control or other methods of fade compensation, such that the earth station transmissions shall be conducted at the power level required to meet the desired link performance while reducing the level of mutual interference between both networks. These methods shall apply to networks for which Appendix 4 coordination information is considered as having been received by the Bureau after 17 May 1996 and until they are changed by a future competent world radiocommunication conference. Administrations submitting Appendix 4 information for coordination before this date are encouraged to utilize these techniques to the extent practicable.

5.542 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guinea, India, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Pakistan, Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Somalia, Sudan, Sri Lanka and Chad, the band 29.5–31 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits specified in Nos. 21.3 and 21.5 shall apply. (WRC–07)

5.543 The band 29.95–30 GHz may be used for space-to-space links in the Earth exploration-satellite service for telemetry, tracking, and control purposes, on a secondary basis.

5.543A In Bhutan, Cameroon, Korea (Rep. of), the Russian Federation, India, Indonesia, Iran (Islamic Republic of), Japan, Kazakhstan, Lesotho, Malaysia, Maldives, Mongolia, Myanmar, Uzbekistan, Pakistan, the Philippines, Kyrgyzstan, the Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 31–31.3 GHz may also be used by systems using high altitude platform stations (HAPS) in the ground-to-HAPS direction. The use of the band 31–31.3 GHz by systems using HAPS is limited to the territory of the countries listed above and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems, systems in the mobile service and systems operated under No. 5.545. Furthermore, the development of these services shall not be constrained by HAPS. Systems using HAPS in the band 31–31.3 GHz shall not cause harmful interference to the radio astronomy service having a primary allocation in the band 31.3–31.8 GHz, taking into account the protection criterion as given in Recommendation ITU–R RA.769. In order to ensure the protection of satellite passive services, the level of unwanted power density into a HAPS ground station antenna in the band 31.3–31.8 GHz shall be limited to −106 dB(W/MHz) under clear-sky conditions, and may be increased up to −100 dB(W/MHz) under rainy conditions to mitigate fading due to rain, provided the effective impact on the passive satellite does not exceed the impact under clear-sky conditions. *See* Resolution 145 (Rev.WRC–07). (WRC–07)

5.544 In the band 31–31.3 GHz the power flux-density limits specified in Article 21, Table 21–4 shall apply to the space research service.

5.545 *Different category of service:* in Armenia, Georgia, Mongolia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 31–31.3 GHz to the space research service is on a primary basis (see No. 5.33). (WRC–07)

5.546 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Egypt, the United Arab Emirates, Spain, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Israel, Jordan, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Romania, the United Kingdom, South Africa, Tajikistan, Turkmenistan and Turkey, the allocation of the band 31.5–31.8 GHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (*see* No. 5.33). (WRC–07)

5.547 The bands 31.8–33.4 GHz, 37–40 GHz, 40.5–43.5 GHz, 51.4–52.6 GHz, 55.78–59 GHz and 64–66 GHz are available for high-density applications in the fixed service (*see* Resolution 75 (WRC–2000)). Administrations should take this into account when considering regulatory provisions in relation to these bands. Because of the potential deployment of high-density applications in the fixed-satellite service in the bands 39.5–40 GHz and 40.5–42 GHz (*see* No. 5.516B), administrations should further take into account potential constraints to high-density applications in the fixed service, as appropriate. (WRC–07)

5.547A Administrations should take practical measures to minimize the potential interference between stations in the fixed service and airborne stations in the radionavigation service in the 31.8–33.4 GHz band, taking into account the operational needs of the airborne radar systems.

5.547B *Alternative allocation:* in the United States, the band 31.8–32 GHz is allocated to the radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

5.547C *Alternative allocation:* in the United States, the band 32–32.3 GHz is allocated to the radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

5.547D *Alternative allocation:* in the United States, the band 32.3–33 GHz is allocated to the inter-satellite and radionavigation services on a primary basis.

5.547E *Alternative allocation:* in the United States, the band 33–33.4 GHz is allocated to the radionavigation service on a primary basis.

5.548 In designing systems for the inter-satellite service in the band 32.3–33 GHz, for the radionavigation service in the band 32–33 GHz, and for the space research service (deep space) in the band 31.8–32.3 GHz, administrations shall take all necessary measures to prevent harmful interference between these services, bearing in mind the safety aspects of the radionavigation service (*see* Recommendation 707).

5.549 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Egypt, the United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Jordan, Kuwait, Lebanon, Malaysia, Mali, Malta, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, Singapore, Somalia, Sudan, Sri Lanka, Togo, Tunisia and Yemen, the band 33.4–36 GHz is also allocated to the fixed and mobile services on a primary basis.

5.549A In the band 35.5–36.0 GHz, the mean power flux-density at the Earth's surface, generated by any spaceborne sensor in the Earth exploration-satellite service (active) or space research service (active), for any angle greater than 0.8° from the beam centre shall not exceed −73.3 dB(W/m$^2$) in this band.

5.550 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Mongolia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 34.7–35.2 GHz to the space research service is on a primary basis (*see* No. 5.33). (WRC–07)

5.550A For sharing of the band 36–37 GHz between the Earth exploration-satellite (passive) service and the fixed and mobile services, Resolution 752 (WRC–07) shall apply. (WRC–07)

5.551F *Different category of service:* in Japan, the allocation of the band 41.5–42.5 GHz to the mobile service is on a primary basis (*see* No. 5.33).

5.551H The equivalent power flux-density (epfd) produced in the band 42.5–43.5 GHz by all space stations in any non-geostationary-satellite system in the fixed-satellite service (space-to-Earth), or in the broadcasting-satellite service operating in the 42–42.5 GHz band, shall not exceed the following values at the site of any radio astronomy station for more than 2% of the time:

−230 dB(W/m$^2$) in 1 GHz and −246 dB(W/m$^2$) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a single-dish telescope; and

−209 dB(W/m$^2$) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a very long baseline interferometry station.

These epfd values shall be evaluated using the methodology given in Recommendation ITU–R S.1586–1 and the reference antenna pattern and the maximum gain of an antenna in the radio astronomy service given in Recommendation ITU–R RA.1631 and shall apply over the whole sky and for elevation angles higher than the minimum operating angle $\theta_{min}$ of the radiotelescope (for which a default value of 5° should be adopted in the absence of notified information).

These values shall apply at any radio astronomy station that either:

—Was in operation prior to 5 July 2003 and has been notified to the Bureau before 4 January 2004; or

—Was notified before the date of receipt of the complete Appendix 4 information for

coordination or notification, as appropriate, for the space station to which the limits apply.

Other radio astronomy stations notified after these dates may seek an agreement with administrations that have authorized the space stations. In Region 2, Resolution 743 (WRC–03) shall apply. The limits in this footnote may be exceeded at the site of a radio astronomy station of any country whose administration so agreed. (WRC–07)

5.551I The power flux-density in the band 42.5–43.5 GHz produced by any geostationary space station in the fixed-satellite service (space-to-Earth), or the broadcasting-satellite service operating in the 42–42.5 GHz band, shall not exceed the following values at the site of any radio astronomy station:

– 137 dB(W/m²) in 1 GHz and – 153 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a single-dish telescope; and

– 116 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a very long baseline interferometry station.

These values shall apply at the site of any radio astronomy station that either:

—Was in operation prior to 5 July 2003 and has been notified to the Bureau before 4 January 2004; or

—Was notified before the date of receipt of the complete Appendix 4 information for coordination or notification, as appropriate, for the space station to which the limits apply.

Other radio astronomy stations notified after these dates may seek an agreement with administrations that have authorized the space stations. In Region 2, Resolution 743 (WRC–03) shall apply. The limits in this footnote may be exceeded at the site of a radio astronomy station of any country whose administration so agreed.

5.552 The allocation of the spectrum for the fixed-satellite service in the bands 42.5–43.5 GHz and 47.2–50.2 GHz for Earth-to-space transmission is greater than that in the band 37.5–39.5 GHz for space-to-Earth transmission in order to accommodate feeder links to broadcasting satellites. Administrations are urged to take all practicable steps to reserve the band 47.2–49.2 GHz for feeder links for the broadcasting-satellite service operating in the band 40.5–42.5 GHz.

5.552A The allocation to the fixed service in the bands 47.2–47.5 GHz and 47.9–48.2 GHz is designated for use by high altitude platform stations. The use of the bands 47.2–47.5 GHz and 47.9–48.2 GHz is subject to the provisions of Resolution 122 (Rev.WRC–07). (WRC–07)

5.553 In the bands 43.5–47 GHz and 66–71 GHz, stations in the land mobile service may be operated subject to not causing harmful interference to the space radiocommunication services to which these bands are allocated (*see* No. 5.43).

5.554 In the bands 43.5–47 GHz, 66–71 GHz, 95–100 GHz, 123–130 GHz, 191.8–200 GHz and 252–265 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radionavigation-satellite service.

5.554A The use of the bands 47.5–47.9 GHz, 48.2–48.54 GHz and 49.44–50.2 GHz by the fixed-satellite service (space-to-Earth) is limited to geostationary satellites.

5.555 *Additional allocation:* the band 48.94–49.04 GHz is also allocated to the radio astronomy service on a primary basis.

5.555B The power flux-density in the band 48.94–49.04 GHz produced by any geostationary space station in the fixed-satellite service (space-to-Earth) operating in the bands 48.2–48.54 GHz and 49.44–50.2 GHz shall not exceed – 151.8 dB(W/m²) in any 500 kHz band at the site of any radio astronomy station.

5.556 In the bands 51.4–54.25 GHz, 58.2–59 GHz and 64–65 GHz, radio astronomy observations may be carried out under national arrangements.

5.556A Use of the bands 54.25–56.9 GHz, 57–58.2 GHz and 59–59.3 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, shall not exceed – 147 dB(W/(m² · 100 MHz)) for all angles of arrival.

5.556B *Additional allocation:* in Japan, the band 54.25–55.78 GHz is also allocated to the mobile service on a primary basis for low-density use.

5.557 *Additional allocation:* in Japan, the band 55.78–58.2 GHz is also allocated to the radiolocation service on a primary basis.

5.557A In the band 55.78–56.26 GHz, in order to protect stations in the Earth exploration-satellite service (passive), the maximum power density delivered by a transmitter to the antenna of a fixed service station is limited to – 26 dB(W/MHz).

5.558 In the bands 55.78–58.2 GHz, 59–64 GHz, 66–71 GHz, 122.25–123 GHz, 130–134 GHz, 167–174.8 GHz and 191.8–200 GHz, stations in the aeronautical mobile service may be operated subject to not causing harmful interference to the inter-satellite service (*see* No. 5.43).

5.558A Use of the band 56.9–57 GHz by inter-satellite systems is limited to links between satellites in geostationary-satellite orbit and to transmissions from non-geostationary satellites in high-Earth orbit to those in low-Earth orbit. For links between satellites in the geostationary-satellite orbit, the single entry power flux-density at

all altitudes from 0 km to 1000 km above the Earth's surface, for all conditions and for all methods of modulation, shall not exceed −147 dB(W/(m² · 100 MHz)) for all angles of arrival.

5.559 In the band 59–64 GHz, airborne radars in the radiolocation service may be operated subject to not causing harmful interference to the inter-satellite service (*see* No. 5.43).

5.560 In the band 78–79 GHz radars located on space stations may be operated on a primary basis in the Earth exploration-satellite service and in the space research service.

5.561 In the band 74–76 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to stations of the fixed-satellite service or stations of the broadcasting-satellite service operating in accordance with the decisions of the appropriate frequency assignment planning conference for the broadcasting-satellite service.

5.561A The 81–81.5 GHz band is also allocated to the amateur and amateur-satellite services on a secondary basis.

5.561B In Japan, use of the band 84–86 GHz, by the fixed-satellite service (Earth-to-space) is limited to feeder links in the broadcasting-satellite service using the geostationary-satellite orbit.

5.562 The use of the band 94–94.1 GHz by the Earth exploration-satellite (active) and space research (active) services is limited to spaceborne cloud radars.

5.562A In the bands 94–94.1 GHz and 130–134 GHz, transmissions from space stations of the Earth exploration-satellite service (active) that are directed into the main beam of a radio astronomy antenna have the potential to damage some radio astronomy receivers. Space agencies operating the transmitters and the radio astronomy stations concerned should mutually plan their operations so as to avoid such occurrences to the maximum extent possible.

5.562B In the bands 105–109.5 GHz, 111.8–114.25 GHz, 155.5–158.5 GHz and 217–226 GHz, the use of this allocation is limited to space-based radio astronomy only.

5.562C Use of the band 116–122.25 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 km to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed −148 dB(W/(m² · MHz)) for all angles of arrival.

5.562D *Additional allocation:* In Korea (Rep. of), the bands 128–130 GHz, 171–171.6 GHz, 172.2–172.8 GHz and 173.3–174 GHz are also allocated to the radio astronomy service on a primary basis until 2015.

5.562E The allocation to the Earth exploration-satellite service (active) is limited to the band 133.5–134 GHz.

5.562F In the band 155.5–158.5 GHz, the allocation to the Earth exploration-satellite (passive) and space research (passive) services shall terminate on 1 January 2018.

5.562G The date of entry into force of the allocation to the fixed and mobile services in the band 155.5–158.5 GHz shall be 1 January 2018.

5.562H Use of the bands 174.8–182 GHz and 185–190 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed −144 dB(W/(m² · MHz)) for all angles of arrival.

5.563A In the bands 200–209 GHz, 235–238 GHz, 250–252 GHz and 265–275 GHz, ground-based passive atmospheric sensing is carried out to monitor atmospheric constituents.

5.563B The band 237.9–238 GHz is also allocated to the Earth exploration-satellite service (active) and the space research service (active) for spaceborne cloud radars only.

5.565 The frequency band 275–1000 GHz may be used by administrations for experimentation with, and development of, various active and passive services. In this band a need has been identified for the following spectral line measurements for passive services:

—Radio astronomy service: 275–323 GHz, 327–371 GHz, 388–424 GHz, 426–442 GHz, 453–510 GHz, 623–711 GHz, 795–909 GHz and 926–945 GHz;

—Earth exploration-satellite service (passive) and space research service (passive): 275–277 GHz, 294–306 GHz, 316–334 GHz, 342–349 GHz, 363–365 GHz, 371–389 GHz, 416–434 GHz, 442–444 GHz, 496–506 GHz, 546–568 GHz, 624–629 GHz, 634–654 GHz, 659–661 GHz, 684–692 GHz, 730–732 GHz, 851–853 GHz and 951–956 GHz.

Future research in this largely unexplored spectral region may yield additional spectral lines and continuum bands of interest to the passive services. Administrations are urged to take all practicable steps to protect these passive services from harmful interference until the date when the allocation Table is established in the above-mentioned frequency band.

UNITED STATES (US) FOOTNOTES

(These footnotes, each consisting of the letters ''US'' followed by one or more digits, denote stipulations applicable to both Federal and non-Federal operations and thus appear

in both the Federal Table and the non-Federal Table.)

US1 The bands 2501–2502 kHz, 5003–5005 kHz, 10003–10005 kHz, 15005–15010 kHz, 19990–19995 kHz, 20005–20010 kHz, and 25005–25010 kHz are also allocated to the space research service on a secondary basis for Federal use. In the event of interference to the reception of the standard frequency and time broadcasts, these space research transmissions are subject to immediate temporary or permanent shutdown.

US2 In the band 9–490 kHz, electric utilities operate Power Line Carrier (PLC) systems on power transmission lines for communications important to the reliability and security of electric service to the public. These PLC systems operate under the provisions of 47 CFR part 15, or Chapter 8 of the *NTIA Manual,* on an unprotected and non-interference basis with respect to authorized radio users. Notification of intent to place new or revised radio frequency assignments or PLC frequency uses in the band 9–490 kHz is to be made in accordance with the Rules and Regulations of the FCC and NTIA, and users are urged to minimize potential interference to the extent practicable. This footnote does not provide any allocation status to PLC radio frequency uses.

US8 The use of the frequencies 170.475, 171.425, 171.575, and 172.275 MHz east of the Mississippi River, and 170.425, 170.575, 171.475, 172.225 and 172.375 MHz west of the Mississippi River may be authorized to fixed, land and mobile stations operated by non-Federal forest firefighting agencies. In addition, land stations and mobile stations operated by non-Federal conservation agencies, for mobile relay operation only, may be authorized to use the frequency 172.275 MHz east of the Mississippi River and the frequency 171.475 MHz west of the Mississippi River. The use of any of the foregoing nine frequencies shall be on the condition that no harmful interference will be caused to Government stations.

US11 On the condition that harmful interference is not caused to present or future Federal stations in the band 162–174 MHz, the frequencies 166.25 MHz and 170.15 MHz may be authorized to non-Federal stations, as follows:

(a) Eligibles in the Public Safety Radio Pool may be authorized to operate in the fixed and land mobile services for locations within 150 miles (241.4 kilometers) of New York City; and

(b) Remote pickup broadcast stations may be authorized to operate in the land mobile service for locations within the conterminous United States, excluding locations within 150 miles of New York City and the Tennessee Valley Authority Area (TVA Area). The TVA Area is bounded on the west by the Mississippi River, on the north by the parallel of latitude 37°30′ N, and on the east and south by that arc of the circle with center at Springfield, IL, and radius equal to the airline distance between Springfield, IL, and Montgomery, AL, subtended between the foregoing west and north boundaries.

US13 The following center frequencies, each with a channel bandwidth not greater than 12.5 kHz, are available for assignment to non-Federal fixed stations for the specific purpose of transmitting hydrological and meteorological data in cooperation with Federal agencies, subject to the condition that harmful interference will not be caused to Federal stations:

HYDRO CHANNELS (MHz)

| | | | |
|---|---|---|---|
| 169.425 | 170.2625 | 171.100 | 406.1250 |
| 169.4375 | 170.275 | 171.1125 | 406.1750 |
| 169.450 | 170.2875 | 171.125 | 412.6625 |
| 169.4625 | 170.300 | 171.825 | 412.6750 |
| 169.475 | 170.3125 | 171.8375 | 412.6875 |
| 169.4875 | 170.325 | 171.850 | 412.7125 |
| 169.500 | 171.025 | 171.8625 | 412.7250 |
| 169.5125 | 171.0375 | 171.875 | 412.7375 |
| 169.525 | 171.050 | 171.8875 | 412.7625 |
| 170.225 | 171.0625 | 171.900 | 412.7750 |
| 170.2375 | 171.075 | 171.9125 | 415.1250 |
| 170.250 | 171.0875 | 171.925 | 415.1750 |

New assignments on the frequencies 406.125 MHz and 406.175 MHz are to be primarily for paired operations with the frequencies 415.125 MHz and 415.175 MHz, respectively.

US14 When 500 kHz is being used for distress purposes, ship and coast stations using morse telegraph may use 512 kHz for calling.

US18 In the bands 9–14 kHz, 90–110 kHz, 190–415 kHz, 510–535 kHz, and 2700–2900 MHz, navigation aids in the U.S. and its insular areas are normally operated by the Federal Government. However, authorizations may be made by the FCC for non-Federal operations in these bands subject to the conclusion of appropriate arrangements between the FCC and the Federal agencies concerned and upon special showing of need for service which the Federal Government is not yet prepared to render.

US22 The following provisions shall apply to non-Federal use of 68 carrier frequencies in the range 2–8 MHz, which are not coordinated with NTIA:

(a) The frequencies authorized pursuant to 47 CFR 90.264 (Disaster Communications) and 47 CFR 90.266 (Long Distance Communications) are listed in columns 1–2 and columns 3–5, respectively. All stations are restricted to emission designator 2K80J3E, upper sideband transmissions, a maximum transmitter output power of 1 kW PEP, and to the class of station(s) listed in the column heading (*i.e.,* fixed (FX) for all frequencies; base and mobile (FB and ML) for the frequencies in column 1 and 3; itinerant FX for the frequencies in columns 4–5).

(b) *Use, Geographic, and Time Restrictions.* Letter(s) to the right of a frequency indicate

that the frequency is available only for the following purpose(s):

—A or I: *A*lternate channel or *I*nterstate coordination.

—C, E, M, or W: For stations located in the *C*onterminous U.S., *E*ast of 108° West Longitude (WL), West of the *M*ississippi River, or *W*est of 90° WL.

—D or N: From two hours after local sunrise until two hours before local sunset (*i.e.*, *D*ay only operations) or from two hours prior to local sunset until two hours after local sunrise (*i.e.*, *N*ight only operations).

PREFERRED CARRIER FREQUENCIES (KHZ)

| Disaster communications | | Long distance communications | | |
|---|---|---|---|---|
| FX, FB, ML | FX | FX, FB, ML | FX (including itinerant) | |
| 2326 ... I | 5135 ... A | 2289 | 5046.6 ... E | 7480.1 |
| 2411 | 5140 ... A, I | 2292 | 5052.6 ... E | 7483.1 |
| 2414 | 5192 ... I | 2395 | 5055.6 ... E | 7486.1 ... E |
| 2419 | 5195 ... I | 2398 | 5061.6 ... W | 7549.1 ... D |
| 2422 | 7477 ... A | 3170 | 5067.6 | 7552.1 |
| 2439 | 7480 ... A | 4538.6 ... N | 5074.6 ... E | 7555.1 ... W |
| 2463 | 7802 ... D | 4548.6 ... N | 5099.1 | 7558.1 ... W |
| 2466 | 7805 ... I | 4575 | 5102.1 | 7559.1 ... W |
| 2471 | 7932 | 4610.5 | 5313.6 | 7562.1 ... W |
| 2474 | 7935 ... C, D | 4613.5 | | 7697.1 |
| 2487 | | 4634.5 | 6800.1 ... N | |
| 2511 | | 4637.5 | 6803.1 | |
| 2535 | | 4647 | 6806.1 ... W | |
| 2569 | | | 6855.1 ... N, M | |
| 2587 | | | 6858.1 ... N | |
| 2801 | | | 6861.1 ... W | |
| 2804 ... A | | | 6885.1 ... N | |
| 2812 | | | 6888.1 ... N | |

NOTE: To determine the assigned frequency, add 1.4 kHz to the carrier frequency. Other emission designators may be authorized within the 2.8 kHz maximum necessary bandwidth pursuant to 47 CFR 90.264 and 90.266.

US25 The use of frequencies in the band 25.85–26.175 MHz may be authorized in any area to non-Federal remote pickup broadcast base and mobile stations on the condition that harmful interference is not caused to stations of the broadcasting service in the band 25.85–26.1 MHz and to stations of the maritime mobile service in the band 26.1–26.175 MHz. Frequencies within the band 26.1–26.175 MHz may also be assigned for use by low power auxiliary stations.

US26 The bands 117.975–121.4125 MHz, 123.5875–128.8125 MHz and 132.0125–136.0 MHz are for air traffic control communications.

US28 The band 121.5875–121.9375 MHz is for use by aeronautical utility land and mobile stations, and for air traffic control communications.

US30 The band 121.9375–123.0875 MHz is available to FAA aircraft for communications pursuant to flight inspection functions in accordance with the Federal Aviation Act of 1958.

US31 The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations. In addition, at landing areas having a part-time or no airdrome control tower or FAA flight service station, these frequencies may be assigned on a secondary non-interference basis to aeronautical utility mobile stations, and may be used by FAA ground vehicles for safety related communications during inspections conducted at such landing areas.

The frequencies 122.850, 122.900 and 122.925 MHz may be assigned to aeronautical multicom stations. In addition, 122.850 MHz may be assigned on a secondary noninterference basis to aeronautical utility mobile stations. In case of 122.925 MHz, US213 applies.

Air carrier aircraft stations may use 122.000 and 122.050 MHz for communication with aeronautical stations of the Federal Aviation Administration and 122.700, 122.800, 122.900 and 123.000 MHz for communications with aeronautical stations pertaining to safety of flight with and in the vicinity of landing areas not served by a control tower.

Frequencies in the band 121.9375–122.6875 MHz may be used by aeronautical stations of the Federal Aviation Administration for communication with aircraft stations.

US32 Except for the frequencies 123.3 and 123.5 MHz, which are not authorized for Federal use, the band 123.1125–123.5875 MHz is available for FAA communications incident to flight test and inspection activities pertinent to aircraft and facility certification on a secondary basis.

US33 The band 123.1125–123.5875 MHz is for use by flight test and aviation instructional stations. The frequency 121.950 MHz is available for aviation instructional stations.

US36 In Hawaii, the bands 120.647–120.653 MHz and 127.047–127.053 MHz are also allocated to the aeronautical mobile service on a primary basis for non-Federal aircraft air-to-air communications on 120.65 MHz (Maui) and 127.05 MHz (Hawaii and Kauai) as specified in 47 CFR 87.187.

US37 In bands 1390–1400 and 1427–1432 MHz, Federal operations (except for devices authorized by the FCC for the Wireless Medical Telemetry Service) are on a non-interference basis to non-Federal operations and shall not constrain implementation of non-Federal operations.

US41 In the band 2450–2500 MHz, the Federal radiolocation service is permitted on condition that harmful interference is not caused to non-Federal services.

US44 In the band 2900–3100 MHz, the non-Federal radiolocation service may be authorized on the condition that no harmful interference is caused to Federal services.

US48 In the band 9000–9200 MHz, the use of the radiolocation service by non-Federal licensees may be authorized on the condition that harmful interference is not caused to the aeronautical radionavigation service or to the Federal radiolocation service.

US49 In the band 5460–5470 MHz, the non-Federal radiolocation service may be authorized on the condition that it does not cause harmful interference to the aeronautical or maritime radionavigation services or to the Federal radiolocation service.

US50 In the band 5470–5650 MHz, the radiolocation service may be authorized for non-Federal use on the condition that harmful interference is not caused to the maritime radionavigation service or to the Federal radiolocation service.

US51 In the band 9300–9500 MHz, the radiolocation service may be authorized for non-Federal use on the condition that harmful interference is not caused to the Federal radiolocation service.

US53 In view of the fact that the band 13.25–13.4 GHz is allocated to doppler navigation aids, Federal and non-Federal airborne doppler radars in the aeronautical radionavigation service are permitted in the band 8750–8850 MHz only on the condition that they must accept any interference that may be experienced from stations in the radiolocation service in the band 8500–10000 MHz.

US58 In the band 10–10.5 GHz, pulsed emissions are prohibited, except for weather radars on board meteorological satellites in the band 10–10.025 GHz. The amateur service and the non-Federal radiolocation service, which shall not cause harmful interference to the Federal radiolocation service, are the only non-Federal services permitted in this band. The non-Federal radiolocation service is limited to survey operations as specified in footnote US108.

US59 The band 10.5–10.55 GHz is restricted to systems using type NON (AO) emission with a power not to exceed 40 watts into the antenna.

US65 The use of the band 5460–5650 MHz by the maritime radionavigation service is limited to shipborne radars.

US66 The use of the band 9300–9500 MHz by the aeronautical radionavigation service is limited to airborne radars and associated airborne beacons. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9300–9320 MHz on the condition that harmful interference is not caused to the maritime radionavigation service.

US67 The use of the band 9300–9500 MHz by the meteorological aids service is limited to ground-based radars. Radiolocation installations will be coordinated with the meteorological aids service and, insofar as practicable, will be adjusted to meet the requirements of the meteorological aids service.

US69 In the band 31.8–33.4 GHz, ground-based radionavigation aids are not permitted except where they operate in cooperation with airborne or shipborne radionavigation devices.

US70 The meteorological aids service allocation in the band 400.15–406.0 MHz does not preclude the operation therein of associated ground transmitters.

US71 In the band 9300–9320 MHz, low-powered maritime radionavigation stations shall be protected from harmful interference caused by the operation of land-based equipment.

US73 The frequencies 150.775, 150.79, 152.0075, and 163.25 MHz, and the bands 462.94–463.19675 and 467.94–468.19675 MHz shall be authorized for the purpose of delivering or rendering medical services to individuals (medical radiocommunication systems), and shall be authorized on a primary basis for Federal and non-Federal use. The frequency 152.0075

MHz may also be used for the purpose of conducting public safety radio communications that include, but are not limited to, the delivering or rendering of medical services to individuals.

(a) The use of the frequencies 150.775 and 150.79 MHz is restricted to mobile stations operating with a maximum e.r.p. of 100 watts. Airborne operations are prohibited.

(b) The use of the frequencies 152.0075 and 163.25 MHz is restricted to base stations that are authorized only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on these frequencies shall not be authorized.

(c) Non-Federal licensees in the Public Safety Radio Pool holding a valid authorization on May 27, 2005, to operate on the frequencies 150.7825 and 150.7975 MHz may, upon proper renewal application, continue to be authorized for such operation; provided that harmful interference is not caused to present or future Federal stations in the band 150.05–150.8 MHz and, should harmful interference result, that the interfering non-Federal operation shall immediately terminate.

US74 In the bands 25.55–25.67, 73.0–74.6, 406.1–410.0, 608–614, 1400–1427 (see US368), 1660.5–1670.0, 2690–2700, and 4990–5000 MHz, and in the bands 10.68–10.7, 15.35–15.4, 23.6–24.0, 31.3–31.5, 86–92, 100–102, 109.5–111.8, 114.25–116, 148.5–151.5, 164–167, 200–209, and 250–252 GHz, the radio astronomy service shall be protected from unwanted emissions only to the extent that such radiation exceeds the level which would be present if the offending station were operating in compliance with the technical standards or criteria applicable to the service in which it operates. Radio astronomy observations in these bands are performed at the locations listed in US385.

US77 Federal stations may also be authorized: (a) Port operations use on a simplex basis by coast and ship stations of the frequencies 156.6 and 156.7 MHz; (b) Duplex port operations use of the frequency 157.0 MHz for ship stations and 161.6 MHz for coast stations; (c) Inter-ship use of 156.3 MHz on a simplex basis; and (d) Vessel traffic services under the control of the U.S. Coast Guard on a simplex basis by coast and ship stations on the frequencies 156.25, 156.55, 156.6 and 156.7 MHz. (e) Navigational bridge-to-bridge and navigational communications on a simplex basis by coast and ship stations on the frequencies 156.375 and 156.65 MHz

US78 In the mobile service, the frequencies between 1435 and 1525 MHz will be assigned for aeronautical telemetry and associated telecommand operations for flight testing of manned or unmanned aircraft and missiles, or their major components. Permissible usage includes telemetry associated with launching and reentry into the Earth's atmosphere as well as any incidental orbiting prior to reentry of manned objects undergoing flight tests. The following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, and 1524.5 MHz.

US80 Federal stations may use the frequency 122.9 MHz subject to the following conditions: (a) All operations by Federal stations shall be restricted to the purpose for which the frequency is authorized to non-Federal stations, and shall be in accordance with the appropriate provisions of the Commission's Rules and Regulations, Part 87, Aviation Services; (b) Use of the frequency is required for coordination of activities with Commission licensees operating on this frequency; and (c) Federal stations will not be authorized for operation at fixed locations.

US81 The band 38–38.25 MHz is used by both Federal and non-Federal radio astronomy observatories. No new fixed or mobile assignments are to be made and Federal stations in the band 38–38.25 MHz will be moved to other bands on a case-by-case basis, as required, to protect radio astronomy observations from harmful interference. As an exception, however, low powered military transportable and mobile stations used for tactical and training purposes will continue to use the band. To the extent practicable, the latter operations will be adjusted to relieve such interference as may be caused to radio astronomy observations. In the event of harmful interference from such local operations, radio astronomy observatories may contact local military commands directly, with a view to effecting relief. A list of military commands, areas of coordination, and points of contact for purposes of relieving interference may be obtained upon request from the Office of Engineering and Technology, FCC, Washington, DC 20554.

US82 In the bands 4146–4152 kHz, 6224–6233 kHz, 8294–8300 kHz, 12353–12368 kHz, 16528–16549 kHz, 18825–18846 kHz, 22159–22180 kHz, and 25100–25121 kHz, the assignable frequencies may be authorized on a shared non-priority basis to Federal and non-Federal ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW).

US87 The band 449.75–450.25 MHz may be used by Federal and non-Federal stations for space telecommand (Earth-to-space) at specific locations, subject to such conditions as may be applied on a case-by-case basis. Operators shall take all practical steps to keep the carrier frequency close to 450 MHz.

US90 In the band 2025–2110 MHz, the power flux-density at the Earth's surface produced by emissions from a space station in the space operation, Earth exploration-satellite, or space research service that is transmitting in the space-to-space direction, for all conditions and all methods of modulation, shall not exceed the following values in any 4 kHz sub-band:

(a) $-154$ dBW/m$^2$ for angles of arrival above the horizontal plane ($\delta$) of 0° to 5°,

(b) $-154 + 0.5(\delta - 5)$ dBW/m$^2$ for $\delta$ of 5° to 25°, and

(c) $-144$ dBW/m$^2$ for $\delta$ of 25° to 90°.

US93 In the conterminous United States, the frequency 108.0 MHz may be authorized for use by VOR test facilities, the operation of which is not essential for the safety of life or property, subject to the condition that no interference is caused to the reception of FM broadcasting stations operating in the band 88–108 MHz. In the event that such interference does occur, the licensee or other agency authorized to operate the facility shall discontinue operation on 108 MHz and shall not resume operation until the interference has been eliminated or the complaint otherwise satisfied. VOR test facilities operating on 108 MHz will not be protected against interference caused by FM broadcasting stations operating in the band 88–108 MHz nor shall the authorization of a VOR test facility on 108 MHz preclude the Commission from authorizing additional FM broadcasting stations.

US99 In the band 1668.4–1670 MHz, the meteorological aids service (radiosonde) will avoid operations to the maximum extent practicable. Whenever it is necessary to operate radiosondes in the band 1668.4–1670 MHz within the United States, notification of the operations shall be sent as far in advance as possible to the Electromagnetic Management Unit, Room 1030, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

US102 In Alaska only, the frequency 122.1 MHz may also be used for air carrier air traffic control purposes at locations where other frequencies are not available to air carrier aircraft stations for air traffic control.

US104 In the band 90–110 kHz, the LORAN radionavigation system has priority in the United States and its insular areas. Radiolocation land stations making use of LORAN type equipment may be authorized to both Federal and non-Federal licensees on a secondary basis for offshore radiolocation activities only at specific locations and subject to such technical and operational conditions (e.g., power, emission, pulse rate and phase code, hours of operation), including on-the-air testing, as may be required on a case-by-case basis to ensure protection of the LORAN radionavigation system from harmful interference and to ensure mutual compatibility among radiolocation operators. Such authorizations to stations in the radiolocation service are further subject to showing of need for service which is not currently provided and which the Federal Government is not yet prepared to render by way of the radionavigation service.

US106 The frequency 156.75 MHz is available for assignment to Federal and non-Federal stations for environmental communications in accordance with an agreed plan.

US108 In the bands 3300–3500 MHz and 10–10.5 GHz, survey operations, using transmitters with a peak power not to exceed five watts into the antenna, may be authorized for Federal and non-Federal use on a secondary basis to other Federal radiolocation operations.

US110 In the band 9200–9300 MHz, the use of the radiolocation service by non-Federal licensees may be authorized on the condition that harmful interference is not caused to the maritime radionavigation service or to the Federal radiolocation service.

US112 The frequency 123.1 MHz is for search and rescue communications. This frequency may be assigned for air traffic control communications at special aeronautical events on the condition that no harmful interference is caused to search and rescue communications during any period of search and rescue operations in the locale involved.

US116 In the bands 890–902 MHz and 935–941 MHz, no new assignments are to be made to Federal radio stations after July 10, 1970, except on a case-by-case basis to experimental stations. Federal assignments existing prior to July 10, 1970, shall be on a secondary basis to stations in the non-Federal land mobile service and shall be subject to adjustment or removal from the bands 890–902 MHz, 928–932 MHz, and 935–941 MHz at the request of the FCC.

US117 In the band 406.1–410 MHz, the following provisions shall apply:

(a) Stations in the fixed and mobile services are limited to a transmitter output power of 125 watts, and new authorizations for stations, other than mobile stations, are subject to prior coordination by the applicant in the following areas:

(1) Within Puerto Rico and the U.S. Virgin Islands, contact Spectrum Manager, Arecibo Observatory, HC3 Box 53995, Arecibo, PR 00612. Phone: 787–878–2612, Fax: 787–878–1861, e-mail: *prcz@naic.edu*.

(2) Within 350 km of the Very Large Array (34°04′44″ N, 107°37′ 06″ W), contact Spectrum Manager, National Radio Astronomy Observatory, P.O. Box O, 1003 Lopezville Road, Socorro, NM 87801. Phone: 505–835–7000, Fax: 505–835–7027, e-mail: *nrao-rfi@nrao.edu*.

(3) Within 10 km of the Table Mountain Observatory (40°07′50″ N, 105°14′40″ W) and for operations only within the sub-band 407–409 MHz, contact Radio Frequency Manager, Department of Commerce, 325 Broadway, Boulder, CO 80305. Phone: 303–497–4619, Fax: 303–497–6982, e-mail: *frequencymanager@its.bldrdoc.gov*.

(b) Non-Federal use is limited to the radio astronomy service and as provided by US13.

US136 The following provisions shall apply in eight HF bands that are allocated to the broadcasting service (HFBC) on a primary basis in all Regions.

(a) In Alaska, the assigned frequency band 7368.48–7371.32 kHz is allocated exclusively to

the fixed service (FS) on a primary basis for non-Federal use in accordance with 47 CFR 80.387.

(b) On the condition that harmful interference is not caused to the broadcasting service (NIB operations), Federal and non-Federal stations that communicate wholly within the United States and its insular areas may operate as specified herein. All such stations must take account of the seasonal use of frequencies by the broadcasting service published in accordance with Article 12 of the ITU *Radio Regulations* and are limited to the minimum power needed for reliable communications.

(1) *Federal stations.* Frequencies in the 13 HF bands/sub-bands listed in the table below (HF NIB Bands) may be authorized to Federal stations in the FS. In the bands 5.9–5.95, 7.3–7.4, 13.57–13.6, and 13.80–13.87 MHz (6, 7, 13.6, and 13.8 MHz bands), frequencies may also be authorized to Federal stations in the mobile except aeronautical mobile route (R) service (MS except AM(R)S). Federal use of the bands 9.775–9.9, 11.65–11.7, and 11.975–12.05 MHz is restricted to stations in the FS that were authorized as of June 12, 2003, and each grandfathered station is restricted to a total radiated power of 24 dBW. In all other HF NIB Bands (*), new Federal stations may be authorized.

(2) *Non-Federal stations.* Non-Federal use of the HF NIB Bands is restricted to stations in the FS, land mobile service (LMS), and maritime mobile service (MMS) that were licensed prior to March 25, 2007, except that, in the sub-band 7.35–7.4 MHz, use is restricted to stations that were licensed prior to March 29, 2009.

NIB OPERATIONS IN EIGHT HFBC BANDS (MHz)

| HF NIB band | Federal (* new stations permitted) | Non-Federal | HFBC band |
|---|---|---|---|
| 5.90–5.95 | *FS and MS except AM(R)S | MMS | 5.90–6.20 |
| 7.30–7.40 | *FS and MS except AM(R)S | FS, LMS and MMS. | 7.30–7.40 |
| 9.40–9.50 | *9 MHz: FS | FS and LMS | 9.40–9.90 |
| 9.775–9.90 | FS (Grandfathered, restricted to 24 dBW). | | |
| 11.60–11.65 | *11 MHz: FS | FS | 11.60–12.10 |
| 11.65–11.70 | FS (Grandfathered, restricted to 24 dBW). | | |
| 11.975–12.05 | FS (Grandfathered, restricted to 24 dBW). | | |
| 12.05–12.10 | *12 MHz: FS | FS. | |
| 13.57–13.60 | *FS and MS except AM(R)S | MMS | 13.57–13.87 |
| 13.80–13.87 | *FS and MS except AM(R)S | MMS. | |
| 15.60–15.80 | *15 MHz: FS | FS | 15.10–15.80 |
| 17.48–17.55 | *17 MHz: FS | | 17.48–17.90 |
| 18.90–19.02 | *19 MHz: FS | MMS | 18.90–19.02 |

NOTE: Non-Federal stations may continue to operate in nine HF NIB Bands as follows: (i) In the 6, 7, 13.6, 13.8, and 19 MHz bands, stations in the MMS; (ii) In the 7 and 9 MHz bands, stations in the FS and LMS; and (iii) In the 11, 12, and 15 MHz band, stations in the FS.

US142 In the bands 7.2–7.3 and 7.4–7.45 MHz, the following provisions shall apply:

(a) In the U.S. Pacific insular areas located in Region 3 (*see* 47 CFR 2.105(a), note 3), the bands 7.2–7.3 and 7.4–7.45 MHz are alternatively allocated to the broadcasting service on a primary basis. Use of this allocation is restricted to international broadcast stations that transmit to geographical zones and areas of reception in Region 1 or Region 3.

(b) The use of the band 7.2–7.3 MHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

US201 In the band 460–470 MHz, space stations in the Earth exploration-satellite service may be authorized for space-to-Earth transmissions on a secondary basis with respect to the fixed and mobile services. When operating in the meteorological-satellite service, such stations shall be protected from harmful interference from other applications of the Earth exploration-satellite service. The power flux-density produced at the Earth's surface by any space station in this band shall not exceed $-152$ dBW/m$^2$/4 kHz.

US203 Radio astronomy observations of the formaldehyde line frequencies 4825–4835 MHz and 14.470–14.500 GHz may be made at certain radio astronomy observatories as indicated below:

BANDS TO BE OBSERVED

| 4 GHz | 14 GHz | Observatory |
|---|---|---|
| X | | National Astronomy and Ionosphere Center, Arecibo, Puerto Rico. |
| X | X | National Radio Astronomy Observatory, Green Bank, W. Va. |
| X | X | National Radio Astronomy Observatory, Socorro, New Mexico. |
| X | X | Hat Creek Observatory (U of Calif.), Hat Creek, Cal. |
| X | X | Haystack Radio Observatory (MIT-Lincoln Lab), Tyngsboro, Mass. |

BANDS TO BE OBSERVED—Continued

| 4 GHz | 14 GHz | Observatory |
|---|---|---|
| X ..... | X ..... | Owens Vally Radio Observatory (Cal. Tech.), Big Pine, Cal. |
| ..... | X ..... | Five College Radio Astronomy Observatory Quabbin Reservoir (near Amherst), Massachusetts. |

Every practicable effort will be made to avoid the assignment of frequencies to stations in the fixed or mobile services in these bands. Should such assignments result in harmful interference to these observations, the situation will be remedied to the extent practicable.

US205 Tropospheric scatter systems are prohibited in the band 2500–2690 MHz.

US208 Planning and use of the band 1559–1626.5 MHz necessitate the development of technical and/or operational sharing criteria to ensure the maximum degree of electromagnetic compatibility with existing and planned systems within the band.

US209 The use of frequencies 460.6625, 460.6875, 460.7125, 460.7375, 460.7625, 460.7875, 460.8125, 460.8375, 460.8625, 465.6625, 465.6875, 465.7125, 465.7375, 465.7625, 465.7875, 465.8125, 465.8375, and 465.8625 MHz may be authorized, with 100 mW or less output power, to Federal and non-Federal radio stations for one-way, non-voice bio-medical telemetry operations in hospitals, or medical or convalescent centers.

US210 In the bands 40.66–40.7 MHz and 216–220 MHz, frequencies may be authorized to Federal and non-Federal stations on a secondary basis for the tracking of, and telemetering of scientific data from, ocean buoys and wildlife. Operation in these bands is subject to the technical standards specified in Section 8.2.42 of the NTIA Manual for Federal use, or 47 CFR 90.248 for non-Federal use. After January 1, 2002, no new assignments shall be authorized in the band 216–217 MHz.

US211 In the bands 1670–1690, 5000–5250 MHz and 10.7–11.7, 15.1365–15.35, 15.4–15.7, 22.5–22.55, 24–24.05, 31.0–31.3, 31.8–32.0, 40.5–42.5, 116–122.25, 123–130, 158.5–164, 167–168, 191.8–200, and 252–265 GHz, applicants for airborne or space station assignments are urged to take all practicable steps to protect radio astronomy observations in the adjacent bands from harmful interference; however, US74 applies.

US212 In, or within 92.6 km (50 nautical miles) of, the State of Alaska, the carrier frequency 5167.5 kHz (assigned frequency 5168.9 kHz) is designated for emergency communications. This frequency may also be used in the Alaska-Private Fixed Service for calling and listening, but only for establishing communications before switching to another frequency. The maximum power is limited to 150 watts peak envelope power (PEP).

US213 The frequency 122.925 MHz is for use only for communications with or between aircraft when coordinating natural resources programs of Federal or State natural resources, agencies, including forestry management and fire suppression, fish and game management and protection and environmental monitoring and protection.

US214 The frequency 157.1 MHz is the primary frequency for liaison communications between ship stations and stations of the United States Coast Guard.

US218 The band 902–928 MHz is available for Location and Monitoring Service (LMS) systems subject to not causing harmful interference to the operation of all Federal stations authorized in this band. These systems must tolerate interference from the operation of industrial, scientific, and medical (ISM) equipment and the operation of Federal stations authorized in this band.

US220 The frequencies 36.25 and 41.71 MHz may be authorized to Federal stations and non-Federal stations in the petroleum radio service, for oil spill containment and cleanup operations. The use of these frequencies for oil spill containment or cleanup operations is limited to the inland and coastal waterway regions.

US221 Use of the mobile service in the bands 525–535 kHz and 1605–1615 kHz is limited to distribution of public service information from Travelers Information stations operating on 530 kHz and 1610 kHz.

US222 In the band 2025–2035 MHz, geostationary operational environmental satellite (GOES) earth stations in the space research and Earth exploration-satellite services may be authorized on a coequal basis for Earth-to-space transmissions for tracking, telemetry, and telecommand at Honolulu, HI (21°21′12″ N, 157°52′36″ W); Seattle, WA (47°34′15″ N, 122°33′10″ W); and Wallops Island, VA (37°56′44″ N, 75°27′42″ W).

US224 Federal systems utilizing spread spectrum techniques for terrestrial communication, navigation and identification may be authorized to operate in the band 960–1215 MHz on the condition that harmful interference will not be caused to the aeronautical radionavigation service. These systems will be handled on a case-by-case basis. Such systems shall be subject to a review at the national level for operational requirements and electromagnetic compatibility prior to development, procurement or modification.

US225 In addition to its present Federal use, the band 510–525 kHz is available to Federal and non-Federal aeronautical radionavigation stations inland of the Territorial Base Line as coordinated with the military services. In addition, the frequency 510 kHz is available for non-Federal ship-helicopter operations when beyond 100 nautical miles from shore and required for aeronautical radionavigation.

US226 In the maritime mobile VHF service the frequency 156.525 MHz is to be used exclusively for digital selective calling for distress, safety and calling. The conditions for the use of this frequency are prescribed in Articles 31 and 52, and Appendix 18.

In the band 156.2475–156.7625 MHz, each administration shall give priority to the maritime mobile service on only such frequencies as are assigned to stations of the maritime mobile service by the administration (see Articles 31 and 52). Any use of frequencies in this band by stations of other services to which they are allocated should be avoided in areas where such use might cause harmful interference to the maritime mobile VHF radiocommunication service.

US228 The use of the bands 161.9625–161.9875 MHz (AIS 1 with center frequency 161.975 MHz) and 162.0125–162.0375 MHz (AIS 2 with center frequency 162.025 MHz) by the maritime mobile service is restricted to Automatic Identification Systems (AIS), except that non-Federal stations in the band 161.9625–161.9875 MHz may continue to operate on a primary basis according to the following schedule:

(a) In VHF Public Coast Service Areas (VPCSAs) 1–9, site-based stations licensed prior to November 13, 2006 may continue to operate until expiration of the license term for licenses in active status as of November 13, 2006;

(b) In VPCSAs 10–42, site-based stations licensed prior to March 2, 2009 may continue to operate until March 2, 2024; and

(c) In VPCSAs 10–42, geographical stations licensed prior to March 2, 2009 may continue to operate until March 2, 2011. *See* 47 CFR 80.371(c)(1)(ii) for the definitions of VPCSAs and geographic license.

US230 The bands 422.1875–425.4875 MHz and 427.1875–429.9875 MHz are allocated to the land mobile service on a primary basis for non-Federal use within 80.5 kilometers (50 miles) of Cleveland, OH (41°29′51.2″ N, 81°41′49.5″ W) and Detroit, MI (42°19′48.1″ N, 83°02′56.7″ W). The bands 423.8125–425.4875 MHz and 428.8125–429.9875 MHz are allocated to the land mobile service on a primary basis for non-Federal use within 80.5 kilometers of Buffalo, NY (42°52′52.2″ N, 78°52′20.1″ W).

US231 When an assignment cannot be obtained in the bands between 200 kHz and 525 kHz, which are allocated to aeronautical radionavigation, assignments may be made to aeronautical radiobeacons in the maritime mobile band 435–490 kHz, on a secondary basis, subject to the coordination and agreement of those agencies having assignments within the maritime mobile band which may be affected. Assignments to Federal aeronautical radionavigation radiobeacons in the band 435–490 kHz shall not be a bar to any required changes to the maritime mobile radio service and shall be limited to non-voice emissions.

US239 Aeronautical radionavigation stations (radiobeacons) may be authorized, primarily for off-shore use, in the band 525–535 kHz on a non-interference basis to travelers information stations.

US240 The bands 1715–1725 and 1740–1750 kHz are allocated on a primary basis and the bands 1705–1715 kHz and 1725–1740 kHz on a secondary basis to the aeronautical radionavigation service (radiobeacons).

US241 The following provision shall apply to Federal operations in the band 216–220.035 MHz:

(a) Use of the fixed and land mobile services in the band 216–220 MHz and of the aeronautical mobile service in the sub-band 217–220 MHz is restricted to telemetry and associated telecommand operations. New stations in the fixed and land mobile services shall not be authorized in the sub-band 216–217 MHz.

(b) The sub-band 216.965–216.995 MHz is also allocated to the Federal radiolocation service on a primary basis and the use of this allocation is restricted to the Air Force Space Surveillance System (AFSSS) radar system. AFSSS stations transmit on the frequency 216.98 MHz and other operations may be affected within: 1) 250 km of Lake Kickapoo (Archer City), TX (33°2′48″ N, 98°45′46″ W); and 2) 150 km of Gila River (Phoenix), AZ (33°6′32″ N, 112°1′45″ W) and Jordan Lake (Wetumpka), AL (32°39′33″ N, 86°15′52″ W). AFSSS reception shall be protected from harmful interference within 50 km of: (1) Elephant Butte, NM (33°26′35″ N, 106°59′50″ W); (2) Fort Stewart, GA (31°58′36″ N, 81°30′34″ W); (3) Hawkinsville, GA (32°17′20″ N, 83°32′10″ W); (4) Red River, AR (33°19′48″ N, 93°33′1″ W); (5) San Diego, CA (32°34′42″ N, 116°58′11″ W); and (6) Silver Lake, MS (33°8′42″ N, 91°1′16″ W).

(c) The sub-band 219.965–220.035 MHz is also allocated to the Federal radiolocation service on a secondary basis and the use of this allocation is restricted to air-search radars onboard Coast Guard vessels.

US242 Use of the fixed and land mobile services in the band 220–222 MHz shall be in accordance with the following plan:

(a) Frequencies are assigned in pairs, with base station transmit frequencies taken from the sub-band 220–221 MHz and with corresponding mobile and control station transmit frequencies being 1 MHz higher and taken from the sub-band 221–222 MHz.

(b) In the non-Federal exclusive sub-bands, temporary fixed geophysical telemetry operations are also permitted on a secondary basis.

(c) The use of Channels 161–170 is restricted to public safety/mutual aid communications.

(d) The use of Channels 181–185 is restricted to emergency medical communications.

220 MHz PLAN

| Use | Base transmit | Mobile transmit | Channel Nos. |
|---|---|---|---|
| Non-Federal exclusive | 220.00–220.55 | 221.00–221.55 | 001–110 |
| Federal exclusive | 220.55–220.60 | 221.55–221.60 | 111–120 |
| Non-Federal exclusive | 220.60–220.80 | 221.60–221.80 | 121–160 |
| Shared | 220.80–220.85 | 221.80–221.85 | 161–170 |
| Non-Federal exclusive | 220.85–220.90 | 221.85–221.90 | 171–180 |
| Shared | 220.90–220.925 | 221.90–221.925 | 181–185 |
| Non-Federal exclusive | 220.925–221 | 221.925–222 | 186–200 |

US244 The band 136–137 MHz is allocated to the non-Federal aeronautical mobile (R) service on a primary basis, and is subject to pertinent international treaties and agreements. The frequencies 136, 136.025, 136.05, 136.075, 136.1, 136.125, 136.15, 136.175, 136.2, 136.225, 136.25, 136.275, 136.3, 136.325, 136.35, 136.375, 136.4, 136.425, 136.45, and 136.475 MHz are available on a shared basis to the Federal Aviation Administration for air traffic control purposes, such as automatic weather observation stations (AWOS), automatic terminal information services (ATIS), flight information services-broadcast (FIS-B), and airport control tower communications.

US245 In the bands 3600–3650 MHz (space-to-Earth), 4500–4800 MHz (space-to-Earth), and 5850–5925 MHz (Earth-to-space), the use of the non-Federal fixed-satellite service is limited to international inter-continental systems and is subject to case-by-case electromagnetic compatibility analysis. The FCC's policy for these bands is codified at 47 CFR 2.108.

US246 No station shall be authorized to transmit in the following bands: 73–74.6 MHz, 608–614 MHz, except for medical telemetry equipment,[1] 1400–1427 MHz, 1660.5–1668.4 MHz, 2690–2700 MHz, 4990–5000 MHz, 10.68–10.7 GHz, 15.35–15.4 GHz, 23.6–24 GHz, 31.3–31.8 GHz, 50.2–50.4 GHz, 52.6–54.25 GHz, 86–92 GHz, 100–102 GHz, 109.5–111.8 GHz, 114.25–116 GHz, 148.5–151.5 GHz, 164–167 GHz, 182–185 GHz, 190–191.8 GHz, 200–209 GHz, 226–231.5 GHz, 250–252 GHz.

US247 The band 10100–10150 kHz is allocated to the fixed service on a primary basis outside the United States and its insular areas. Transmissions from stations in the amateur service shall not cause harmful interference to this fixed service use and stations in the amateur service shall make all necessary adjustments (including termination of transmission) if harmful interference is caused.

US251 The band 12.75–13.25 GHz is also allocated to the space research (deep space) (space-to-Earth) service for reception only at Goldstone, CA (35°20′ N, 116°53′ W).

[1] Medical telemetry equipment shall not cause harmful interference to radio astronomy operations in the band 608–614 MHz and shall be coordinated under the requirements found in 47 CFR 95.1119.

US252 The band 2110–2120 MHz is also allocated to the space research service (deep space) (Earth-to-space) on a primary basis at Goldstone, CA (35°20′ N, 116°53′ W).

US254 In the band 18.6–18.8 GHz the fixed and mobile services shall be limited to a maximum equivalent isotropically radiated power of +35 dBW and the power delivered to the antenna shall not exceed −3 dBW.

US255 In addition to any other applicable limits, the power flux-density across the 200 MHz band 18.6–18.8 GHz produced at the surface of the Earth by emissions from a space station under assumed free-space propagation conditions shall not exceed −95 dB(W/m$^2$) for all angles of arrival. This limit may be exceeded by up to 3 dB for no more than 5% of the time.

US258 In the bands 8025–8400 MHz and 25.5–27 GHz, the Earth exploration-satellite service (space-to-Earth) is allocated on a primary basis for non-Federal use. Authorizations are subject to a case-by-case electromagnetic compatibility analysis.

US259 In the band 17.3–17.7 GHz, Federal stations in the radiolocation service shall operate with an e.i.r.p. of less than 51 dBW.

US260 Aeronautical mobile communications which are an integral part of aeronautical radionavigation systems may be satisfied in the bands 1559–1626.5 MHz, 5000–5250 MHz and 15.4–15.7 GHz.

US261 The use of the band 4200–4400 MHz by the aeronautical radionavigation service is reserved exclusively for airborne radio altimeters. Experimental stations will not be authorized to develop equipment for operational use in this band other than equipment related to altimeter stations. However, passive sensing in the earth-exploration satellite and space research services may be authorized in this band on a secondary basis (no protection is provided from the radio altimeters).

US262 The band 7145–7190 MHz is also allocated to the space research service (deep space) (Earth-to-space) on a secondary basis for non-Federal use. Federal and non-Federal use of the bands 7145–7190 MHz and 34.2–34.7 GHz by the space research service (deep space) (Earth-to-space) and of the band 31.8–32.3 GHz by the space research service (deep space) (space-to-Earth) is limited to Goldstone, CA (35°20′ N, 116°53′ W).

US263 In the bands 21.2–21.4 GHz, 22.21–22.5 GHz, 36–37 GHz, and 56.26–58.2 GHz, the space research and Earth exploration-satellite services shall not receive protection from the fixed and mobile services operating in accordance with the Table of Frequency Allocations.

US264 In the band 48.94–49.04 GHz, airborne stations shall not be authorized.

US265 In the band 10.6–10.68 GHz, the fixed service shall be limited to an e.i.r.p. of 40 dBW and the power delivered to the antenna shall not exceed −3 dBW per 250 kHz.

US266 Non-Federal licensees in the Public Safety Radio Pool holding a valid authorization on June 30, 1958, to operate in the frequency band 156.27–157.45 MHz or on the frequencies 161.85 MHz or 161.91 MHz may, upon proper application, continue to be authorized for such operation, including expansion of existing systems, until such time as harmful interference is caused to the operation of any authorized station other than those licensed in the Public Safety Radio Pool.

US267 In the band 902–928 MHz, amateur stations shall transmit only in the sub-bands 902–902.4, 902.6–904.3, 904.7–925.3, 925.7–927.3, and 927.7–928 MHz within the States of Colorado and Wyoming, bounded by the area of latitudes 39° N and 42° N and longitudes 103° W and 108° W.

US268 The bands 890–902 MHz and 928–942 MHz are also allocated to the radiolocation service for Federal ship stations (off-shore ocean areas) on the condition that harmful interference is not caused to non-Federal land mobile stations. The provisions of footnote US116 apply.

US269 In the band 420–450 MHz, the following provisions shall apply to the non-Federal radiolocation service:

(a) Pulse-ranging radiolocation systems may be authorized for use along the shoreline of the conterminous United States and Alaska.

(b) In the sub-band 420–435 MHz, spread spectrum radiolocation systems may be authorized within the conterminous United States and Alaska.

(c) All stations operating in accordance with this provision shall be secondary to stations operating in accordance with the Table of Frequency Allocations.

(d) Authorizations shall be granted on a case-by-case basis; however, operations proposed to be located within the areas listed in paragraph (a) of US270 should not expect to be accommodated.

US270 In the band 420–450 MHz, the following provisions shall apply to the amateur service:

(a) The peak envelope power of an amateur station shall not exceed 50 watts in the following areas, unless expressly authorized by the FCC after mutual agreement, on a case-by-case basis, between the District Director of the applicable field office and the military area frequency coordinator at the applicable military base. For areas (5) through (7), the appropriate military coordinator is located at Peterson AFB, CO.

(1) Arizona, Florida and New Mexico.

(2) Within those portions of California and Nevada that are south of latitude 37°10′ N.

(3) Within that portion of Texas that is west of longitude 104° W.

(4) Within 322 km of Eglin AFB, FL (30°30′ N, 86°30′ W); Patrick AFB, FL (28°21′ N, 80°43′ W); and the Pacific Missile Test Center, Point Mugu, CA (34°09′ N, 119°11′ W).

(5) Within 240 km of Beale AFB, CA (39°08′ N, 121°26′ W).

(6) Within 200 km of Goodfellow AFB, TX (31°25′ N, 100°24′ W) and Warner Robins AFB, GA (32°38′ N, 83°35′ W).

(7) Within 160 km of Clear AFS, AK (64°17′ N, 149°10′ W); Concrete, ND (48°43′ N, 97°54′ W); and Otis AFB, MA (41°45′ N, 70°32′ W).

(b) In the sub-band 420–430 MHz, the amateur service is not allocated north of Line A (def. §2.1).

US271 The use of the band 17.3–17.8 GHz by the fixed-satellite service (earth-to-space) is limited to feeder links for broadcasting-satellite service.

US273 In the bands 74.6–74.8 MHz and 75.2–75.4 MHz, stations in the fixed and mobile services are limited to a maximum power of 1 watt from the transmitter into the antenna transmission line.

US275 The band 902–928 MHz is allocated on a secondary basis to the amateur service subject to not causing harmful interference to the operations of Federal stations authorized in this band or to Location and Monitoring Service (LMS) systems. Stations in the amateur service must tolerate any interference from the operations of industrial, scientific, and medical (ISM) devices, LMS systems, and the operations of Federal stations authorized in this band. Further, the amateur service is prohibited in those portions of Texas and New Mexico bounded on the south by latitude 31°41′ North, on the east by longitude 104°11′ West, and on the north by latitude 34°30′ North, and on the west by longitude 107°30′West; in addition, outside this area but within 150 miles of these boundaries of White Sands Missile Range the service is restricted to a maximum transmitter peak envelope power output of 50 watts.

US276 Except as otherwise provided for herein, use of the band 2360–2395 MHz by the mobile service is limited to aeronautical telemetering and associated telecommand operations for flight testing of aircraft, missiles or major components thereof. The following three frequencies are shared on a coequal basis by Federal and non-Federal stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles, whether or not such operations involve flight testing: 2364.5 MHz,

2370.5 MHz, and 2382.5 MHz. All other mobile telemetering uses shall not cause harmful interference to, or claim protection from interference from, the above uses.

US277 The band 10.6–10.68 GHz is also allocated on a primary basis to the radio astronomy service. However, the radio astronomy service shall not receive protection from stations in the fixed service which are licensed to operate in the one hundred most populous urbanized areas as defined by the 1990 U.S. Census. For the list of observatories operating in this band *see* 47 CFR 2.106, footnote US355.

US278 In the bands 22.55–23.55 GHz and 32.3–33 GHz, non-geostationary inter-satellite links may operate on a secondary basis to geostationary inter-satellite links.

US279 The frequency 2182 kHz may be authorized to fixed stations associated with the maritime mobile service for the sole purpose of transmitting distress calls and distress traffic, and urgency and safety signals and messages.

US281 In the band 25070–25210 kHz, non-Federal stations in the Industrial/Business Pool shall not cause harmful interference to, and must accept interference from, stations in the maritime mobile service operating in accordance with the Table of Frequency Allocations.

US282 In the band 4650–4700 kHz, frequencies may be authorized for non-Federal communication with helicopters in support of off-shore drilling operations on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

US283 In the bands 2850–3025 kHz, 3400–3500 kHz, 4650–4700 kHz, 5450–5680 kHz, 6525–6685 kHz, 10005–10100 kHz, 11275–11400 kHz, 13260–13360 kHz, and 17900–17970 kHz, frequencies may be authorized for non-Federal flight test purposes on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

US285 Under exceptional circumstances, the carrier frequencies 2635 kHz, 2638 kHz, and 2738 kHz may be authorized to coast stations.

US290 In the band 1900–2000 kHz, amateur stations may continue to operate on a secondary basis to the radiolocation service, pending a decision as to their disposition through a future rule making proceeding in conjunction with the implementation of the standard broadcasting service in the band 1625–1705 kHz.

US296 In the bands designated for ship wide-band telegraphy, facsimile and special transmission systems, the following assignable frequencies are available to non-Federal stations on a shared basis with Federal stations: 2070.5 kHz, 2072.5 kHz, 2074.5 kHz, 2076.5 kHz, 4154 kHz, 4170 kHz, 6235 kHz, 6259 kHz, 8302 kHz, 8338 kHz, 12370 kHz, 12418 kHz, 16551 kHz, 16615 kHz, 18848 kHz, 18868 kHz, 22182 kHz, 22238 kHz, 25123 kHz, and 25159 kHz.

US297 The bands 47.2–49.2 GHz and 81–82.5 GHz are also available for feeder links for the broadcasting-satellite service.

US298 The assigned frequencies 27.555, 27.615, 27.635, 27.655, 27.765, and 27.860 MHz are available for use by forest product licensees on a secondary basis to Federal operations including experimental stations. Non-Federal operations on these frequencies will not exceed 150 watts output power and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

US299 In Alaska, the band 1615–1705 kHz is also allocated to the maritime mobile and Alaska fixed services on a secondary basis to Region 2 broadcast operations.

US300 The frequencies 169.445, 169.505, 170.245, 170.305, 171.045, 171.105, 171.845 and 171.905 MHz are available for wireless microphone operations on a secondary basis to Federal and non-Federal operations.

US301 Except as provided in NG30, broadcast auxiliary stations licensed as of November 21, 1984, to operate in the band 942–944 MHz may continue to operate on a co-equal primary basis to other stations and services operating in the band in accordance with the Table of Frequency Allocations.

US303 In the band 2285–2290 MHz, non-Federal space stations in the space research, space operations and Earth exploration-satellite services may be authorized to transmit to the Tracking and Data Relay Satellite System subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to authorized Federal stations. The power flux-density at the Earth's surface from such non-Federal stations shall not exceed–144 to –154 dBW/m2/4 kHz, depending on angle of arrival, in accordance with ITU Radio Regulation 21.16.

US307 The band 5150–5216 MHz is also allocated to the fixed-satellite service (space-to-Earth) for feeder links in conjunction with the radiodetermination-satellite service operating in the bands 1610–1626.5 MHz and 2483.5–2500 MHz. The total power flux-density at the Earth's surface shall in no case exceed $-159$ dBW/m$^2$ per 4 kHz for all angles of arrival.

US308 In the bands 1549.5–1558.5 MHz and 1651–1660 MHz, those requirements of the aeronautical mobile-satellite (R) service that cannot be accommodated in the bands 1545–1549.5 MHz, 1558.5–1559 MHz, 1646.5–1651 MHz, and 1660–1660.5 MHz shall have priority access with real-time preemptive capability for communications in the mobile-satellite service. Systems not interoperable with the aeronautical mobile-satellite (R) service shall operate on a secondary basis. Account

shall be taken of the priority of safety-related communications in the mobile-satellite service.

US309 In the bands 1545–1559 MHz, transmissions from terrestrial aeronautical stations directly to aircraft stations, or between aircraft stations, in the aeronautical mobile (R) service are also authorized when such transmissions are used to extend or supplement the satellite-to-aircraft links. In the band 1646.5–1660.5 MHz, transmissions from aircraft stations in the aeronautical mobile (R) service directly to terrestrial aeronautical stations, or between aircraft stations, are also authorized when such transmissions are used to extend or supplement the aircraft-to-satellite links.

US310 In the band 14.896–15.121 GHz, non-Federal space stations in the space research service may be authorized on a secondary basis to transmit to Tracking and Data Relay Satellites subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to authorized Federal stations. The power flux-density (pfd) produced by such non-Federal stations at the Earth's surface in any 1 MHz band for all conditions and methods of modulation shall not exceed:

$-124$ dB(W/m$^2$) for $0° < \theta \leq 5°$

$-124 + (\theta - 5)/2$ dB(W/m$^2$) for $5° < \theta \leq 25°$

$-114$ dB(W/m$^2$) for $25° < \theta \leq 90°$

where $\theta$ is the angle of arrival of the radio-frequency wave (degrees above the horizontal). These limits relate to the pfd and angles of arrival which would be obtained under free-space propagation conditions.

US312 The frequency 173.075 MHz may also be authorized on a primary basis to non-Federal stations in the Public Safety Radio Pool, limited to police licensees, for stolen vehicle recovery systems (SVRS). As of May 27, 2005, new SVRS licenses shall be issued for an authorized bandwidth not to exceed 12.5 kHz. Stations that operate as part of a stolen vehicle recovery system that was authorized and in operation prior to May 27, 2005 may operate with an authorized bandwidth not to exceed 20 kHz until May 27, 2019. After that date, all SVRS shall operate with an authorized bandwidth not to exceed 12.5 kHz.

US315 In the bands 1530–1544 MHz and 1626.5–1645.5 MHz, maritime mobile-satellite distress and safety communications, e.g., GMDSS, shall have priority access with real-time preemptive capability in the mobile-satellite service. Communications of mobile-satellite system stations not participating in the GMDSS shall operate on a secondary basis to distress and safety communications of stations operating in the GMDSS. Account shall be taken of the priority of safety-related communications in the mobile-satellite service.

US316 The band 2900–3000 MHz is also allocated to the meteorological aids service on a primary basis for Federal use. Operations in this service are limited to Next Generation Weather Radar (NEXRAD) systems where accommodation in the band 2700–2900 MHz is not technically practical and are subject to coordination with existing authorized stations.

US319 In the bands 137–138 MHz, 148–149.9 MHz, 149.9–150.05 MHz, 399.9–400.05 MHz, 400.15–401 MHz, 1610–1626.5 MHz, and 2483.5–2500 MHz, Federal stations in the mobile-satellite service shall be limited to earth stations operating with non-Federal space stations.

US320 The use of the bands 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, and 400.15–401 MHz by the mobile-satellite service is limited to non-voice, non-geostationary satellite systems and may include satellite links between land earth stations at fixed locations.

US323 In the band 148–149.9 MHz, no individual mobile earth station shall transmit on the same frequency being actively used by fixed and mobile stations and shall transmit no more than 1% of the time during any 15 minute period; except, individual mobile earth stations in this band that do not avoid frequencies actively being used by the fixed and mobile services shall not exceed a power density of $-16$ dBW/4 kHz and shall transmit no more than 0.25% of the time during any 15 minute period. Any single transmission from any individual mobile earth station operating in this band shall not exceed 450 ms in duration and consecutive transmissions from a single mobile earth station on the same frequency shall be separated by at least 15 seconds. Land earth stations in this band shall be subject to electromagnetic compatibility analysis and coordination with terrestrial fixed and mobile stations.

US324 In the band 400.15–401 MHz, Federal and non-Federal satellite systems shall be subject to electromagnetic compatibility analysis and coordination.

US325 In the band 148–149.9 MHz fixed and mobile stations shall not claim protection from land earth stations in the mobile-satellite service that have been previously coordinated; Federal fixed and mobile stations exceeding 27 dBW EIRP, or an emission bandwidth greater than 38 kHz, will be coordinated with existing mobile-satellite service space stations.

US327 The band 2310–2360 MHz is allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528.

US334 In the band 17.8–20.2 GHz, Federal space stations in both geostationary (GSO) and non-geostationary satellite orbits (NGSO) and associated earth stations in the

fixed-satellite service (space-to-Earth) may be authorized on a primary basis. For a Federal geostationary satellite network to operate on a primary basis, the space station shall be located outside the arc, measured from east to west, 70° West longitude to 120° West longitude. Coordination between Federal fixed-satellite systems and non-Federal space and terrestrial systems operating in accordance with the United States Table of Frequency Allocations is required.

(a) In the sub-band 17.8–19.7 GHz, the power flux-density (pfd) at the surface of the Earth produced by emissions from a Federal GSO space station or from a Federal space station in a NGSO constellation of 50 or fewer satellites, for all conditions and for all methods of modulation, shall not exceed the following values in any 1 MHz band:

(1) $-115$ dB(W/m$^2$) for angles of arrival above the horizontal plane ($\delta$) between 0° and 5°,

(2) $-115 + 0.5(\delta - 5)$ dB(W/m$^2$) for $\delta$ between 5° and 25°, and

(3) $-105$ dB(W/m$^2$) for $\delta$ between 25° and 90°.

(b) In the sub-band 17.8–19.3 GHz, the pfd at the surface of the Earth produced by emissions from a Federal space station in an NGSO constellation of 51 or more satellites, for all conditions and for all methods of modulation, shall not exceed the following values in any 1 MHz band:

(1) $-115 - X$ dB(W/m$^2$) for $\delta$ between 0° and 5°,

(2) $-115 - X + ((10 + X)/20)(\delta - 5)$ dB(W/m$^2$) for $\delta$ between 5° and 25°, and

(3) $-105$ dB(W/m$^2$) for $\delta$ between 25° and 90°; where X is defined as a function of the number of satellites, n, in an NGSO constellation as follows:

For $n \leq 288$, $X = (5/119)(n - 50)$ dB; and
For $n > 288$, $X = (1/69)(n + 402)$ dB.

US337 In the band 13.75–13.8 GHz, the FCC shall coordinate earth stations in the fixed-satellite service with NTIA on a case-by-case basis in order to minimize harmful interference to the Tracking and Data Relay Satellite System's forward space-to-space link (TDRSS forward link-to-LEO).

US338 The following provisions shall apply in the band 2305–2320 MHz:

(a) In the sub-band 2305–2310 MHz, space-to-Earth operations are prohibited.

(b) Within 145 km of Goldstone, CA (35°25′33″ N., 116°53′23″ W.), Wireless Communications Service (WCS) licensees operating base stations in the band 2305–2320 MHz shall, prior to operation of those base stations, achieve a mutually satisfactory coordination agreement with the National Aeronautics and Space Administration (NASA).

NOTE: NASA operates a deep space facility in Goldstone in the band 2290–2300 MHz.

US339 The bands 2310–2320 and 2345–2360 MHz are also available for aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles or major components thereof on a secondary basis to the Wireless Communications Service. The following two frequencies are shared on a coequal basis by Federal and non-Federal stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles whether or not such operations involve flight testing: 2312.5 and 2352.5 MHz. Other mobile telemetering uses may be provided on a non-interference basis to the above uses. The broadcasting-satellite service (sound) during implementation should also take cognizance of the expendable and reusable launch vehicle frequencies 2312.5 and 2352.5 MHz, to minimize the impact on this mobile service use to the extent possible.

US340 The band 2–30 MHz is available on a non-interference basis to Federal and non-Federal maritime and aeronautical stations for the purposes of measuring the quality of reception on radio channels. See 47 CFR 87.149 for the list of protected frequencies and bands within this frequency range. Actual communications shall be limited to those frequencies specifically allocated to the maritime mobile and aeronautical mobile services.

US342 In making assignments to stations of other services to which the bands:

13360–13410 kHz
25550–25670 kHz
37.5–38.25 MHz
322–328.6 MHz*
1330–1400 MHz*
1610.6–1613.8 MHz*
1660–1660.5 MHz*
1668.4–1670 MHz*
3260–3267 MHz*
3332–3339 MHz*
3345.8–3352.5 MHz*
4825–4835 MHz*
4950–4990 MHz
6650–6675.2 MHz*
14.47–14.5 GHz*
22.01–22.21 GHz*
22.21–22.5 GHz
22.81–22.86 GHz*
23.07–23.12 Gz*
31.2–31.3 GHz
36.43–36.5 GHz*
42.5–43.5 GHz
42.77–42.87 GHz*
43.07–43.17 GHz*
43.37–43.47 GHz*
48.94–49.04 GHz*
76–86 GHz
92–94 GHz
94.1–100 GHz
102–109.5 GHz
111.8–114.25 GHz
128.33–128.59 GHz*
129.23–129.49 GHz*
130–134 GHz
136–148.5 GHz

151.5–158.5 GHz
168.59–168.93 GHz*
171.11–171.45 GHz*
172.31–172.65 GHz*
173.52–173.85 GHz*
195.75–196.15 GHz*
209–226 GHz
241–250 GHz
252–275 GHz

are allocated (*indicates radio astronomy use for spectral line observations), all practicable steps shall be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (see ITU *Radio Regulations* at Nos. 4.5 and 4.6 and Article 29).

US343 Differential-Global-Positioning-System (DGPS) Stations, limited to ground-based transmitters, may be authorized on a primary basis in the bands 108–117.975 and 1559–1610 MHz for the specific purpose of transmitting DGPS information intended for aircraft navigation. Such use shall be in accordance with ITU Resolution 413 (WRC–03).

US344 In the band 5091–5250 MHz, the FCC shall coordinate earth stations in the fixed-satellite service (Earth-to-space) with NTIA (see Recommendation ITU–R S.1342). In order to better protect the operation of the international standard system (microwave landing system) in the band 5000–5091 MHz, non-Federal tracking and telecommand operations should be conducted in the band 5150–5250 MHz.

US345 In the band 401–406 MHz, the mobile, except aeronautical mobile, service is allocated on a secondary basis and is limited to, with the exception of military tactical mobile stations, Medical Device Radiocommunication Service (MedRadio) operations. MedRadio stations are authorized by rule on the condition that harmful interference is not caused to stations in the meteorological aids, meteorological-satellite, and Earth exploration-satellite services, and that MedRadio stations accept interference from stations in the meteorological aids, meteorological-satellite, and Earth exploration-satellite services.

US346 Except as provided for below and by US222, Federal use of the band 2025–2110 MHz by the space operation service (Earth-to-space), Earth exploration-satellite service (Earth-to-space), and space research service (Earth-to-space) shall not constrain the deployment of the Television Broadcast Auxiliary Service, the Cable Television Relay Service, or the Local Television Transmission Service. To facilitate compatible operations between non-Federal terrestrial receiving stations at fixed sites and Federal earth station transmitters, coordination is required. To facilitate compatible operations between non-Federal terrestrial transmitting stations and Federal spacecraft receivers, the terrestrial transmitters in the band 2025–2110 MHz shall not be high-density systems (see Recommendations ITU–R SA.1154 and ITU–R F.1247). Military satellite control stations at the following sites shall operate on a co-equal, primary basis with non-Federal operations:

| Facility | Coordinates |
|---|---|
| Naval Satellite Control Network, Prospect Harbor, ME | 44°24′16″ N, 068°00′46″ W |
| New Hampshire Tracking Station, New Boston AFS, NH | 42°56′52″ N, 071°37′36″ W |
| Eastern Vehicle Check-out Facility & GPS Ground Antenna & Monitoring Station, Cape Canaveral, FL. | 28°29′09″ N, 080°34′33″ W |
| Buckley AFB, CO | 39°42′55″ N, 104°46′36″ W |
| Colorado Tracking Station, Schriever AFB, CO | 38°48′21″ N, 104°31′43″ W |
| Kirtland AFB, NM | 34°59′46″ N, 106°30′28″ W |
| Camp Parks Communications Annex, Pleasanton, CA | 37°43′51″ N, 121°52′50″ W |
| Naval Satellite Control Network, Laguna Peak, CA | 34°06′31″ N, 119°03′53″ W |
| Vandenberg Tracking Station, Vandenberg AFB, CA | 34°49′21″ N, 120°30′07″ W |
| Hawaii Tracking Station, Kaena Pt, Oahu, HI | 21°33′44″ N, 158°14′31″ W |
| Guam Tracking Stations, Anderson AFB, and Naval CTS, Guam | 13°36′54″ N, 144°51′18″ E |

US347 In the band 2025–2110 MHz, non-Federal Earth-to-space and space-to-space transmissions may be authorized in the space research and Earth exploration-satellite services subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to Federal and non-Federal stations operating in accordance with the Table of Frequency Allocations.

US348 The band 3650–3700 MHz is also allocated to the Federal radiolocation service on a primary basis at the following sites: St. Inigoes, MD (38°10′ N, 76°23′ W); Pascagoula, MS (30°22′ N, 88°29′ W); and Pensacola, FL (30°21′28″ N, 87°16′26″ W). The FCC shall coordinate all non-Federal operations within 80 km of these sites with NTIA on a case-by-case basis.

US349 The band 3650–3700 MHz is also allocated to the Federal radiolocation service on a non-interference basis for use by ship stations located at least 44 nautical miles in off-shore ocean areas on the condition that harmful interference is not caused to non-Federal operations.

US350 In the band 1427–1432 MHz, Federal use of the land mobile service and non-Federal use of the fixed and land mobile services is limited to telemetry and telecommand operations as described further:

(a) *Medical operations*. The use of the band 1427–1432 MHz for medical telemetry and telecommand operations (medical operations) shall be authorized for both Federal and non-Federal stations.

(1) Medical operations shall be authorized in the band 1427–1429.5 MHz in the United States and its insular areas, except in the following locations: Austin/Georgetown, Texas; Detroit and Battle Creek, Michigan; Pittsburgh, Pennsylvania; Richmond/Norfolk, Virginia; Spokane, Washington; and Washington, DC metropolitan area (collectively, the ''carved-out'' locations). *See* Section 47 CFR 90.259(b)(4) for a detailed description of these areas.

(2) In the carved-out locations, medical operations shall be authorized in the band 1429–1431.5 MHz.

(3) Medical operations may operate on frequencies in the band 1427–1432 MHz other than those described in paragraphs (a)(1) and (2) only if the operations were registered with a designated frequency coordinator prior to April 14, 2010.

(b) *Non-medical operations*. The use of the band 1427–1432 MHz for non-medical telemetry and telecommand operations (non-medical operations) shall be limited to non-Federal stations.

(1) Non-medical operations shall be authorized on a secondary basis to the Wireless Medical Telemetry Service (WMTS) in the band 1427–1429.5 MHz and on a primary basis in the band 1429.5–1432 MHz in the United States and its insular areas, except in the carved-out locations.

(2) In the carved-out locations, non-medical operations shall be authorized on a secondary basis in the band 1429–1431.5 MHz and on a primary basis in the bands 1427–1429 MHz and 1431.5–1432 MHz.

US353 In the bands 56.24–56.29 GHz, 58.422–58.472 GHz, 59.139–59.189 GHz, 59.566–59.616 GHz, 60.281–60.331 GHz, 60.41–60.46 GHz, and 62.461–62.511 GHz, space-based radio astronomy observations may be made on an unprotected basis.

US354 In the band 58.422–58.472 GHz, airborne stations and space stations in the space-to-Earth direction shall not be authorized.

US355 In the band 10.7–11.7 GHz, non-geostationary satellite orbit licensees in the fixed-satellite service (space-to-Earth), prior to commencing operations, shall coordinate with the following radio astronomy observatories to achieve a mutually acceptable agreement regarding the protection of the radio telescope facilities operating in the band 10.6–10.7 GHz:

| Observatory | North latitude | West longitude | Elevation (in meters) |
|---|---|---|---|
| Arecibo Observatory, PR | 18°20′39″ | 66°45′10″ | 496 |
| Green Bank Telescope (GBT), WV | 38°25′59″ | 79°50′23″ | 825 |
| Very Large Array (VLA), Socorro, NM | 34°04′44″ | 107°37′06″ | 2126 |
| Very Long Baseline Array (VLBA) Stations: | | | |
| Brewster, WA | 48°07′52″ | 119°41′00″ | 255 |
| Fort Davis, TX | 30°38′06″ | 103°56′41″ | 1615 |
| Hancock, NH | 42°56′01″ | 71°59′12″ | 309 |
| Kitt Peak, AZ | 31°57′23″ | 111°36′45″ | 1916 |
| Los Alamos, NM | 35°46′30″ | 106°14′44″ | 1967 |
| Mauna Kea, HI | 19°48′05″ | 155°27′20″ | 3720 |
| North Liberty, IA | 41°46′17″ | 91°34′27″ | 241 |
| Owens Valley, CA | 37°13′54″ | 118°16′37″ | 1207 |
| Pie Town, NM | 34°18′04″ | 108°07′09″ | 2371 |
| St. Croix, VI | 17°45′24″ | 64°35′01″ | 16 |

US356 In the band 13.75–14 GHz, an earth station in the fixed-satellite service shall have a minimum antenna diameter of 4.5 m and the e.i.r.p. of any emission should be at least 68 dBW and should not exceed 85 dBW. In addition the e.i.r.p., averaged over one second, radiated by a station in the radiolocation service shall not exceed 59 dBW. Receiving space stations in the fixed-satellite service shall not claim protection from radiolocation transmitting stations operating in accordance with the United States Table of Frequency Allocations. ITU Radio Regulation No. 5.43A does not apply.

US357 In the band 13.75–14 GHz, geostationary space stations in the space research service for which information for advance publication has been received by the ITU Radiocommunication Bureau (Bureau) prior to 31 January 1992 shall operate on an equal basis with stations in the fixed-satellite service; after that date, new geostationary space stations in the space research service will operate on a secondary basis. Until those geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 cease to operate in this band:

a. The e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in geostationary-satellite orbit shall not exceed 71 dBW in any 6 MHz band from 13.77 to 13.78 GHz;

b. The e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in non-geostationary-satellite orbit shall not exceed 51 dBW in any 6 MHz band from 13.77 to 13.78 GHz.

Automatic power control may be used to increase the e.i.r.p. density in any 6 MHz band in these frequency ranges to compensate for rain attenuation, to the extent that the power flux-density at the fixed-satellite service space station does not exceed the value resulting from use by an earth station of an e.i.r.p. of 71 dBW or 51 dBW, as appropriate, in any 6 MHz band in clear-sky conditions.

US359 In the band 15.43–15.63 GHz, use of the fixed-satellite service (Earth-to-space) is limited to non-Federal feeder links of non-geostationary systems in the mobile-satellite service. The FCC shall coordinate Earth stations in this band with NTIA (see Annex 3 of Recommendation ITU–R S.1340).

US360 The band 33–36 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis for Federal use. Coordination between Federal fixed-satellite service systems and non-Federal systems operating in accordance with the United States Table of Frequency Allocations is required.

US361 In the band 1432–1435 MHz, Federal stations in the fixed and mobile services may operate indefinitely on a primary basis at the 23 sites listed below. All other Federal stations in the fixed and mobile services shall operate in the band 1432–1435 MHz on a primary basis until reaccommodated in accordance with the National Defense Authorization Act of 1999.

| Location | North latitude/west longitude | Operating radius (Km) | Location | North latitude/west longitude | Operating radius (Km) |
|---|---|---|---|---|---|
| China Lake/Edwards AFB, CA | 35°29′/117°16′ | 100 | AUTEC | 24°30′/078°00′ | 80 |
| White Sands Missile Range/ Holloman AFB, NM. | 32°11′/106°20′ | 160 | Beaufort MCAS, SC | 32°26′/080°40′ | 160 |
| Utah Test and Training Range/Dugway Proving Ground, Hill AFB, UT. | 40°57′/113°05′ | 160 | MCAS Cherry Point, NC | 34°54′/076°53′ | 100 |
| Patuxent River, MD | 38°17′/076°24′ | 70 | NAS Cecil Field, FL | 30°13′/081°52′ | 160 |
| Nellis AFB, NV | 37°29′/114°14′ | 130 | CNAS Fallon, NV | 39°30′/118°46′ | 100 |
| Fort Huachuca, AZ | 31°33′/110°18′ | 80 | NAS Oceana, VA | 36°49′/076°01′ | 100 |
| Eglin AFB/Gulfport ANG | 30°28′/086°31′ | 140 | NAS Whidbey Island, WA. | 48°21′/122°39′ | 70 |
| Range, MS/Fort Rucker, AL | | | | | |
| Yuma Proving Ground, AZ | 32°29′/114°20′ | 160 | NCTAMS, GUM | 13°35′/144°51′(East) | 80 |
| Fort Greeley, AK | 63°47′/145°52′ | 80 | Lemoore, CA | 36°20′/119°57′ | 120 |
| Redstone Arsenal, AL | 34°35′/086°35′ | 80 | Savannah River, SC | 33°15′/081°39′ | 3 |
| Alpene Range, MI | 44°23′/083°20′ | 80 | | | |
| Camp Shelby, MS | 31°20′/089°18′ | 80 | Naval Space Operations Center, ME. | 44°24′/068°01′ | 80 |

US362 The band 1670–1675 MHz is allocated to the meteorological-satellite service (space-to-Earth) on a primary basis for Federal use. Earth station use of this allocation is limited to Wallops Island, VA (37°56′44″ N, 75°27′37″ W), Fairbanks, AK (64°58′22″ N, 147°30′04″ W), and Greenbelt, MD (39°00′02″ N, 76°50′29″ W). Applicants for non-Federal stations within 100 kilometers of the Wallops Island or Fairbanks coordinates and within 65 kilometers of the Greenbelt coordinates shall notify NOAA in accordance with the procedures specified in 47 CFR 1.924.

US364 Consistent with US18, stations may be authorized on a primary basis in the band 285–325 kHz for the specific purpose of transmitting differential global positioning system information.

US368 (a) The use of the bands 1390–1392 MHz and 1430–1432 MHz by the fixed-satellite service is limited to feeder links for the Non-Voice Non-Geostationary Mobile-Satellite Service and is contingent on:

(1) The completion of ITU–R studies on all identified compatibility issues as shown in Annex 1 of Resolution 745 (WRC–2003);

(2) Measurement of emissions from equipment that would be employed in operational systems and demonstrations to validate the studies as called for in Resolution 745 (WRC–2003); and

(3) Compliance with any technical and operational requirements that may be imposed at WRC–07 to protect other services in these bands and passive services in the band 1400–1427 MHz from unwanted emissions.

(b) The FCC shall coordinate individual assignments with NTIA (see, for example, Recommendations ITU–R RA.769–2 and ITU–R SA.1029–2) to ensure the protection of passive services in the band 1400–1427 MHz. As part of the coordination requirements, the feeder uplink and downlink systems shall be tested

and certified to be in conformance with the technical and operational out-of-band requirements for the protection of passive services in the band 1400–1427 MHz. Certification and all supporting documentation shall be submitted to the FCC at least three months prior to launch.

US378 In the band 1710–1755 MHz, the following provisions apply:

(a) Federal fixed and tactical radio relay stations may operate indefinitely on a primary basis within 80 km of Cherry Point, NC (34°58′ N, 76°56′ W) and Yuma, AZ (32°32′ N, 113°58′ W).

(b) Federal fixed and tactical radio relay stations shall operate on a secondary basis to primary non-Federal operations at the 14 sites listed below:

| State | Location | Coordinates |
|---|---|---|
| **80 km radius of operation centered on:** | | |
| CA | China Lake | 35°41′ N, 117°41′ W. |
| CA | Pacific Missile Test Range/Point Mugu | 34°07′ N, 119°30′ W. |
| FL | Eglin AFB | 30°29′ N, 086°31′ W. |
| MD | Patuxent River | 38°17′ N, 076°25′ W. |
| NM | White Sands Missile Range | 33°00′ N, 106°30′ W. |
| NV | Nellis AFB | 36°14′ N, 115°02′ W. |
| UT | Hill AFB | 41°07′ N, 111°58′ W. |
| **50 km radius of operation centered on:** | | |
| AL | Fort Rucker | 31°13′ N, 085°49′ W. |
| CA | Fort Irwin | 35°16′ N, 116°41′ W. |
| GA | Fort Benning | 32°22′ N, 084°56′ W. |
| GA | Fort Stewart | 31°52′ N, 081°37′ W. |
| KY | Fort Campbell | 36°41′ N, 087°28′ W. |
| NC | Fort Bragg | 35°09′ N, 079°01′ W. |
| WA | Fort Lewis | 47°05′ N, 122°36′ W. |

(c) In the sub-band 1710–1720 MHz, precision guided munitions shall operate on a primary basis until inventory is exhausted or until December 31, 2008, whichever is earlier.

(d) All other Federal stations in the fixed and mobile services shall operate on a primary basis until reaccommodated in accordance with the Commercial Spectrum Enhancement Act.

US379 In the band 55.78–56.26 GHz, in order to protect stations in the Earth exploration-satellite service (passive), the maximum power density delivered by a transmitter to the antenna of a fixed service station is limited to −28.5 dB(W/MHz).

US380 In the bands 1525–1544 MHz, 1545–1559 MHz, 1610–1645.5 MHz, 1646.5–1660.5 MHz, and 2483.5–2500 MHz, a non-Federal licensee in the mobile-satellite service (MSS) may also operate an ancillary terrestrial component in conjunction with its MSS network, subject to the Commission's rules for ancillary terrestrial component and subject to all applicable conditions and provisions of its MSS authorization.

US381 The frequencies 5332 kHz, 5348 kHz, 5368 kHz, 5373 kHz, and 5405 kHz are allocated to the amateur service on a secondary basis. Amateur use of these frequencies shall be limited to 50 watts e.r.p. and to single sideband suppressed carrier modulation (emission designator 2K8J3E), upper sideband voice transmissions only.

US382 In the band 39.5–40 GHz, Federal earth stations in the mobile-satellite service (space-to-Earth) shall not claim protection from non-Federal stations in the fixed and mobile services. ITU Radio Regulation No. 5.43A does not apply.

US384 In the band 401–403 MHz, the non-Federal Earth exploration-satellite (Earth-to-space) and meteorological-satellite (Earth-to-space) services are limited to earth stations transmitting to Federal space stations.

US385 Radio astronomy observations may be made in the bands 1350–1400 MHz, 1718.8–1722.2 MHz, and 4950–4990 MHz on an unprotected basis, and in the band 2655–2690 MHz on a secondary basis, at the following radio astronomy observatories:

| | |
|---|---|
| Allen Telescope Array, Hat Creek, CA | Rectangle between latitudes 40°00′ N and 42°00′ N and between longitudes 120°15′ W and 122°15′ W. |
| NASA Goldstone Deep Space Communications Complex, Goldstone, CA. | 80 kilometers (50 mile) radius centered on 35°20′ N, 116°53′ W. |

| | | |
|---|---|---|
| National Astronomy and Ionosphere Center, Arecibo, PR. | Rectangle between latitudes 17°30′ N and 19°00′ N and between longitudes 65°10′ W and 68°00′ W. | |
| National Radio Astronomy Observatory, Socorro, NM. | Rectangle between latitudes 32°30′ N and 35°30′ N and between longitudes 106°00′ W and 109°00′ W. | |
| National Radio Astronomy Observatory, Green Bank, WV. | Rectangle between latitudes 37°30′ N and 39°15′ N and between longitudes 78°30′ W and 80°30′ W. | |
| National Radio Astronomy Observatory, Very Long Baseline Array Stations. | 80 kilometer radius centered on: | |
| | North latitude | West longitude |
| Brewster, WA | 48°08′ | 119°41′ |
| Fort Davis, TX | 30°38′ | 103°57′ |
| Hancock, NH | 42°56′ | 71°59′ |
| Kitt Peak, AZ | 31°57′ | 111°37′ |
| Los Alamos, NM | 35°47′ | 106°15′ |
| Mauna Kea, HI | 19°48′ | 155°27′ |
| North Liberty, IA | 41°46′ | 91°34′ |
| Owens Valley, CA | 37°14′ | 118°17′ |
| Pie Town, NM | 34°18′ | 108°07′ |
| Saint Croix, VI | 17°45′ | 64°35′ |
| Owens Valley Radio Observatory, Big Pine, CA. | Two contiguous rectangles, one between latitudes 36°00′ N and 37°00′ N and between longitudes 117°40′ W and 118°30′ W and the second between latitudes 37°00′ N and 38°00′ N and between longitudes 118°00′ W and 118°50′ W. | |

(a) In the bands 1350–1400 MHz and 4950–4990 MHz, every practicable effort will be made to avoid the assignment of frequencies to stations in the fixed and mobile services that could interfere with radio astronomy observations within the geographic areas given above. In addition, every practicable effort will be made to avoid assignment of frequencies in these bands to stations in the aeronautical mobile service which operate outside of those geographic areas, but which may cause harmful interference to the listed observatories. Should such assignments result in harmful interference to these observatories, the situation will be remedied to the extent practicable.

(b) In the band 2655–2690 MHz, for radio astronomy observations performed at the locations listed above, licensees are urged to coordinate their systems through the Electromagnetic Spectrum Management Unit, Division of Astronomical Sciences, National Science Foundation, Room 1030, 4201 Wilson Blvd., Arlington, VA 22230.

US388 In the bands 81–86 GHz, 92–94 GHz, and 94.1–95 GHz and within the coordination distances indicated below, assignments to allocated services shall be coordinated with the following radio astronomy observatories. New observatories shall not receive protection from fixed stations that are licensed to operate in the one hundred most populous urbanized areas as defined by the U.S. Census Bureau for the year 2000.

NOTE: Satisfactory completion of the coordination procedure utilizing the automated mechanism, see 47 CFR 101.1523, will be deemed to establish sufficient separation from radio astronomy observatories, regardless of whether the distances set forth above are met.

| Telescope and site | 150 kilometer (93 mile) radius centered on: | |
|---|---|---|
| | North latitude | West longitude |
| National Radio Astronomy Observatory (NRAO), Robert C. Byrd Telescope, Green Bank, WV | 38°25′59″ | 79°50′23″ |
| NRAO, Very Large Array, Socorro, NM | 34°04′44″ | 107°37′06″ |

| Telescope and site | 150 kilometer (93 mile) radius centered on: | |
|---|---|---|
| | North latitude | West longitude |
| University of Arizona 12-m Telescope, Kitt Peak, AZ | 31°57′12″ | 111°36′53″ |
| Caltech Telescope, Owens Valley, CA | 37°13′54″ | 118°17′36″ |
| Five College Observatory, Amherst, MA | 42°23′30″ | 72°20′42″ |
| Haystack Observatory, Westford, MA | 42°37′24″ | 71°29′18″ |
| James Clerk Maxwell Telescope, Mauna Kea, HI | 19°49′33″ | 155°28′47″ |
| Combined Array for Research in Millimeter-wave Astronomy (CARMA), CA | 37°16′43″ | 118°08′32″ |

| NRAO, Very Long Baseline Array Stations | 25 kilometer (15.5 mile) radius centered on: | |
|---|---|---|
| | North latitude | West longitude |
| Brewster, WA | 48°07′52″ | 119°41′00″ |
| Fort Davis, TX | 30°38′06″ | 103°56′41″ |
| Hancock, NH | 42°56′01″ | 71°59′12″ |
| Kitt Peak, AZ | 31°57′23″ | 111°36′45″ |
| Los Alamos, NM | 35°46′30″ | 106°14′44″ |
| Mauna Kea, HI | 19°48′05″ | 155°27′20″ |
| North Liberty, IA | 41°46′17″ | 91°34′27″ |
| Owens Valley, CA | 37°13′54″ | 118°16′37″ |
| Pie Town, NM | 34°18′04″ | 108°07′09″ |
| Saint Croix, VI | 17°45′24″ | 64°35′01″ |

US389 In the bands 71–76 GHz and 81–86 GHz, stations in the fixed, mobile, and broadcasting services shall not cause harmful interference to, nor claim protection from, Federal stations in the fixed-satellite service at any of the following 28 military installations:

| Military installation | State | Nearby city |
|---|---|---|
| Redstone Arsenal | AL | Huntsville |
| Fort Huachuca | AZ | Sierra Vista |
| Yuma Proving Ground | AZ | Yuma |
| Beale AFB | CA | Marysville |
| Camp Parks Reserve Forces Training Area. | CA | Dublin |
| China Lake Naval Air Weapons Station. | CA | Ridgecrest |
| Edwards AFB | CA | Rosamond |
| Fort Irwin | CA | Barstow |
| Marine Corps Air Ground Combat Center. | CO | Twentynine Palms |
| Buckley AFB | GA | Aurora (Denver) |
| Schriever AFB | CO | Colorado Springs |
| Fort Gordon | GA | Augusta |
| Naval Satellite Operations Center | GU | Finegayan (Guam) |
| Naval Computer and Telecommunications Area Master Station, Pacific. | HI | Wahiawa (Oahu Is.) |
| Fort Detrick | MD | Frederick |
| Nellis AFB | NV | Las Vegas |
| Nevada Test Site | NV | Amargosa Valley |
| Tonapah Test Range Airfield | NV | Tonapah |
| Cannon AFB | NM | Clovis |
| White Sands Missile Range | NM | White Sands |
| Dyess AFB | TX | Abilene |
| Fort Bliss | TX | El Paso |
| Fort Sam Houston | TX | San Antonio |
| Goodfellow AFB | TX | San Angelo |
| Kelly AFB | TX | San Antonio |
| Utah Test and Training Range | UT | |
| Fort Belvoir | VA | Alexandria |
| Naval Satellite Operations Center | VA | Chesapeake |

US390 Federal stations in the space research service (active) operating in the band 5350–5460 MHz shall not cause harmful interference to, nor claim protection from, Federal and non-Federal stations in the aeronautical radionavigation service nor Federal stations in the radiolocation service.

US391 In the band 2495–2500 MHz, the mobile-satellite service (space-to-Earth) shall not receive protection from non-Federal stations in the fixed and mobile except aeronautical mobile services operating in that band.

US393 In the band 2025–2110 MHz, the military services may operate stations in the fixed and mobile except aeronautical mobile services on a secondary and coordinated basis at the following sites:

| Site | Coordinates | Radius of operation (km) |
|---|---|---|
| Nellis AFB, NV | 36° 14′ N 115° 02′ W | 80 |
| China Lake, CA. | 35° 41′ N 117° 41′ W | 50 |
| Ft. Irwin, CA | 35° 16′ N 116° 41′ W | 50 |
| Pacific Missile Test Range/Pt. Mugu, CA. | 34° 07′ N 119° 30′ W | 80 |
| Yuma, AZ | 32° 32′ N 113° 58′ W | 80 |
| White Sands Missile Range, NM. | 33° 00′ N 106° 30′ W | 80 |

US397 In the band 432–438 MHz, the Earth exploration-satellite service (active) is allocated on a secondary basis for Federal use. Stations in the Earth exploration-satellite service (active) shall not be operated within

line-of-sight of the United States except for the purpose of short duration pre-operational testing. Operations under this allocation shall not cause harmful interference to, nor claim protection from, any other services allocated in the band 432–438 MHz in the United States, including secondary services and the amateur-satellite service.

US398 In the bands 1390–1400 MHz and 1427–1432 MHz, airborne and space-to-Earth operations, except for feeder downlinks for the Non-Voice Non-Geostationary Mobile-Satellite Service in the band 1430–1432 MHz (see US368), are prohibited.

US400 The use of the center frequency 978 MHz may be authorized to Universal Access Transceiver (UAT) stations on a primary basis for the specific purpose of transmitting datalink information in support of the Automatic Dependent Surveillance—Broadcast (ADS–B) Service, Traffic Information Services—Broadcast (TIS–B), and Flight Information—Broadcast (FIS–B).

US401 In the band 17.7–17.8 GHz, Federal earth stations in the fixed-satellite service (space-to-Earth) may be authorized in the Denver, CO and Washington, DC areas on a primary basis. Before commencement of operations, the FCC shall coordinate fixed service applications supporting Multichannel Video Programming Distributors (MVPD) with NTIA.

US402 In the band 17.3–17.7 GHz, existing Federal satellites and associated earth stations in the fixed-satellite service (Earth-to-space) are authorized to operate on a primary basis in the frequency bands and areas listed below. Receiving earth stations in the broadcasting-satellite service within the bands and areas listed below shall not claim protection from Federal earth stations in the fixed-satellite service.

(a) 17.600–17.700 GHz for stations within a 120 km radius of 38° 49′ N latitude and 76° 52′ W longitude.

(b) 17.375–17.475 GHz for stations within a 160 km radius of 39° 42′ N latitude and 104° 45′ W longitude.

US444 The band 5030–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. The requirements of this system shall take precedence over other uses of this band. For the use of this band, US444A and Resolution 114 (Rev.WRC–03) of the ITU *Radio Regulations* apply.

US444A The band 5091–5150 MHz is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis for non-Federal use. This allocation is limited to feeder links of non-geostationary mobile-satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A of the ITU *Radio Regulations*.

In the band 5091–5150 MHz, the following conditions also apply:

—Prior to 1 January 2018, the use of the band 5091–5150 MHz by feeder links of non-geostationary-satellite systems in the mobile-satellite service shall be made in accordance with Resolution 114 (Rev.WRC–03) of the ITU *Radio Regulations;*

—Prior to 1 January 2018, the requirements of existing and planned international standard systems for the aeronautical radionavigation service which cannot be met in the 5000–5091 MHz band, shall take precedence over other uses of this band;

—After 1 January 2012, no new assignments shall be made to earth stations providing feeder links of non-geostationary mobile-satellite systems;

—After 1 January 2018, the fixed-satellite service will become secondary to the aeronautical radionavigation service.

US519 The band 18.1–18.3 GHz is also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis. Its use is limited to geostationary satellites and shall be in accordance with the provisions of Article 21, Table 21–4 of the ITU *Radio Regulations*.

NON-FEDERAL GOVERNMENT (NG) FOOTNOTES

(These footnotes, each consisting of the letters ''NG'' followed by one or more digits, denote stipulations applicable only to non-Federal operations and thus appear solely in the non-Federal Table.)

NG1 The band 535–1705 kHz is also allocated to the mobile service on a secondary basis for the distribution of public service information from Travelers Information Stations operating in accordance with the provisions of 47 CFR 90.242 on 10 kilohertz spaced channels from 540 kHz to 1700 kHz.

NG2 Facsimile broadcasting stations may be authorized in the band 88–108 MHz.

NG3 Control stations in the domestic public mobile radio service may be authorized frequencies in the band 72–73 and 75.4–76 MHz on the condition that harmful interference will not be caused to operational fixed stations.

NG4 The use of the frequencies in the band 152.84–153.38 MHz may be authorized, in any area, to remote pickup broadcast base and mobile stations on the condition that harmful interference will not be caused to stations operating in accordance with the Table of Frequency Allocations.

NG5 In the band 535–1705 kHz, AM broadcast licensees and permittees may use their AM carrier on a secondary basis to transmit signals intended for both broadcast and non-broadcast purposes. In the band 88–108 MHz, FM broadcast licensees and permittees are permitted to use subcarriers on a secondary basis to transmit signals intended for both broadcast and non-broadcast purposes. In the bands 54–72, 76–88, 174–216, 470–608, and 614–698 MHz, TV broadcast licensees and permittees

are permitted to use subcarriers on a secondary basis for both broadcast and nonbroadcast purposes.

NG6 Stations in the public safety radio services authorized as of June 30, 1958, to use frequencies in the band 159.51–161.79 MHz in areas other than Puerto Rico and the Virgin Islands may continue such operation, including expansion of existing systems, on the condition that harmful interference will not be caused to stations in the services to which these bands are allocated. In Puerto Rico and the Virgin Islands this authority is limited to frequencies in the band 160.05–161.37 MHz. No new public radio service system will be authorized to operate on these frequencies.

NG7 In the bands 2000–2065, 2107–2170, and 2194–2495 kHz, fixed stations associated with the maritime mobile service may be authorized, for purposes of communication with coast stations, to use frequencies assignable to ship stations in these bands on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations. *See* 47 CFR 80.371(a) for the list of available carrier frequencies.

NG12 Frequencies in the bands 454.40–455 MHz and 459.40–460 MHz may be assigned to domestic public land and mobile stations to provide a two-way air-ground public radiotelephone service.

NG14 TV broadcast stations authorized to operate in the bands 54–72, 76–88, 174–216, 470–608, and 614–698 MHz may use a portion of the television vertical blanking interval for the transmission of telecommunications signals, on the condition that harmful interference will not be caused to the reception of primary services, and that such telecommunications services must accept any interference caused by primary services operating in these bands.

NG17 Stations in the land transportation radio services authorized as of May 15, 1958 to operate on the frequency 161.61 MHz may, upon proper application, continue to be authorized for such operation, including expansion of existing systems, on the condition that harmful interference will not be caused to the operation of any authorized station in the maritime mobile service. No new land transportation radio service system will be authorized to operate on 161.61 MHz.

NG28 In Puerto Rico and the United States Virgin Islands, the band 160.86–161.4 MHz is available for assignment to remote pickup broadcast stations on a shared basis with stations in the Industrial/Business Pool.

NG30 In Puerto Rico, the band 942–944 MHz is alternatively allocated to the fixed service (aural broadcast auxiliary stations).

NG42 In the band 10–10.5 GHz, non-Federal stations in the radiolocation service shall not cause harmful interference to the amateur service.

NG49 The following frequencies may be authorized for mobile operations in the Manufacturers Radio Service subject to the condition that no interference is caused to the reception of television stations operating on channels 4 and 5 and that their use is limited to a manufacturing facility:

| MHz | |
|---|---|
| 72.02 | 72.22 |
| 72.04 | 72.24 |
| 72.06 | 72.26 |
| 72.08 | 72.28 |
| 72.10 | 72.30 |
| 72.12 | 72.32 |
| 72.14 | 72.34 |
| 72.16 | 72.36 |
| 72.18 | 72.38 |
| 72.20 | 72.40 |

Further, the following frequencies may be authorized for mobile operations in the Special Industrial Radio Service, Manufacturers Radio Service, Railroad Radio Service and Forest Products Radio Service subject to the condition that no interference is caused to the reception of television stations operating on channels 4 and 5; and that their use is limited to a railroad yard, manufacturing plant, logging site, mill, or similar industrial facility.

| MHz | |
|---|---|
| 72.44 | 75.44 |
| 72.48 | 75.48 |
| 72.52 | 75.52 |
| 72.56 | 75.56 |
| 72.60 | 75.60 |

NG51 In Puerto Rico and the United States Virgin Islands, the use of band 150.8–151.49 MHz by the fixed and land mobile services is limited to stations in the Industrial/Business Pool.

NG53 In the band 13.15–13.25 GHz, the following provisions shall apply:

(a) The sub-band 13.15–13.2 GHz is reserved for television pickup (TVPU) and cable television relay service (CARS) pickup stations inside a 50 km radius of the 100 television markets delineated in 47 CFR 76.51; and outside these areas, TVPU stations, CARS stations and non-geostationary satellite orbit fixed-satellite service (NGSO FSS) gateway earth stations shall operate on a co-primary basis.

(b) The sub-band 13.2–13.2125 GHz is reserved for TVPU stations on a primary basis and for CARS pickup stations on a secondary basis inside a 50 km radius of the 100 television markets delineated in 47 CFR 76.51; and outside these areas, TVPU stations and NGSO FSS gateway earth stations shall operate on a co-primary basis and CARS stations shall operate on a secondary basis.

(c) In the band 13.15–13.25 GHz, fixed television auxiliary stations licensed pursuant to applications accepted for filing before September 1, 1979, may continue operation, subject to periodic license renewals.

(d) In the sub-band 13.15–13.2125 GHz, NGSO FSS gateway uplink transmissions shall be limited to a maximum e.i.r.p. of 3.2 dBW towards 0° on the radio horizon.

NOTE: The above provisions shall not apply to geostationary satellite orbit (GSO) FSS operations in the band 12.75–13.25 GHz.

NG56 In the bands 72–73 and 75.4–76 MHz, the use of mobile radio remote control of models is on a secondary basis to all other fixed and mobile operations. Such operations are subject to the condition that interference will not be caused to common carrier domestic public stations, to remote control of industrial equipment operating in the band 72–76 MHz, or to the reception of television signals on channels 4 (66–72 MHz) or 5 (76–82 MHz). Television interference shall be considered to occur whenever reception of regularly used television signals is impaired or destroyed, regardless of the strength of the television signal or the distance to the television station.

NG59 The frequencies 37.60 and 37.85 MHz may be authorized only for use by base, mobile, and operational fixed stations participating in an interconnected or coordinated power service utility system.

NG66 The band 470–512 MHz (TV channels 14–20) is allocated to the broadcasting service on an exclusive basis throughout the United States and its insular areas, except as described below:

(a) In the urbanized areas listed in the table below, the indicated frequency bands are allocated to the land mobile service on an exclusive basis for assignment to eligibles in the Public Mobile Services, the Public Safety Radio Pool, and the Industrial/Business Radio Pool, except that:

(1) Licensees in the land mobile service that are regulated as Commercial Mobile Radio Service (CMRS) providers may also use their assigned spectrum to provide fixed service on a primary basis.

(2) The use of the band 482–488 MHz (TV channel 16) is limited to eligibles in the Public Safety Radio Pool in or near (i) the Los Angeles urbanized area; and (ii) New York City; Nassau, Suffolk, and Westchester Counties in New York State; and Bergen County, NJ.

| Urbanized area | Bands (MHz) | TV channels |
|---|---|---|
| Boston, MA | 470–476, 482–488 | 14, 16 |
| Chicago, IL-Northwestern IN | 470–476, 476–482 | 14, 15 |
| Cleveland, OH | 470–476, 476–482 | 14, 15 |
| Dallas-Fort Worth, TX | 482–488 | 16 |
| Detroit, MI | 476–482, 482–488 | 15, 16 |
| Houston, TX | 488–494 | 17 |
| Los Angeles, CA | 470–476, 482–488, 506–512 | 14, 16, 20 |
| Miami, FL | 470–476 | 14 |
| New York, NY-Northeastern NJ | 470–476, 476–482, 482–488 | 14, 15, 16 |
| Philadelphia, PA-NJ | 500–506, 506–512 | 19, 20 |
| Pittsburgh, PA | 470–476, 494–500 | 14, 18 |
| San Francisco-Oakland, CA | 482–488, 488–494 | 16, 17 |
| Washington, DC-MD-VA | 488–494, 494–500 | 17, 18 |

(b) In the Gulf of Mexico offshore from the Louisiana-Texas coast, the band 476–494 MHz (TV channels 15–17) is allocated to the fixed and mobile services on a primary basis for assignment to eligibles in the Public Mobile and Private Land Mobile Radio Services.

(c) In Hawaii, the band 488–494 MHz (TV channel 17) is allocated exclusively to the fixed service for use by common carrier control and repeater stations for point-to-point inter-island communications only.

(d) The use of these allocations is further subject to the conditions set forth in 47 CFR parts 22 and 90.

NG70 In Puerto Rico and the Virgin Islands only, the bands 159.240–159.435 and 160.410–160.620 MHz are also available for assignment to base stations and mobile stations in the special industrial radio service.

NG104 The use of the bands 10.7–11.7 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by the fixed-satellite service in the geostationary-satellite orbit shall be limited to international systems, *i.e.*, other than domestic systems.

NG111 The band 157.4375–157.4625 MHz may be used for one way paging operations in the special emergency radio service.

NG112 The frequencies 25.04, 25.08, 150.980, 154.585, 158.445, 159.480, 454.000 and 459.000 MHz may be authorized to stations in the Industrial/Business Pool for use primarily in oil spill containment and cleanup operations and secondarily in regular land mobile communication.

NG115 In the bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–608 MHz, and 614–698 MHz, wireless microphones and wireless assist

video devices may be authorized on a non-interference basis, subject to the terms and conditions set forth in 47 CFR part 74, subpart H.

NG117 The frequency 156.050 and 156.175 MHz may be assigned to stations in the maritime mobile service for commercial and port operations in the New Orleans Vessel Traffic Service (VTS) area and the frequency 156.250 MHz may be assigned to stations in the maritime mobile service for port operating in the New Orleans and Houston VTS areas.

NG118 In the bands 2025–2110 MHz, 6875–7125 MHz, and 12.7–13.25 GHz, television translator relay stations may be authorized to use frequencies on a secondary basis to other stations in the Television Broadcast Auxiliary Service that are operating in accordance with the Table of Frequency Allocations.

NG120 Frequencies in the band 928–960 MHz may be assigned for multiple address systems and mobile operations on a primary basis as specified in 47 CFR part 101.

NG124 In the bands 30.85–34, 37–38, 39–40, 42–47.41, 150.995–156.25, 158.715–159.465, 453.0125–453.9875, 458.0125–458.9875, 460.0125–465.6375, and 467.9375–467.9875 MHz, police licensees are authorized to operate low-power transmitters on a secondary basis in accordance with the provisions of 47 CFR 2.803 and 90.20(e)(5).

NG134 In the band 10.45–10.5 GHz, non-Federal stations in the radiolocation service shall not cause harmful interference to the amateur and amateur-satellite services.

NG141 In Alaska, the frequencies 42.4 MHz and 44.1 MHz are authorized on a primary basis for meteor burst communications by fixed stations in the Rural Radio Service operating under the provisions of 47 CFR part 22. In Alaska, the frequencies 44.2 MHz and 45.9 MHz are authorized on a primary basis for meteor burst communications by fixed private radio stations operating under the provisions of 47 CFR part 90. The private radio station frequencies may be used by Common Carrier stations on a secondary, noninterference basis and the Common Carrier frequencies may be used by private radio stations for meteor burst communications on a secondary, noninterference basis. Users shall cooperate to the extent practical to minimize potential interference. Stations utilizing meteor burst communications shall not cause harmful interference to stations of other radio services operating in accordance with the Table of Frequency Allocations.

NG143 In the band 11.7–12.2 GHz, protection from harmful interference shall be afforded to transmissions from space stations not in conformance with ITU Radio Regulation No. 5.488 only if the operations of such space stations impose no unacceptable constraints on operations or orbit locations of space stations in conformance with No. 5.488.

NG144 Stations authorized as of September 9, 1983 to use frequencies in the bands 17.7–18.3 GHz and 19.3–19.7 GHz may, upon proper application, continue operations. Fixed stations authorized in the band 18.3–19.3 GHz that remain coprimary under the provisions of 47 CFR 21.901(e), 74.502(c), 74.602(g), 78.18(a)(4), and 101.147(r) may continue operations consistent with the provisions of those sections.

NG147 In the band 2483.5–2500 MHz, non-Federal stations in the fixed and mobile services that are licensed under 47 CFR parts 74, 90, or 101, which were licensed as of July 25, 1985, and those whose initial applications were filed on or before July 25, 1985, may continue to operate on a primary basis with the mobile-satellite and radiodetermination-satellite services, and in the sub-band 2495–2500 MHz, these grandfathered stations may also continue to operate on a primary basis with stations in the fixed and mobile except aeronautical mobile services that are licensed under 47 CFR part 27.

NG148 The frequencies 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz and 459.000 MHz may be authorized to maritime mobile stations for offshore radiolocation and associated telecommand operations.

NG149 The bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–512 MHz, 512–608 MHz, and 614–698 MHz are also allocated to the fixed service to permit subscription television operations in accordance with 47 CFR part 73.

NG152 The use of the band 219–220 MHz by the amateur service is limited to stations participating, as forwarding stations, in point-to-point fixed digital message forwarding systems, including intercity packet backbone networks.

NG153 The band 2160–2165 MHz is reserved for future emerging technologies on a co-primary basis with the fixed and mobile services. Allocations to specific services will be made in future proceedings. Authorizations in the band 2160–2162 MHz for stations in the Multipoint Distribution Service applied for after January 16, 1992, shall be on a secondary basis to emerging technologies.

NG155 The bands 159.500–159.675 MHz and 161.375–161.550 MHz are allocated to the maritime service as described in 47 CFR part 80. Additionally, the frequencies 159.550, 159.575 and 159.600 MHz are available for low-power intership communications.

NG158 The bands 763–775 MHz and 793–805 MHz are available for assignment to the public safety services, as described in 47 CFR part 90.

NG 159 In the band 698–806 MHz, stations authorized under 47 CFR part 74, subparts E, F, and G may continue to operate indefinitely on a secondary basis to all other stations operating in that band.

NG160 In the band 5850–5925 MHz, the use of the non-Federal mobile service is limited to Dedicated Short Range Communications

operating in the Intelligent Transportation System radio service.

NG163 The use of the band 17.3–17.7 GHz by the broadcasting-satellite service is limited to geostationary satellites.

NG164 The use of the band 18.3–18.8 GHz by the fixed-satellite service (space-to-Earth) is limited to systems in the geostationary-satellite orbit.

NG165 The use of the band 18.8–19.3 GHz by the fixed-satellite service (space-to-Earth) is limited to systems in non-geostationary-satellite orbits.

NG166 The use of the band 19.3–19.7 GHz by the fixed-satellite service (space-to-Earth) is limited to feeder links for the mobile-satellite service.

NG167 The use of the band 24.75–25.25 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

NG168 Except as permitted below, the use of the 2180–2200 MHz band is limited to the MSS and ancillary terrestrial component offered in conjunction with an MSS network, subject to the Commission's rules for ancillary terrestrial components and subject to all applicable conditions and provisions of an MSS authorization. In the 2180–2200 MHz band, where the receipt date of the initial application for facilities in the fixed and mobile services was prior to January 16, 1992, said facilities shall operate on a primary basis and all later-applied-for facilities shall operate on a secondary basis to the mobile-satellite service (MSS); and not later than December 9, 2013, all such facilities shall operate on a secondary basis.

NG169 After December 1, 2000, operations on a primary basis by the fixed-satellite service (space-to-Earth) in the band 3650–3700 MHz shall be limited to grandfathered earth stations. All other fixed-satellite service earth station operations in the band 3650–3700 MHz shall be on a secondary basis. Grandfathered earth stations are those authorized prior to December 1, 2000, or granted as a result of an application filed prior to December 1, 2000, and constructed within 12 months of initial authorization. License applications for primary operations for new earth stations, major amendments to pending earth station applications, or applications for major modifications to earth station facilities filed on or after December 18, 1998, and prior to December 1, 2000, shall not be accepted unless the proposed facilities are within 16.1 kilometers (10 miles) of an authorized primary earth station operating in the band 3650–3700 MHz. License applications for primary operations by new earth stations, major amendments to pending earth station applications, and applications for major modifications to earth station facilities, filed after December 1, 2000, shall not be accepted, except for changes in polarization, antenna orientation or ownership of a grandfathered earth station.

NG171 In the band 6875–7125 MHz, the following two channels should be used for airborne TV pickup stations, wherever possible: 7075–7100 MHz and 7100–7125 MHz.

NG172 In the band 7025–7075 MHz, the fixed-satellite service (space-to-Earth) is allocated on a primary basis, but the use of this allocation shall be limited to two grandfathered satellite systems. Associated earth stations located within 300 meters of the following locations shall be grandfathered: (a) In the band 7025–7075 MHz, Brewster, WA (48°08′46.7″ N., 119°42′8.0″ W.); and (b) In the sub-band 7025–7055 MHz, Clifton, TX (31°47′58.5″ N., 97°36′46.7″ W.) and Finca Pascual, PR (17°58′41.8″ N., 67°8′12.6″ W.).

NG173 In the band 216–220 MHz, secondary telemetry operations are permitted subject to the requirements of 47 CFR 90.259. After January 1, 2002, no new assignments shall be authorized in the sub-band 216–217 MHz.

NG175 In the band 38.6–40 GHz, television pickup stations that were authorized on or before April 16, 2003, may continue to operate on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

NG177 In the bands 1990–2000 MHz and 2020–2025 MHz, where the receipt date of the initial application for facilities in the fixed and mobile services was prior to June 27, 2000, said facilities shall operate on a primary basis and all later-applied-for facilities shall operate on a secondary basis to any service licensed pursuant to the allocation adopted in FCC 03–16, 68 FR 11986, March 13, 2003 (''Advanced Wireless Services''). Not later than December 9, 2013, all such facilities in the bands 1990–2000 MHz and 2020–2025 MHz shall operate on a secondary basis to Advanced Wireless Services.

NG178 In the band 2165–2180 MHz, where the receipt date of the initial application for facilities in the fixed and mobile services was prior to January 16, 1992, said facilities shall operate on a primary basis and all later-applied-for facilities shall operate on a secondary basis to any service licensed pursuant to the allocation adopted in FCC 03–16, 68 FR 11986, March 13, 2003 (''Advanced Wireless Services''). Not later than December 9, 2013, all such facilities in the band 2165–2180 MHz shall operate on a secondary basis to Advanced Wireless Services.

NG180 In the band 3700–4200 MHz (space-to-Earth) earth stations on vessels (ESVs) may be authorized to communicate with space stations of the fixed-satellite service and, while docked, may be coordinated for up to 180 days, renewable. ESVs in motion must operate on a secondary basis.

NG181 In the band 5925–6425 MHz (Earth-to-space), earth stations on vessels are an application of the fixed-satellite service

(FSS) and may be authorized to communicate with space stations of the FSS on a primary basis.

NG182 In the bands 10.95–11.2 GHz and 11.45–11.7 GHz, earth stations on vessels may be authorized to communicate with U.S. earth stations through space stations of the fixed-satellite service but must accept interference from terrestrial systems operating in accordance with Commission Rules.

NG183 In the bands 11.7–12.2 GHz (space-to-Earth) and 14.0–14.5 GHz (Earth-to-space), earth stations on vessels are an application of the fixed-satellite service (FSS) and may be authorized to communicate with space stations of the FSS on a primary basis.

NG184 Land mobile stations in the bands 11.7–12.2 GHz and 14.2–14.4 GHz and fixed stations in the band 11.7–12.1 GHz that are licensed pursuant to 47 CFR part 101, subpart J as of March 1, 2005 may continue to operate on a secondary basis until their license expires. Existing licenses issued pursuant to 47 CFR part 101, subpart J will not be renewed in the bands 11.7–12.2 GHz and 14.2–14.4 GHz.

NG185 In the band 3650–3700 MHz, the use of the non-Federal fixed-satellite service (space-to-Earth) is limited to international inter-continental systems.

NG186 In the bands 10.95–11.2 GHz and 11.45–11.7 GHz (space-to-Earth), Vehicle-Mounted Earth Stations (VMES) as regulated under 47 CFR part 25 may be authorized to communicate with geostationary satellite orbit space stations of the fixed-satellite service but must accept interference from stations of the fixed service operating in accordance with the Commission's rules.

NG187 In the bands 11.7–12.2 GHz (space-to-Earth) and 14.0–14.5 GHz (Earth-to-space), Vehicle-Mounted Earth Stations (VMES) as regulated under 47 CFR part 25 are an application of the fixed-satellite service and may be authorized to communicate with geostationary satellite orbit space stations of the fixed-satellite service on a primary basis.

FEDERAL GOVERNMENT (G) FOOTNOTES

(These footnotes, each consisting of the letter ''G'' followed by one or more digits, denote stipulations applicable only to Federal operations and thus appear solely in the Federal Table.)

G2 In the bands 216.965–216.995 MHz, 420–450 MHz (except as provided for in G129), 890–902 MHz, 928–942 MHz, 1300–1390 MHz, 2310–2390 MHz, 2417–2450 MHz, 2700–2900 MHz, 3300–3500 MHz (except as provided for in US108), 5650–5925 MHz, and 9000–9200 MHz, use of the Federal radiolocation service is restricted to the military services.

G5 In the bands 162.0125–173.2, 173.4–174, 406.1–410 and 410–420 MHz, use by the military services is limited by the provisions specified in the channeling plans shown in Sections 4.3.7 and 4.3.9 of the NTIA Manual.

G6 Military tactical fixed and mobile operations may be conducted nationally on a secondary basis: (a) To the meteorological aids service in the band 403–406 MHz; and (b) To the radio astronomy service in the band 406.1–410 MHz. Such fixed and mobile operations are subject to local coordination to ensure that harmful interference will not be caused to the services to which the bands are allocated.

G8 Low power Federal radio control operations are permitted in the band 420–450 MHz.

G11 Federal fixed and mobile radio services, including low power radio control operations, are permitted in the band 902–928 MHz on a secondary basis.

G15 Use of the band 2700–2900 MHz by the military fixed and shipborne air defense radiolocation installations will be fully coordinated with the meteorological aids and aeronautical radionavigation services. The military air defense installations will be moved from the band 2700–2900 MHz at the earliest practicable date. Until such time as military air defense installations can be accommodated satisfactorily elsewhere in the spectrum, such operations will, insofar as practicable, be adjusted to meet the requirements of the aeronautical radionavigation service.

G19 Use of the band 9000–9200 MHz by military fixed and shipborne air defense radiolocation installations will be fully coordinated with the aeronautical radionavigation service, recognizing fully the safety aspects of the latter. Military air defense installations will be accommodated ultimately outside this band. Until such time as military defense installations can be accommodated satisfactorily elsewhere in the spectrum such operations will, insofar as practicable, be adjusted to meet the requirements of the aeronautical radionavigation services.

G27 In the bands 255–328.6 MHz, 335.4–399.9 MHz, and 1350–1390 MHz, the fixed and mobile services are limited to the military services.

G30 In the bands 138–144 MHz, 148–149.9 MHz, and 150.05–150.8 MHz, the fixed and mobile services are limited primarily to operations by the military services.

G32 Except for weather radars on meteorological satellites in the band 9975–10025 MHz and for Federal survey operations (see footnote US108), Federal radiolocation in the band 10–10.5 GHz is limited to the military services.

G34 In the band 34.4–34.5 GHz, weather radars on board meteorological satellites for cloud detection are authorized to operate on the basis of equality with military radiolocation devices. All other non-military radiolocation in the band 33.4–36.0 GHz shall be secondary to the military services.

G42 The space operation service (Earth-to-space) is limited to the band 1761–1842

MHz, and is limited to space command, control, range and range rate systems.

G56 Federal radiolocation in the bands 1215–1300, 2900–3100, 5350–5650 and 9300–9500 MHz is primarily for the military services; however, limited secondary use is permitted by other Federal agencies in support of experimentation and research programs. In addition, limited secondary use is permitted for survey operations in the band 2900–3100 MHz.

G59 In the bands 902–928 MHz, 3100–3300 MHz, 3500–3650 MHz, 5250–5350 MHz, 8500–9000 MHz, 9200–9300 MHz, 13.4–14.0 GHz, 15.7–17.7 GHz and 24.05–24.25 GHz, all Federal non-military radiolocation shall be secondary to military radiolocation, except in the sub-band 15.7–16.2 GHz airport surface detection equipment (ASDE) is permitted on a co-equal basis subject to coordination with the military departments.

G100 The bands 235–322 MHz and 335.4–399.9 MHz are also allocated on a primary basis to the mobile-satellite service, limited to military operations.

G104 In the bands 7450–7550 and 8175–8215 MHz, it is agreed that although the military space radio communication systems, which include earth stations near the proposed meteorological-satellite installations will precede the meteorological-satellite installations, engineering adjustments to either the military or the meteorological-satellite systems or both will be made as mutually required to assure compatible operations of the systems concerned.

G109 All assignments in the band 157.0375–157.1875 MHz are subject to adjustment to other frequencies in this band as long term U.S. maritime VHF planning develops, particularly that planning incident to support of the National VHF-FM Radiotelephone Safety and Distress System (See Doc. 15624/1–1.9.111/1.9.125).

G110 Federal ground-based stations in the aeronautical radionavigation service may be authorized between 3500–3650 MHz when accommodation in the band 2700–2900 MHz is not technically and/or economically feasible.

G114 The band 1369.05–1390 MHz is also allocated to the fixed-satellite service (space-to-Earth) and to the mobile-satellite service (space-to-Earth) on a primary basis for the relay of nuclear burst data.

G115 In the band 13360–13410 kHz, the fixed service is allocated on a primary basis outside the conterminous United States. Within the conterminous United States, assignments in the fixed service are permitted, and will be protected for national defense purposes or, if they are to be used only in an emergency jeopardizing life, public safety, or important property under conditions calling for immediate communication where other means of communication do not exist.

G116 The band 7125–7155 MHz is also allocated for earth-to-space transmissions in the Space Operations Service at a limited number of sites (not to exceed two), subject to established coordination procedures.

G117 In the bands 7.25–7.75 GHz, 7.9–8.4 GHz, 17.3–17.7 GHz, 17.8–21.2 GHz, 30–31 GHz, 33–36 GHz, 39.5–41 GHz, 43.5–45.5 GHz and 50.4–51.4 GHz, the Federal fixed-satellite and mobile-satellite services are limited to military systems.

G118 Federal fixed stations may be authorized in the band 1700–1710 MHz only if spectrum is not available in the band 1755–1850 MHz.

G120 Development of airborne primary radars in the band 2360–2390 MHz with peak transmitter power in excess of 250 watts for use in the United States is not permitted.

G122 In the bands 2300–2310 MHz, 2395–2400 MHz, 2400–2417 MHz, and 4940–4990 MHz, Federal operations may be authorized on a non-interference basis to authorized non-Federal operations, and shall not constrain the implementation of any non-Federal operations.

G127 Federal Travelers Information Stations (TIS) on 1610 kHz have coprimary status with AM Broadcast assignments. Federal TIS authorized as of August 4, 1994, preclude subsequent assignment for conflicting allotments.

G128 Use of the band 56.9–57 GHz by inter-satellite systems is limited to transmissions between satellites in geostationary orbit, to transmissions between satellites in geostationary satellite orbit and those in high-Earth orbit, to transmissions from satellites in geostationary satellite orbit to those in low-Earth orbit, and to transmissions from non-geostationary satellites in high-Earth orbit to those in low-Earth orbit. For links between satellites in the geostationary satellite orbit, the single entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface, for all conditions and for all methods of modulation, shall not exceed –147 dB (W/m$^2$/100 MHz) for all angles of arrival.

G129 Federal wind profilers are authorized to operate on a primary basis in the radiolocation service in the frequency band 448–450 MHz with an authorized bandwidth of no more than 2 MHz centered on 449 MHz, subject to the following conditions: (1) wind profiler locations must be pre-coordinated with the military services to protect fixed military radars; and (2) wind profiler operations shall not cause harmful interference to, nor claim protection from, military mobile radiolocation stations that are engaged in critical national defense operations.

G130 Federal stations in the radiolocation service operating in the band 5350–5470 MHz, shall not cause harmful interference to, nor claim protection from, Federal stations in the aeronautical radionavigation service operating in accordance with ITU Radio Regulation No. 5.449.

G131 Federal stations in the radiolocation service operating in the band 5470–5650 MHz, with the exception of ground-based radars used for meteorological purposes operating in the band 5600–5650 MHz, shall not cause harmful interference to, nor claim protection from, Federal stations in the maritime radionavigation service.

G132 Use of the radionavigation-satellite service in the band 1215–1240 MHz shall be subject to the condition that no harmful interference is caused to, and no protection is claimed from, the radionavigation service authorized under ITU Radio Regulation No. 5.331. Furthermore, the use of the radionavigation-satellite service in the band 1215–1240 MHz shall be subject to the condition that no harmful interference is caused to the radiolocation service. ITU Radio Regulation No. 5.43 shall not apply in respect of the radiolocation service. ITU Resolution 608 (WRC–03) shall apply.

G133 In the band 7190–7235 MHz, emissions to deep space are prohibited. Geostationary satellites in the space research service operating in the band 7190–7235 MHz shall not claim protection from existing and future stations in the fixed service and ITU Radio Regulation No. 5.43A does not apply.

G134 In the band 7190–7235 MHz, Federal earth stations operating in the meteorological-satellite service (Earth-to-space) may be authorized subject to the following conditions:

(a) Earth stations are limited to those communicating with the Department of Commerce Geostationary Operational Environmental Satellites (GOES).

(b) There shall not be more than five earth stations authorized at one time.

(c) The GOES satellite receiver shall not claim protection from existing and future stations in the fixed service (ITU Radio Regulation No. 5.43A does not apply).

[49 FR 2373, Jan. 19, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 2.106, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

### § 2.107 Radio astronomy station notification.

(a) Pursuant to No. 1492 of Article 13 and Section F of Appendix 3 to the international *Radio Regulations* (Geneva, 1982), operators of radio astronomy stations desiring international recognition of their use of specific radio astronomy frequencies or bands of frequencies for reception, should file the following information with the Commission for inclusion in the Master International Frequency Register:

(1) The center of the frequency band observed, in kilohertz up to 28,000 kHz inclusive, in megahertz above 28,000 kHz to 10,500 MHz inclusive and in gigahertz above 10,500 MHz.

(2) The date (actual or foreseen, as appropriate) when reception of the frequency band begins.

(3) The name and location of the station, including geographical coordinates in degrees and minutes.

(4) The width of the frequency band (in kHz) observed by the station.

(5) The antenna type and dimensions, effective area and angular coverage in azimuth and elevation.

(6) The regular hours of reception (in UTC) of the observed frequency.

(7) The overall receiving system noise temperature (in kelvins) referred to the output of the receiving antenna.

(8) The class of observations to be taken. Class A observations are those in which the sensitivity of the equipment is not a primary factor. Class B observations are those of such a nature that they can be made only with advanced low-noise receivers using the best techniques.

(9) The name and mailing address of the operator.

(b) The permanent discontinuance of observations, or any change to the information above, should also be filed with the Commission.

(c) Observations being conducted on frequencies or frequency bands not allocated to the radio astronomy service should be reported as in paragraph (a) of this section for information purposes. Information in this category will not be submitted for entry in the Master International Frequency Register and protection from interference will not be afforded such operations by stations in other services.

### § 2.108 Policy regarding the use of the fixed-satellite allocations in the 3.6–3.7, 4.5–4.8, and 5.85–5.925 GHz bands.

The use of the fixed-satellite allocations in the United States in the above bands will be governed by footnote US245. Use of the fixed-satellite service allocations in these bands is for the international fixed-satellite service, that is, for international inter-continental communications. Case-by-case electromagnetic compatibility analysis

is required with all users of the bands. It is anticipated that one earth station on each coast can be successfully coordinated. Specific locations of these earth stations depend upon service requirements and case-by-case EMC analyses that demonstrate compatible operations.

## Subpart C—Emissions

### § 2.201 Emission, modulation, and transmission characteristics.

The following system of designating emission, modulation, and transmission characteristics shall be employed.

(a) Emissions are designated according to their classification and their necessary bandwidth.

(b) Three symbols are used to describe the basic characteristics of emissions. Emissions are classified and symbolized according to the following characteristics:

(1) First symbol—type of modulation of the main carrier;

(2) Second symbol—nature of signal(s) modulating the main carrier;

(3) Third symbol—type of information to be transmitted.

NOTE TO PARAGRAPH (B): Two additional symbols for the classification of emissions may be added for a more complete description of an emission. *See* Appendix 1, Sub-Section IIB of the ITU *Radio Regulations* for the specifications of these fourth and fifth symbols. Use of these symbols is not required by the Commission.

(c) First Symbol—types of modulation of the main carrier:

(1) Emission of an unmodulated carrier ..... N

(2) Emission in which the main carrier is amplitude-modulated (including cases where sub-carriers are angle-modulated):.

—Double-sideband ..... A

—Single-sideband, full carrier ..... H

—Single-sideband, reduced or variable level carrier ..... R

—Single-sideband, suppressed carrier ..... J

—Independent sidebands ..... B

—Vestigial sideband ..... C

(3) Emission in which the main carrier is angle-modulated:.

—Frequency modulation ..... F

—Phase modulation ..... G

NOTE: Whenever frequency modulation "F" is indicated, Phase modulation "G" is also acceptable.

(4) Emission in which the main carrier is amplitude and angle-modulated either simultaneously or in a pre-established sequence .. D

(5) Emission of pulses: [1].

—Sequence of unmodulated pulses ..... P

—A sequence of pulses:

—Modulated in amplitude ..... K

—Modulated in width/duration L

—Modulated in position/phase .. M

—In which the carrier is angle-modulated during the period of the pulse ..... Q

—Which is a combination of the foregoing or is produced by other means ..... V

(6) Cases not covered above, in which an emission consists of the main carrier modulated, either simultaneously or in a pre-established sequence, in a combination of two or more of the following modes: amplitude, angle, pulse ... W

(7) Cases not otherwise covered ... X

[1] Emissions where the main carrier is directly modulated by a signal which has been coded into quantized form (e.g. pulse code modulation) should be designated under (2) or (3).

(d) Second Symbol—nature of signal(s) modulating the main carrier:

(1) No modulating signal ..... 0

(2) A single channel containing quantized or digital information without the use of a modulating sub-carrier, excluding time-division muliplex ..... 1

(3) A single channel containing quantized or digital information with the use of a modulating sub-carrier, excluding time-division multiplex ..... 2

(4) A single channel containing analogue information ..... 3

(5) Two or more channels containing quantized or digital information ..... 7

(6) Two or more channels containing analogue information ..... 8

(7) Composite system with one or more channels containing quantized or digital information, together with one or more channels containing analogue information 9

(8) Cases not otherwise covered ... X

(e) Third Symbol—type of information to be transmitted:[2]

| | |
|---|---|
| (1) No information transmitted ... | N |
| (2) Telegraphy—for aural reception ..... | A |
| (3) Telegraphy—for automatic reception ..... | B |
| (4) Facsimile ..... | C |
| (5) Data transmission, telemetry, telecommand ..... | D |
| (6) Telephony (including sound broadcasting) ..... | E |
| (7) Television (video) ..... | F |
| (8) Combination of the above ..... | W |
| (9) Cases not otherwise covered ... | X |

(f) Type *B* emission: As an exception to the above principles, damped waves are symbolized in the Commission's rules and regulations as type *B* emission. The use of type B emissions is forbidden.

(g) Whenever the full designation of an emission is necessary, the symbol for that emission, as given above, shall be preceded by the necessary bandwidth of the emission as indicated in § 2.202(b)(1).

[49 FR 48697, Dec. 14, 1984, as amended at 75 FR 63030, Oct. 13, 2010]

### § 2.202 Bandwidths.

(a) *Occupied bandwidth.* The frequency bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5 percent of the total mean power radiated by a given emission. In some cases, for example multichannel frequency-division systems, the percentage of 0.5 percent may lead to certain difficulties in the practical application of the definitions of occupied and necessary bandwidth; in such cases a different percentage may prove useful.

(b) *Necessary bandwidth.* For a given class of emission, the minimum value of the occupied bandwidth sufficient to ensure the transmission of information at the rate and with the quality required for the system employed, under specified conditions. Emissions useful for the good functioning of the receiving equipment as, for example, the emission corresponding to the carrier of reduced carrier systems, shall be included in the necessary bandwidth.

(1) The necessary bandwidth shall be expressed by three numerals and one letter. The letter occupies the position of the decimal point and represents the unit of bandwidth. The first character shall be neither zero nor K, M or G.

(2) Necessary bandwidths:

between 0.001 and 999 Hz shall be expressed in Hz (letter H);
between 1.00 and 999 kHz shall be expressed in kHz (letter K);
between 1.00 and 999 MHz shall be expressed in MHz (letter M);
between 1.00 and 999 GHz shall be expressed in GHz (letter G).

(3) Examples:

| | |
|---|---|
| 0.002 Hz—H002 | 180.4 kHz—180K |
| 0.1 Hz—H100 | 180.5 kHz—181K |
| 25.3 Hz—25H3 | 180.7 kHz—181K |
| 400 Hz—400H | 1.25 MHz—1M25 |
| 2.4 kHz—2K40 | 2 MHz—2M00 |
| 6 kHz—6K00 | 10 MHz—10M0 |
| 12.5 kHz—12K5 | 202 MHz—202M |
| | 5.65 GHz—5G65 |

(c) The necessary bandwidth may be determined by one of the following methods:

(1) Use of the formulas included in the table, in paragraph (g) of this section, which also gives examples of necessary bandwidths and designation of corresponding emissions;

(2) For frequency modulated radio systems which have a substantially linear relationship between the value of input voltage to the modulator and the resulting frequency deviation of the carrier and which carry either single sideband suppressed carrier frequency division multiplex speech channels or television, computation in accordance with provisions of paragraph (f) of this section and formulas and methods indicated in the table, in paragraph (g) of this section;

(3) Computation in accordance with Recommendations of the International Radio Consultative Committee (C.C.I.R.);

(4) Measurement in cases not covered by paragraph (c) (1), (2), or (3) of this section.

(d) The value so determined should be used when the full designation of an

[2] In this context the word ''information'' does not include information of a constant, unvarying nature such as is provided by standard frequency emissions, continuous wave and pulse radars, etc.

emission is required. However, the necessary bandwidth so determined is not the only characteristic of an emission to be considered in evaluating the interference that may be caused by that emission.

(e) In the formulation of the table in paragraph (g) of this section, the following terms are employed:

$B_n$ = Necessary bandwidth in hertz
B = Modulation rate in bauds
N = Maximum possible number of black plus white elements to be transmitted per second, in facsimile
M = Maximum modulation frequency in hertz
C = Sub-carrier frequency in hertz
D = Peak frequency deviation, i.e., half the difference between the maximum and minimum values of the instantaneous frequency. The instantaneous frequency in hertz is the time rate of change in phase in radians divided by 2
t = Pulse duration in seconds at half-amplitude
$t_r$ = Pulse rise time in seconds between 10% and 90% of maximum amplitude
K = An overall numerical factor which varies according to the emission and which depends upon the allowable signal distortion.
$N_c$ = Number of baseband telephone channels in radio systems employing multichannel multiplexing
P = Continuity pilot sub-carrier frequency (Hz) (continuous signal utilized to verify performance of frequency-division multiplex systems).

(f) Determination of values of $D$ and $B_n$ for systems specified in paragraph (c)(2) of this section:

(1) Determination of $D$ in systems for multichannel telephony:

(i) The rms value of the per-channel deviation for the system shall be specified. (In the case of systems employing preemphasis or phase modulation, this value of per-channel deviation shall be specified at the characteristic baseband frequency.)

(ii) The value of D is then calculated by multiplying the rms value of the per-channel deviation by the appropriate factors, as follows:

| Number of message circuits | Multiplying factors | Limits of X ($P_{avg}$ (dBmO)) |
|---|---|---|
| More than 3, but less than 12 | 4.47 × [a factor specified by the equipment manufacturer or station licensee, subject to Commission approval]. | |
| At least 12, but less than 60 | $\frac{3.76 \text{ antilog } (X+2 \log_{10} N_c)}{20}$ | X: −2 to +2.6. |
| At least 60, but less than 240 | $\frac{3.76 \text{ antilog } (X+4 \log_{10} N_c)}{20}$ | X: −5.6 to −1.0. |
| 240 or more | $\frac{3.76 \text{ antilog } (X+10 \log_{10} N_c)}{20}$ | X: −19.6 to −15.0. |

Where X represents the average power in a message circuit in dBmO; $N_c$ is the number of circuits in the multiplexed message load; 3.76 corresponds to a peak load factor of 11.5 dB.

(2) The necessary bandwidth ($B_n$) normally is considered to be numerically equal to:

(i) $2M+2DK$, for systems having no continuity pilot subcarrier or having a continuity pilot subcarrier whose frequency is not the highest modulating the main carrier;

(ii) $2P+2DK$, for systems having a continuity pilot subcarrier whose frequency exceeds that of any other signal modulating the main carrier, unless the conditions set forth in paragraph (f)(3) of this section are met.

(3) As an exception to paragraph (f)(2)(ii) of this section, the necessary bandwidth ($B_n$) for such systems is numerically equal to $2P$ or $2M+2DK$, whichever is greater, provided the following conditions are met:

(i) The modulation index of the main carrier due to the continuity pilot subcarrier does not exceed 0.25, and

(ii) In a radio system of multichannel telephony, the rms frequency deviation of the main carrier due to the continuity pilot subcarrier does not exceed 70 percent of the rms value of the per-channel deviation, or, in a radio system for television, the rms deviation of the main carrier due to the pilot does not exceed 3.55 percent of the peak deviation of the main carrier.

(g) Table of necessary bandwidths:

| Description of emission | Necessary bandwidth | | Designation of emission |
|---|---|---|---|
| | Formula | Sample calculation | |
| **I. NO MODULATING SIGNAL** | | | |
| Continuous wave emission. | | | N0N (zero) |
| **II. AMPLITUDE MODULATION** | | | |
| 1. Signal With Quantized or Digital Information | | | |
| Continuous wave telegraphy. | $B_n$=BK, K=5 for fading circuits, K=3 for non-fading circuits | 25 words per minute; B=20, K=5, Bandwidth: 100 Hz | 100HA1A |
| Telegraphy by on-off keying of a tone modulated carrier. | $B_n$=BK+2M, K=5 for fading circuits, K=3 for non-fading circuits | 25 words per minute; B=20, M=1000, K=5, Bandwidth: 2100 Hz=2.1 kHz | 2K10A2A |
| Selective calling signal, single-sideband full carrier. | $B_n$=M | Maximum code frequency is: 2110 Hz, M=2110, Bandwidth: 2110 Hz=2.11 kHz | 2K11H2B |
| Direct-printing telegraphy using a frequency shifted modulating sub-carrier single-sideband suppressed carrier. | $B_n$=2M+2DK, M=B÷2 | B=50, D=35 Hz (70 Hz shift), K=1.2, Bandwidth: 134 Hz | 134HJ2B |
| Telegraphy, single sideband reduced carrier. | $B_n$=central frequency+M+DK, M=B÷2 | 15 channels; highest central frequency is: 2805 Hz, B=100, D=42.5 Hz (85 Hz shift), K=0.7 Bandwidth: 2.885 Hz=2.885 kHz | 2K89R7B |
| 2. Telephony (Commercial Quality) | | | |
| Telephony double-sideband. | $B_n$=2M | M=3000, Bandwidth=6000 Hz=6 kHz | 6K00A3E |
| Telephony, single-sideband, full carrier. | $B_n$=2M | M=3000, Bandwidth: 3000 Hz=3 kHz | 3K00H3E |
| Telephony, single-sideband suppressed carrier. | $B_n$=M − lowest modulation frequency | M=3000, lowest modulation frequency is 3000 Hz, 2700 Hz Bandwidth: 2700Hz=2.7 kHz | 2K70J3E |
| Telephony with separate frequency modulated signal to control the level of demodulated speech signal, single-sideband, reduced carrier. | $B_n$=M | Maximum control frequency is 2990 Hz, M=2990, Bandwidth: 2990 Hz=2.99 kHz | 2K99R3E |
| Telephony with privacy, single-sideband, suppressed carrier (two or more channels). | $B_n$=$N_c$ M − lowest modulation frequency in the lowest channel | $N_c$=2, M=3000 lowest modulation frequency is 250 Hz, Bandwidth: 5750 Hz=5.75 kHz | 5K75J8E |
| Telephony, independent sideband (two or more channels). | $B_n$=sum of M for each sideband | 2 channels, M=3000, Bandwidth: 6000 Hz=6 kHz | 6K00B8E |
| 3. Sound Broadcasting | | | |
| Sound broadcasting, double-sideband. | $B_n$=2M, M may vary between 4000 and 10000 depending on the quality desired | Speech and music, M=4000, Bandwidth: 8000 Hz= 8 kHz | 8K00A3E |
| Sound broadcasting, single-sideband reduced carrier (single channel). | $B_n$=M, M may vary between 4000 and 10000 depending on the quality desired | Speech and music, M=4000, Bandwidth: 4000 Hz= 4 kHz | 4K00R3E |
| Sound broadcasting, single-sideband, suppressed carrier. | $B_n$=M − lowest modulation frequency | Speech and music, M=4500, lowest modulation frequency=50 Hz, Bandwidth: 4450 Hz=4.45 kHz | 4K45J3E |
| 4. Television | | | |
| Television, vision and sound. | Refer to CCIR documents for the bandwidths of the commonly used television systems | Number of lines=525; Nominal video bandwidth: 4.2 MHz, Sound carrier relative to video carrier=4.5 MHz | 5M75C3F |

| Description of emission | Necessary bandwidth | | Designation of emission |
|---|---|---|---|
| | Formula | Sample calculation | |
| | | Total vision bandwidth: 5.75 MHz; FM aural bandwidth including guardbands: 250,000 Hz | 250KF3E |
| | | Total bandwidth: 6 MHz | 6M25C3F |
| 5. Facsimile | | | |
| Analogue facsimile by sub-carrier frequency modulation of a single-sideband emission with reduced carrier. | $B_n$=C − N÷2+DK, K=1.1 (typically) | N=1100, corresponding to an index of cooperation of 352 and a cycler rotation speed of 60 rpm. Index of cooperation is the product of the drum diameter and number of lines per unit length C=1900, D=400 Hz, Bandwidth=2.890 Hz=2.89 kHz | 2K89R3C |
| Analogue facsimile; frequency modulation of an audio frequency sub-carrier which modulates the main carrier, single-sideband suppressed carrier. | $B_n$=2M+2DK, M=N/$_2$, K=1.1 (typically) | N=1100, D=400 Hz, Bandwidth: 1980 Hz=1.98 kHz | 1K98J3C |
| 6. Composite Emissions | | | |
| Double-sideband, television relay. | $B_n$=2C+2M+2D | Video limited to 5 MHz, audio on 6.5 MHz frequency modulated subcarrier deviation=50 kHz: C=6.5×10$^6$ D=50×10$^3$ Hz, M=15,000, Bandwidth: 13.13×10$^6$ Hz=13.13 MHz | 13M2A8W |
| Double-sideband radio relay system. | $B_n$=2M | 10 voice channels occupying baseband between 1 kHz and 164 kHz; M=164,000 bandwith=328,000 Hz=328 kHz | 328KA8E |
| Double-sideband emission of VOR with voice (VOR=VHF omnidirectional radio range). | $B_n$=2$C_{max}$+2M+2DK, K=1 (typically) | The main carrier is modulated by: —a 30 Hz sub-carrier—a carrier resulting from a 9960 Hz tone frequency modulated by a 30 Hz tone—a telephone channel—a 1020 Hz keyed tone for continual Morse identification. $C_{max}$=9960, M=30, D=480 Hz, Bandwidth: 20,940 Hz=20.94 kHz | 20K9A9W |
| Independent sidebands; several telegraph channels together with several telephone channels. | $B_n$=sum of M for each sideband | Normally composite systems are operated in accordance with standardized channel arrangements, (e.g. CCIR Rec. 348–2) 3 telephone channels and 15 telegraphy channels require the bandwidth 12,000 Hz=12 kHz | 12K0B9W |
| **III-A. FREQUENCY MODULATION** | | | |
| 1. Signal With Quantized or Digital Information | | | |
| Telegraphy without error-correction (single channel). | $B_n$=2M+2DK, M=B÷2, K=1.2 (typically) | B=100, D=85 Hz (170 Hz shift), Bandwidth: 304 Hz | 304HF1B |
| Four-frequency duplex telegraphy. | $B_n$2M+2DK, B=Modulation rate in bands of the faster channel. If the channels are synchronized: M=B÷2, otherwise M=2B, K=1.1 (typically) | Spacing between adjacent frequencies=400 Hz; Synchronized channels; B=100, M=50, D=600 Hz, Bandwidth: 1420 Hz=1.42 kHz | 1K42F7B |
| 2. Telephony (Commercial Quality) | | | |
| Commercial telephony ... | $B_n$=2M+2DK, K=1 (typically, but under conditions a higher value may be necessary | For an average case of commercial telephony, M=3,000, Bandwidth: 16,000 Hz=16 kHz | 16K0F3E |
| 3. Sound Broadcasting | | | |
| Sound broadcasting ..... | $B_n$=2M+2DK, K=1 (typically) | Monaural, D=75,000 Hz, M=15,000, Bandwidth: 18,000 Hz=180 kHz | 180KF3E |

| Description of emission | Necessary bandwidth | | Designation of emission |
|---|---|---|---|
| | Formula | Sample calculation | |
| 4. Facsimile | | | |
| Facsimile by direct frequency modulation of the carrier; black and white. | $B_n$=2M+2DK, M=N÷2, K=1.1 (typically) | N=1100 elements/sec; D=400 Hz, Bandwidth: 1980 Hz=1.98 kHZ | 1K98F1C |
| Analogue facsimile ..... | $B_n$=2M+2DK, M=N÷2, K=1.1 (typically) | N=1100 elements/sec; D=400 Hz, Bandwidth: 1980 Hz=1.98 kHz | 1K98F3C |
| 5. Composite Emissions (See Table III-B) | | | |
| Radio-relay system, frequency division multiplex. | $B_n$=2P+2DK, K=1 | Microwave radio relay system specifications: 60 telephone channels occupying baseband between 60 and 300 kHz; rms per-channel deviation 200 kHz; pilot at 331 kHz produces 200 kHz rms deviation of main carrier. Computation of $B_n$: D=(200×10³3×3.76×1.19), Hz=0.895×10⁶, P=0.331×10⁶ Hz; Bandwidth: 2.452×10⁶ Hz | 2M45F8E |
| Radio-relay system frequency division multiple. | $B_n$=2M+2DK, K=1 | Microwave radio relay relay systems specifications: 1200 telephone channels occupying baseband between 60 and 5564 kHz; rms per channel deviation 200 kHz; continunity pilot at 6199 kHz produces 140 kHz rms deviation of main carrier. Computation of $B_n$: D=(20⁰×10³×3.76×3.63)=2.73×10⁶; M=5.64×10⁶ Hz; P=6.2×10⁶ Hz; (2M+2DK<2P; Bandwidth 16.59×10⁶ Hz | 16M6F8E |
| Radio-relay system, frequency division multiplex. | $B_n$=2P | Microwave radio relay system specifications: Multiplex 600 telephone channels occupying baseband between 60 and 2540 kHz; continuity pilot at 8500 kHz produces 140 kHz rms deviation of main carrier. Computation of Bn: D=(200×10³×3.76×2.565)=1.93×10⁶ Hz; M=2.54×10⁶ Hz; 2DK)≤2P Bandwidth: 17×10⁶ Hz | 17M0F8E |
| Unmodulated pulse emission. | $B_n$=2K÷t, K depends upon the ratio of pulse rise time. Its value usually falls between 1 and 10 and in many cases it does not need to exceed 6 | Primary Radar Range resolution: 150 m, K=1.5 (triangular pulse where $t \simeq t_r$, only components down to 27 dB from the strongest are considered) Then t=2×range resolution÷velocity of light=2×150÷3×10⁸=1×10⁻⁶ seconds, Bandwidth: 3×10⁶ Hz=3 MHz | 3M00P0N |
| 6. Composite Emissions | | | |
| Radio-relay system ..... | $B_n$=2K÷t, K=1.6 | Pulse position modulated by 36 voice channel baseband; pulse width at half amplitude=0.4 us, Bandwidth: 8×10⁶ Hz=8 MHz (Bandwidth independent of the number of voice channels) | 8M00M7E |
| Radio-relay system ..... | $B_n$ = 2K/t<br>K=1.6 | Pulse position modulated by 36 voice channel baseband: pulse width at half amplitude 0.4 μS; $B_n$ = 8×10⁶ Hz = 8 MHz (Bandwidth independent of the number of voice channels) | 8M00M7E |
| Composite transmission digital modulation using DSB-AM (Microwave radio relay system). | $B_n$ = 2RK/$\log_2$S | Digital modulation used to send 5 megabits per second by use of amplitude modulation of the main carrier with 4 signaling states<br>R = 5×10⁶ bits per second; K = 1; S = 4; $B_n$ = 5 MHz | 5M00K7 |
| Binary Frequency Shift Keying. | (0.03 < 2D/R < 1.0);<br>$B_n$ = 3.86D + 0.27R<br>(1.0 < 2D/R <2)<br>$B_n$ = 2.4D + 1.0R | Digital modulation used to send 1 megabit per second by frequency shift keying with 2 signaling states and 0.75 MHz peak deviation of the carrier<br>R = 1×10⁶ bps; D = 0.75×10⁶ Hz; $B_n$ = 2.8 MHz | 2M80F1D |

| Description of emission | Necessary bandwidth | | Designation of emission |
|---|---|---|---|
| | Formula | Sample calculation | |
| Multilevel Frequency Shift Keying. | $B_n = (R/\log_2 S) + 2DK$ | Digital modulation to send 10 megabits per second by use of frequency shift keying with four signaling states and 2 MHz peak deviation of the main carrier<br>$R = 10\times10^6$ bps; D = 2 MHz; K = 1; S = 4; $B_n$ = 9 MHz | 9M00F7D |
| Phase Shift Keying ..... | $B_n = 2RK/\log_2 S$ | Digital modulation used to send 10 megabits per second by use of phase shift keying with 4 signaling states<br>$R = 10\times10^6$ bps; K = 1; S = 4; $B_n$ = 10 MHz | 10M0G7D |
| Quadrature Amplitude Modulation (QAM). | $B_n = 2R/\log_2 S$ | 64 QAM used to send 135 Mbps has the same necessary bandwidth as 64–PSK used to send 135 Mbps;<br>$R = 135\times10^6$ bps; S = 64; $B_n$ = 45 MHz | 45M0W |
| Minimum Shift Keying ... | 2-ary:<br>$B_n = R(1.18)$<br>4-ary:<br>$B_n = R(2.34)$ | Digital modulation used to send 2 megabits per second using 2-ary minimum shift keying<br>$R = 2.36\times10^6$ bps; $B_n$ = 2.36 MHz | 2M36G1D |

[28 FR 12465, Nov. 22, 1963, as amended at 37 FR 8883, May 2, 1972; 37 FR 9996, May 18, 1972; 48 FR 16492, Apr. 18, 1983; 49 FR 48698, Dec. 14, 1984; 68 FR 68543, Dec. 9, 2003]

## Subpart D—Call Signs and Other Forms of Identifying Radio Transmissions

AUTHORITY: Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.

### § 2.301 Station identification requirement.

Each station using radio frequencies shall identify its transmissions according to the procedures prescribed by the rules governing the class of station to which it belongs with a view to the elimination of harmful interference and the general enforcement of applicable radio treaties, conventions, regulations, arrangements, and agreements in force, and the enforcement of the Communications Act of 1934, as amended, and the Commission's rules.

[34 FR 5104, Mar. 12, 1969]

### § 2.302 Call signs.

The table which follows indicates the composition and blocks of international call signs available for assignment when such call signs are required by the rules pertaining to particular classes of stations. When stations operating in two or more classes are authorized to the same licensee for the same location, the Commission may elect to assign a separate call sign to each station in a different class. (In addition to the U.S. call sign allocations listed below, call sign blocks AAA through AEZ and ALA through ALZ have been assigned to the Department of the Army; call sign block AFA through AKZ has been assigned to the Department of the Air Force; and call sign block NAA through NZZ has been assigned jointly to the Department of the Navy and the U.S. Coast. Guard.

| Class of station | Composition of call sign | Call sign blocks |
|---|---|---|
| Coast (Class I) except for coast telephone in Alaska. | 3 letters ..... | KAA through KZZ.<br>WAA through WZZ. |
| Coast (Classes II and III) and maritime radiodetermination. | 3 letters, 3 digits ..... | KAA200 through KZZ999.<br>WAA200 through WZZ999. |
| Coast telephone in Alaska ..... | 3 letters, 2 digits. | |
| | 3 letters, 3 digits (for stations assigned frequencies above 30 MHz). | KAA20 through KZZ99.<br>WAA20 through WZZ99.<br>WZZ200 through WZZ999. |
| Fixed ..... | 3 letters, 2 digits ..... | KAA20 through KZZ99. |
| | 3 letters, 3 digits (for stations assigned frequencies above 30 MHz). | WAA20 through WZZ99.<br>WAA200 through WZZ999. |
| Marine receiver test ..... | 3 letters, 3 digits (plus general geographic location when required). | KAA200 through KZZ999.<br>WAA200 through WZZ999. |

| Class of station | Composition of call sign | Call sign blocks |
|---|---|---|
| Ship telegraph | 4 letters [1] | KAAA through KZZZ.<br>WAAA through WZZZ. |
| Ship telephone | 2 letters, 4 digits, or 3 letters, 4 digits [1] | WA2000 through WZ9999, through WZZ9999. |
| Ship telegraph plus telephone | 4 letters | KAAA through KZZZ.<br>WAAA through WZZZ. |
| Ship radar | Same as ship telephone and/or telegraph call sign, or, if ship has no telephone or telegraph: 2 letters, 4 digits, or 3 letters, 4 digits. | WA2000 through WZ9999, through WZZ9999. |
| Ship survival craft | Call sign of the parent ship followed by 2 digits. | KAAA20 through KZZZ99.<br>WAAA20 through WZZZ99. |
| Cable-repair ship marker buoy | Call sign of the parent ship followed by the letters ''BT'' and the identifying number of the buoy. | |
| Marine utility | 2 letters, 4 digits | KA2000 through KZ9999. |
| Shipyard mobile | 2 letters, 4 digits | KA2000 through KZ9999. |
| Aircraft telegraph | 5 letters | KAAAA through KZZZZ.<br>WAAAA through WZZZZ. |
| Aircraft telegraph and telephone | 5 letters [2] | KAAAA through KZZZZ.<br>WAAAA through WZZZZ. |
| Aircraft telephone | 5 letters [2] (whenever a call sign is assigned). | KAAAA through KZZZZ.<br>WAAAA through WZZZZ. |
| Aircraft survival craft | Whenever a call sign [2] is assigned, call sign of the parent aircraft followed by a single digit other than 0 or 1. | |
| Aeronautical | 3 letters, 1 digit [2] | KAA2 through KZZ9.<br>WAA2 through WZZ9. |
| Land mobile (base) | 3 letters, 3 digits | KAA200 through KZZ999.<br>WAA200 through WZZ999 |
| Land mobile (mobile telegraph) | 4 letters, 1 digit | KAAA2 through KZZZ9.<br>WAAA2 through WZZZ9. |
| Land mobile (mobile telephone) | 2 letters, 4 digits | KA2000 through KZ9999.<br>WA2000 through WZ9999 |
| Broadcasting (standard) | 4 letters [3] (plus location of station) | KAAA through KZZZ.<br>WAAA through WZZZ. |
| Broadcasting (FM) | 4 letters (plus location of station) | KAAA through KZZZ.<br>WAAA through WZZZ. |
| Broadcasting with suffix ''FM'' | 6 letters [3] (plus location of station) | KAAA-FM through KZZZ—FM.<br>WAAA-FM through WZZZ-FM. |
| Broadcasting (television) | 4 letters (plus location of station) | KAAA through KZZZ.<br>WAAA through WZZZ. |
| Broadcasting with suffix ''TV'' | 6 letters [3] (plus location of station) | KAAA-TV through KZZZ-TV.<br>WAAA-TV through WZZ-TV. |
| Television broadcast translator | 1 letter—output channel number—2 letters. | K02AA through K83ZZ.<br>W02AA through W83ZZ. |
| Disaster station, except U.S. Government | 4 letters, 1 digit | KAAA2 through KZZZ9.<br>WAAA2 through WZZZ9. |
| Experimental (letter ''X'' follows the digit) | 2 letters, 1 digit, 3 letters | KA2XAA through KZ9XZZ.<br>WA2XAA through WZ9XZZ. |
| Amateur (letter ''X'' may not follow digit) | 1 letter, 1 digit, 1 letter [4] | K1A through K0Z.<br>N1A through N0Z.<br>W1A through W0Z. |
| Amateur | 1 letter, 1 digit, 2 letters [4] | K1AA through K0ZZ.<br>N1AA through N0ZZ.<br>W1AA through W0ZZ. |
| Do | 1 letter, 1 digit, 3 letters [4] | K1AAA through K0ZZZ.<br>N1AAA through N0ZZZ.<br>W1AAA through W0ZZZ. |
| Do | 2 letters, 1 digit, 1 letter [4] | AA1A through AI0Z.<br>KA1A through KZ0Z.<br>NA1A through NZ0Z.<br>WA1A through WZ0Z. |
| Do | 2 letters, 1 digit, 2 letters [4] | AA1AA through AL0ZZ.<br>KA1AA through KZ0ZZ.<br>NA1AA through NZ0ZZ.<br>WA1AA through WZ0ZZ. |
| Amateur (letter ''X'' may not follow digit) | 2 letters, 1 digit, 3 letters [4] | AA1AAA through AL0ZZZ.<br>KA1AAA through KZ0ZZZ.<br>NA1AAA through NZ0ZZZ.<br>WA1AAA through WZ0ZZZ. |
| Standard frequency | | WWV, WWVB through WWVI, WWVL, WWVS. |

| Class of station | Composition of call sign | Call sign blocks |
|---|---|---|
| Personal radio | 3 letters, 4 digits, or 4 letters, 4 digits. | KAA0001 through KZZ9999, WAA0001 through WPZ9999, KAAA0001 through KZZZ9999. |
| Personal radio, temporary permit | 3 letters, 5 digits | KAA00000 through KZZ99999. |
| Personal radio in trust territories. | 1 letter, 4 digits | K0001 through K9999. |
| Business radio temporary permit | 2 letters, 7 digits | WT plus local telephone number. |
| Part 90 temporary permit | 2 letters, 7 digits | WT plus local telephone number. |
| Part 90 conditional permit | 2 letters, 7 digits | WT plus local telephone number. |
| General Mobile Radio Service, temporary permit. | 2 letters, 7 digits | WT plus business or residence telephone number. |

NOTE: The symbol 0 indicates the digit zero.

[1] Ships with transmitter-equipped survival craft shall be assigned four letter call signs.

[2] See § 2.303.

[3] A 3 letter call sign now authorized for and in continuous use by a licensee of a standard broadcasting station may continue to be used by that station. The same exception applies also to frequency modulation and television broadcasting stations using 5 letter call signs consisting of 3 letters with the suffix "FM" or "TV".

[4] Plus other identifying data as may be specified.

[34 FR 5104, Mar. 12, 1969; as amended at 54 50239, Dec. 5, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 2.302, see the List of CFR Sections Affected in the Finding Aids section of this volume.

### § 2.303 Other forms of identification of stations.

(a) The following table indicates forms of identification which may be used in lieu of call signs by the specified classes of stations. Such recognized means of identification may be one or more of the following: name of station, location of station, operating agency, official registration mark, flight identification number, selective call number or signal, selective call identification number or signal, characteristic signal, characteristic of emission or other clearly distinguishing form of identification readily recognized internationally. Reference should be made to the appropriate part of the rules for complete information on identification procedures for each service.

| *Class of station* | *Identification, other than assigned call sign* |
|---|---|
| Aircraft (U.S. registry) telephone | Registration number preceded by the type of the aircraft, or the radiotelephony designator of the aircraft operating agency followed by the flight identification number. |
| Aircraft (foreign registry) telephone | Foreign registry identification consisting of five characters. This may be preceded by the radiotelephony designator of the aircraft operating agency or it may be preceded by the type of the aircraft. |
| Aeronautical | Name of the city, area, or airdrome served together with such additional identification as may be required. |
| Aircraft survival craft | Appropriate reference to parent aircraft, e.g., the air carrier parent aircraft flight number or identification, the aircraft registration number, the name of the aircraft manufacturer, the name of the aircraft owner, or any other pertinent information. |
| Ship telegraph | When an official call sign is not yet assigned: Complete name of the ship and name of licensee. On 156.65 MHz: Name of ship. Digital selective call. |
| Ship telegraph | Digital selective call. |
| Public coast (radiotelephone) and Limited Coast (Radiotelephone). | The approximate geographic location in a format approved by the Commission. |
| | Coast station identification number. |
| Public coast (radiotelegraph) | Coast station identification number. |
| Fixed | Geographic location. When an approved method of superimposed identification is used, QTT DE (abbreviated name of company or station). |
| Fixed: Rural subscriber service | Assigned telephone number. |
| Land mobile: Public safety, forestry conservation, highway maintenance, local government, shipyard, land transportation, and aviation services. | Name of station licensee (in abbreviated form if practicable), or location of station, or name of city, area, or facility served. Individual stations may be identified by additional digits following the more general identification. |
| Land mobile: Industrial service | Mobile unit cochannel with its base station: Unit identifier on file in the base station records. Mobile unit not cochannel with its base station: Unit identifier on file in the base station records and the assigned call sign of either the mobile or base station. Temporary base station: Unit designator in addition to base station identification. |

| *Class of station* | *Identification, other than assigned call sign* |
|---|---|
| Land mobile: Domestic public and rural radio | Special mobile unit designation assigned by licensee or by assigned telephone number. |
| Land mobile: Railroad radio service | Name of railroad, train number, caboose number, engine number, or name of fixed wayside station or such other number or name as may be specified for use of railroad employees to identify a specific fixed point or mobile unit. A railroad's abbreviated name or initial letters may be used where such are in general usage. Unit designators may be used in addition to the station identification to identify an individual unit or transmitter of a base station. |
| Land mobile: Broadcasting (remote pickup) | Identification of associated broadcasting station. |
| Broadcasting (Emergency Broadcast System) | State and operational area identification. |
| Broadcasting (aural STL and intercity relay) | Call sign of the broadcasting station with which it is associated. |
| Broadcasting (television auxiliary) | Call sign of the TV broadcasting station with which it is licensed as an auxiliary, or call sign of the TV broadcasting station whose signals are being relayed, or by network identification. |
| Broadcasting (television booster). | Retransmission of the call sign of the primary station. |
| Disaster station | By radiotelephony: Name, location, or other designation of station when same as that of an associated station in some other service. Two or more separate units of a station operated at different locations are separately identified by the addition of a unit name, number, or other designation at the end of its authorized means of identification. |

(b) Digital selective calls will be authorized by the Commission and will be formed by groups of numbers (0 through 9), however, the first digit must be other than 0, as follows:

(1) Coast station identification number: 4 digits.

(2) Ship station selective call number: 5 digits.

(3) Predetermined group of ship stations: 5 digits.

(c) Ship stations operating under a temporary operating authority shall identify by a call sign consisting of the letter ''K'' followed by the vessel's Federal or State registration number, or a call sign consisting of the letters ''KUS'' followed by the vessel's documentation number. However, if the vessel has no registration number or documentation number, the call sign shall consist of the name of the vessel and the name of the licensee as they appear on the station application form.

[28 FR 12465, Nov. 22, 1963, as amended at 40 FR 57675, Dec. 11, 1975; 41 FR 44042, Oct. 6, 1976; 42 FR 31008, June 17, 1977; 44 FR 62284, Oct. 30, 1979]

## Subpart E—Distress, Disaster, and Emergency Communications

### § 2.401 Distress messages.

Each station licensee shall give absolute priority to radiocommunications or signals relating to ships or aircraft in distress; shall cease all sending on frequencies which will interfere with hearing a radiocommunication or signal of distress and except when engaged in answering or aiding the ship or aircraft in distress, shall refrain from sending any radiocommunications or signals until there is assurance that no interference will be caused with the radiocommunications or signals relating thereto; and shall assist the ship or aircraft in distress, so far as possible, by complying with its instructions.

### § 2.402 Control of distress traffic.

The control of distress traffic is the responsibility of the mobile station in distress or of the mobile station which, by the application of the provisions of § 2.403, has sent the distress call. These stations may, however, delegate the control of the distress traffic to another station.

### § 2.403 Retransmission of distress message.

Any station which becomes aware that a mobile station is in distress may transmit the distress message in the following cases:

(a) When the station in distress is not itself in a position to transmit the message.

(b) In the case of mobile stations, when the master or the person in charge of the ship, aircraft, or other vehicles carrying the station which intervenes believes that further help is necessary.

(c) In the case of other stations, when directed to do so by the station in control of distress traffic or when it has reason to believe that a distress call which it has intercepted has not been received by any station in a position to render aid.

### § 2.404 Resumption of operation after distress.

No station having been notified to cease operation shall resume operation on frequency or frequencies which may cause interference until notified by the station issuing the original notice that the station involved will not interfere with distress traffic as it is then being routed or until the receipt of a general notice that the need for handling distress traffic no longer exists.

### § 2.405 Operation during emergency.

The licensee of any station (except amateur, standard broadcast, FM broadcast, noncommercial educational FM broadcast, or television broadcast) may, during a period of emergency in which normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication service in communicating in a manner other than that specified in the instrument of authorization: *Provided:*

(a) That as soon as possible after the beginning of such emergency use, notice be sent to the Commission at Washington, D.C., and to the Engineer in Charge of the district in which the station is located, stating the nature of the emergency and the use to which the station is being put, and

(b) That the emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available, and

(c) That the Commission at Washington, D.C., and the Engineer in Charge shall be notified immediately when such special use of the station is terminated: *Provided further,*

(d) That in no event shall any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Commission, or by law: *And provided further,*

(e) That any such emergency communication undertaken under this section shall terminate upon order of the Commission.

NOTE: Part 73 of this chapter contains provisions governing emergency operation of standard, FM, noncommercial educational FM, and television broadcast stations. Part 97 of this chapter contains such provisions for amateur stations.

[28 FR 13785, Dec. 18, 1963]

### § 2.406 National defense; free service.

Any common carrier subject to the Communications Act may render to any agency of the United States Government free service in connection with the preparation for the national defense. Every such carrier rendering any such free service shall make and file, in duplicate, with the Commission, on or before the 31st day of July and on or before the 31st day of January in each year, reports covering the periods of 6 months ending on the 30th day of June and the 31st day of December, respectively, next prior to said dates. These reports shall show the names of the agencies to which free service was rendered pursuant to this rule, the general character of the communications handled for each agency, and the charges in dollars which would have accrued to the carrier for such service rendered to each agency if charges for all such communications had been collected at the published tariff rates.

### § 2.407 National defense; emergency authorization.

The Federal Communications Commission may authorize the licensee of any radio station during a period of national emergency to operate its facilities upon such frequencies, with such power and points of communication, and in such a manner beyond that specified in the station license as may be requested by the Army, Navy, or Air Force.

## Subparts F–G [Reserved]

## Subpart H—Prohibition Against Eavesdropping

### § 2.701 Prohibition against use of a radio device for eavesdropping.

(a) No person shall use, either directly or indirectly, a device required to be licensed by section 301 of the Communications Act of 1934, as amended, for the purpose of overhearing or recording the private conversations of others unless such use is authorized by all of the parties engaging in the conversation.

(b) Paragraph (a) of this section shall not apply to operations of any law enforcement officers conducted under lawful authority.

[31 FR 3400, Mar. 4, 1966]

## Subpart I—Marketing of Radiofrequency Devices

SOURCE: 35 FR 7898, May 22, 1970, unless otherwise noted.

### § 2.801 Radiofrequency device defined.

As used in this part, a radiofrequency device is any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means. Radiofrequency devices include, but are not limited to:

(a) The various types of radio communication transmitting devices described throughout this chapter.

(b) The incidental, unintentional and intentional radiators defined in part 15 of this chapter.

(c) The industrial, scientific, and medical equipment described in part 18 of this chapter.

(d) Any part or component thereof which in use emits radiofrequency energy by radiation, conduction, or other means.

[35 FR 7898, May 22, 1970, as amended at 54 FR 17711, Apr. 25, 1989]

### § 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) Except as provided elsewhere in this section, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless:

(1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labelled as required by § 2.925 and other relevant sections in this chapter; or

(2) In the case of a device that is not required to have a grant of equipment authorization issued by the Commission, but which must comply with the specified technical standards prior to use, such device also complies with all applicable administrative (including verification of the equipment or authorization under a Declaration of Conformity, where required), technical, labelling and identification requirements specified in this chapter.

(b) The provisions of paragraph (a) of this section do not prohibit conditional sales contracts between manufacturers and wholesalers or retailers where delivery is contingent upon compliance with the applicable equipment authorization and technical requirements, nor do they prohibit agreements between such parties to produce new products, manufactured in accordance with designated specifications.

(c) Notwithstanding the provisions of paragraphs (a), (b), (d) and (f) of this section, a radio frequency device may be advertised or displayed, e.g., at a trade show or exhibition, prior to equipment authorization or, for devices not subject to the equipment authorization requirements, prior to a determination of compliance with the applicable technical requirements *provided* that the advertising contains, and the display is accompanied by, a conspicuous notice worded as follows:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

(1) If the product being displayed is a prototype of a product that has been properly authorized and the prototype, itself, is not authorized due to differences between the prototype and the authorized product, the following disclaimer notice may be used in lieu of

the notice stated in paragraph (c) introductory text of this section:

Prototype. Not for sale.

(2) Except as provided elsewhere in this chapter, devices displayed under the provisions of paragraphs (c) introductory text, and (c)(1) of this section may not be activated or operated.

(d) Notwithstanding the provisions of paragraph (a) of this section, the offer for sale solely to business, commercial, industrial, scientific or medical users (but not an offer for sale to other parties or to end users located in a residential environment) of a radio frequency device that is in the conceptual, developmental, design or pre-production stage is permitted prior to equipment authorization or, for devices not subject to the equipment authorization requirements, prior to a determination of compliance with the applicable technical requirements *provided* that the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution. If a product is marketed in compliance with the provisions of this paragraph, the product does not need to be labelled with the statement in paragraph (c) of this section.

(e)(1) Notwithstanding the provisions of paragraph (a) of this section, prior to equipment authorization or determination of compliance with the applicable technical requirements any radio frequency device may be operated, but not marketed, for the following purposes and under the following conditions:

(i) Compliance testing;

(ii) Demonstrations at a trade show provided the notice contained in paragraph (c) of this section is displayed in a conspicuous location on, or immediately adjacent to, the device;

(iii) Demonstrations at an exhibition conducted at a business, commercial, industrial, scientific, or medical location, but excluding locations in a residential environment, provided the notice contained in paragraphs (c) or (d) of this section, as appropriate, is displayed in a conspicuous location on, or immediately adjacent to, the device;

(iv) Evaluation of product performance and determination of customer acceptability, provided such operation takes place at the manufacturer's facilities during developmental, design, or pre-production states; or

(v) Evaluation of product performance and determination of customer acceptability where customer acceptability of a radio frequency device cannot be determined at the manufacturer's facilities because of size or unique capability of the device, provided the device is operated at a business, commercial, industrial, scientific, or medical user's site, but not at a residential site, during the development, design or pre-production stages. A product operated under this provision shall be labelled, in a conspicuous location, with the notice in paragraph (c) of this section.

(2) For the purpose of paragraphs (e)(1)(iv) and (e)(1)(v) of this section, the term *manufacturer's facilities* includes the facilities of the party responsible for compliance with the regulations and the manufacturer's premises, as well as the facilities of other entities working under the authorization of the responsible party in connection with the development and manufacture, but not marketing, of the equipment.

(e)(3) The provisions of paragraphs (e)(1)(i), (e)(1)(ii), (e)(1)(iii), (e)(1)(iv), and (e)(1)(v) of this section do not eliminate any requirements for station licenses for products that normally require a license to operate, as specified elsewhere in this chapter.

(i) Manufacturers should note that station licenses are not required for some products, e.g., products operating under part 15 of this chapter and certain products operating under part 95 of this chapter.

(ii) Instead of obtaining a special temporary authorization or an experimental license, a manufacturer may operate its product for demonstration or evaluation purposes under the authority of a local FCC licensed service provider. However, the licensee must grant permission to the manufacturer to operate in this manner. Further, the

licensee continues to remain responsible for complying with all of the operating conditions and requirements associated with its license.

(4) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(5) Products operating under the provisions of this paragraph (e) shall not be recognized to have any vested or recognizable right to continued use of any frequency. Operation is subject to the conditions that no harmful interference is caused and that any interference received must be accepted. Operation shall be required to cease upon notification by a Commission representative that the device is causing harmful interference and shall not resume until the condition causing the harmful interference is corrected.

(f) For radio frequency devices subject to verification and sold solely to business, commercial, industrial, scientific, and medical users (excluding products sold to other parties or for operation in a residential environment), parties responsible for verification of the devices shall have the option of ensuring compliance with the applicable technical specifications of this chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the party responsible for verification of the equipment. If the purchase or lease agreement contains this proviso and the responsible party has the product measured to ensure compliance at the end user's location, the product does not need to be labelled with the statement in paragraph (c) of this section.

(g) The provisions in paragraphs (b) through (f) of this section apply only to devices that are designed to comply with, and to the best of the responsible party's knowledge will, upon testing, comply with all applicable requirements in this chapter. The provisions in paragraphs (b) through (f) of this section do not apply to radio frequency devices that could not be authorized or legally operated under the current rules. Such devices shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.

(h) The provisions in subpart K of this part continue to apply to imported radio frequency devices.

[62 FR 10468, Mar. 7, 1997, as amended at 63 FR 31646, June 10, 1998; 63 FR 36597, July 7, 1998]

### § 2.807 Statutory exceptions.

As provided by Section 302(c) of the Communications Act of 1934, as amended, § 2.803 shall not be applicable to:

(a) Carriers transporting radiofrequency devices without trading in them.

(b) Radiofrequency devices manufactured solely for export.

(c) The manufacture, assembly, or installation of radiofrequency devices for its own use by a public utility engaged in providing electric service: *Provided, however,* That no such device shall be operated if it causes harmful interference to radio communications.

(d) Radiofrequency devices for use by the Government of the United States or any agency thereof: *Provided, however,* That this exception shall not be applicable to any device after it has been disposed of by such Government or agency.

[35 FR 7898, May 22, 1970, as amended at 62 FR 10470, Mar. 7, 1997]

### § 2.811 Transmitters operated under part 73 of this chapter.

Section 2.803(a) through (d) shall not be applicable to a transmitter operated in any of the Radio Broadcast Services regulated under part 73 of this chapter, provided the conditions set out in part 73 of this chapter for the acceptability of such transmitter for use under licensing are met.

[62 FR 10470, Mar. 7, 1997]

### § 2.813 Transmitters operated in the Instructional Television Fixed Service.

Section 2.803 (a) through (d) shall not be applicable to a transmitter operated in the Instructional Television Fixed

Service regulated under part 74 of this chapter, provided the conditions in §74.952 of this chapter for the acceptability of such transmitter for licensing are met.

[62 FR 10470, Mar. 7, 1997]

### §2.815 External radio frequency power amplifiers.

(a) As used in this part, an external radio frequency power amplifier is any device which, (1) when used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.

(b) No person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of certification in accordance with subpart J of this part and other relevant parts of this chapter. These amplifiers shall comply with the following:

(1) The external radio frequency power amplifier shall not be capable of amplification in the frequency band 26–28 MHz.

(2) The amplifier shall not be capable of easy modification to permit its use as an amplifier in the frequency band 26–28 MHz.

(3) No more than 10 external radio frequency power amplifiers may be constructed for evaluation purposes in preparation for the submission of an application for a grant of certification.

(4) If the external radio frequency power amplifier is intended for operation in the Amateur Radio Service under part 97 of this chapter, the requirements of §§97.315 and 97.317 of this chapter shall be met.

[40 FR 1246, Jan. 7, 1975; 40 FR 6474, Feb. 12, 1975, as amended at 43 FR 12687, Mar. 27, 1978; 43 FR 33725, Aug. 1, 1978; 46 FR 18981, Mar. 27, 1981; 62 FR 10470, Mar. 7, 1997; 71 FR 66461, Nov. 15, 2006]

## Subpart J—Equipment Authorization Procedures

SOURCE: 39 FR 5919, Feb. 15, 1974, unless otherwise noted.

GENERAL PROVISIONS

### §2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be verified by the manufacturer or importer, be authorized under a Declaration of Conformity, or receive an equipment authorization from the Commission by one of the following procedures: certification or registration.

(b) The following sections describe the verification procedure, the procedure for a Declaration of Conformity, and the procedures to be followed in obtaining certification from the Commission and the conditions attendant to such a grant.

[61 FR 31045, June 19, 1996, as amended at 62 FR 10470, Mar. 7, 1997; 63 FR 36597, July 7, 1998]

### §2.902 Verification.

(a) Verification is a procedure where the manufacturer makes measurements or takes the necessary steps to insure that the equipment complies with the appropriate technical standards. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested by the Commission pursuant to §2.957, of this part.

(b) Verification attaches to all items subsequently marketed by the manufacturer or importer which are identical as defined in §2.908 to the sample

tested and found acceptable by the manufacturer.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[46 FR 23249, Apr. 24, 1981]

### § 2.906 Declaration of Conformity.

(a) A Declaration of Conformity is a procedure where the responsible party, as defined in § 2.909, makes measurements or takes other necessary steps to ensure that the equipment complies with the appropriate technical standards. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested pursuant to § 2.1076.

(b) The Declaration of Conformity attaches to all items subsequently marketed by the responsible party which are identical, as defined in § 2.908, to the sample tested and found acceptable by the responsible party.

[61 FR 31045, June 19, 1996]

### § 2.907 Certification.

(a) Certification is an equipment authorization issued by the Commission, based on representations and test data submitted by the applicant.

(b) Certification attaches to all units subsequently marketed by the grantee which are identical (see § 2.908) to the sample tested except for permissive changes or other variations authorized by the Commission pursuant to § 2.1043.

[39 FR 5919, Feb. 15, 1974, as amended at 39 FR 27802, Aug. 1, 1974; 63 FR 36597, July 7, 1998]

### § 2.908 Identical defined.

As used in this subpart, the term *identical* means identical within the variation that can be expected to arise as a result of quantity production techniques.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[46 FR 23249, Apr. 24, 1981]

### § 2.909 Responsible party.

The following parties are responsible for the compliance of radio frequency equipment with the applicable standards:

(a) In the case of equipment which requires the issuance by the Commission of a grant of equipment authorization, the party to whom that grant of authorization is issued (the grantee) If the radio frequency equipment is modified by any party other than the grantee and that party is not working under the authorization of the grantee pursuant to § 2.929(b), the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

(b) In the case of equipment subject to authorization under the verification procedure, the manufacturer or, in the case of imported equipment, the importer. If subsequent to manufacture and importation, the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modification becomes the new responsible party.

(c) In the case of equipment subject to authorization under the Declaration of Conformity procedure:

(1) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under a Declaration of Conformity, the assembler.

(2) If the equipment, by itself, is subject to a Declaration of Conformity and that equipment is imported, the importer.

(3) Retailers or original equipment manufacturers may enter into an agreement with the responsible party designated in paragraph (c)(1) or (c)(2) of this section to assume the responsibilities to ensure compliance of equipment and become the new responsible party.

(4) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the U.S., or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party.

(d) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with

the technical standards and the new party does not obtain a new equipment authorization, the equipment shall be labelled, following the specifications in §2.925(d), with the following: ''This product has been modified by [insert name, address and telephone number of the party performing the modifications].''

[54 FR 17712, Apr. 25, 1989, as amended at 61 FR 31045, June 19, 1996; 62 FR 10470, Mar. 7, 1997; 62 FR 41880, Aug. 4, 1997]

APPLICATION PROCEDURES FOR EQUIPMENT AUTHORIZATIONS

### §2.911 Written application required.

(a) An application for equipment authorization shall be filed on a form prescribed by the Commission.

(b) Each application shall be accompanied by all information required by this subpart and by those parts of the rules governing operation of the equipment, and by requisite test data, diagrams, etc., as specified in this subpart and in those sections of rules whereunder the equipment is to be operated.

(c) Each application including amendments thereto, and related statements of fact required by the Commission, shall be personally signed by the applicant if the applicant is an individual; by one of the partners if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association: *Provided*, *however*, That the application may be signed by the applicant's authorized representative who shall indicate his title, such as plant manager, project engineer, etc.

(d) Technical test data shall be signed by the person who performed or supervised the tests. The person signing the test data shall attest to the accuracy of such data. The Commission may require such person to submit a statement showing that he is qualified to make or supervise the required measurements.

(e) The signatures of the applicant and the person certifying the test data shall be made personally by those persons on the original application; copies of such documents may be conformed. Signatures and certifications need not be made under oath.

(f) Each application shall be accompanied by the processing fee prescribed in subpart G of part 1 of this chapter.

(g) *Signed*, as used in this section, means an original handwritten signature; however, the Office of Engineering and Technology may allow signature by any symbol executed or adopted by the applicant with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

[39 FR 5919, Feb. 15, 1974, as amended at 39 FR 27802, Aug. 1, 1974; 52 FR 5294, Feb. 20, 1987. Redesignated at 54 FR 17712, Apr. 25, 1989; 63 FR 36598, July 7, 1998]

### §2.913 Submittal of equipment authorization application or information to the Commission.

(a) All applications for equipment authorization must be filed electronically via the Internet. Information on the procedures for electronically filing equipment authorization applications can be obtained from the address in paragraph (c) of this section and from the Internet at *https://gullfoss2.fcc.gov/prod/oet/cf/eas/index.cfm*.

(b) Unless otherwise directed, fees for applications for the equipment authorization, pursuant to §1.1103 of this chapter, must be submitted either electronically via the Internet at *https://gullfoss2.fcc.gov/prod/oet/cf/eas/index.cfm* or by following the procedures described in §0.401(b) of this chapter. The address for fees submitted by mail is: Federal Communications Commission, Equipment Approval Services, P.O. Box 979095, St. Louis, MO 63197–9000. If the applicant chooses to make use of an air courier/package delivery service, the following address must appear on the outside of the package/envelope: Federal Communications Commission, c/o Lockbox 979095, SL–MO–C2–GL, 1005 Convention Plaza, St. Louis, MO 63101.

(c) Any equipment samples requested by the Commission pursuant to the provisions of subpart J of this part shall, unless otherwise directed, be submitted to the Federal Communications Commission Laboratory, 7435 Oakland Mills Road, Columbia, Maryland, 21046.

[69 FR 54033, Sept. 7, 2004, as amended at 73 FR 9030, Feb. 19, 2008]

### § 2.915 Grant of application.

(a) The Commission will grant an application for certification if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

(1) The equipment is capable of complying with pertinent technical standards of the rule part(s) under which it is to be operated; and,

(2) A grant of the application would serve the public interest, convenience and necessity.

(b) Grants will be made in writing showing the effective date of the grant and any special condition(s) attaching to the grant.

(c) Certification shall not attach to any equipment, nor shall any equipment authorization be deemed effective, until the application has been granted.

[39 FR 5919, Feb. 15, 1974, as amended at 48 FR 3621, Jan. 26, 1983; 62 FR 10470, Mar. 7, 1997; 63 FR 36598, July 7, 1998]

### § 2.917 Dismissal of application.

(a) An application which is not in accordance with the provisions of this subpart may be dismissed.

(b) Any application, upon written request signed by the applicant or his attorney, may be dismissed prior to a determination granting or denying the authorization requested.

(c) If an applicant is requested by the Commission to file additional documents or information and fails to submit the requested material within 60 days, the application may be dismissed.

[39 FR 5919, Feb. 15, 1974, as amended at 62 FR 10470, Mar. 7, 1997]

### § 2.919 Denial of application.

If the Commission is unable to make the findings specified in § 2.915(a), it will deny the application. Notification to the applicant will include a statement of the reasons for the denial.

### § 2.921 Hearing on application.

Whenever it is determined that an application for equipment authorization presents substantial factual questions relating to the qualifications of the applicant or the equipment (or the effects of the use thereof), the Commission may designate the application for hearing. A hearing on an application for an equipment authorization shall be conducted in the same manner as a hearing on a radio station application as set out in subpart B of part 1 of this chapter.

### § 2.923 Petition for reconsideration; application for review.

Persons aggrieved by virtue of an equipment authorization action may file with the Commission a petition for reconsideration or an application for review. Rules governing the filing of petitions for reconsideration and applications for review are set forth in §§ 1.106 and 1.115, respectively, of this chapter.

### § 2.924 Marketing of electrically identical equipment having multiple trade names and models or type numbers under the same FCC Identifier.

The grantee of an equipment authorization may market devices having different model/type numbers or trade names without additional authorization from the Commission, provided that such devices are electrically identical and the equipment bears an FCC Identifier validated by a grant of equipment authorization. A device will be considered to be electrically identical if no changes are made to the device authorized by the Commission, or if the changes made to the device would be treated as class I permissive changes within the scope of § 2.1043(b)(1). Changes to the model number or trade name by anyone other than the grantee, or under the authorization of the grantee, shall be performed following the procedures in § 2.933.

[62 FR 10470, Mar. 7, 1997, as amended at 63 FR 36598, July 7, 1998]

### § 2.925 Identification of equipment.

(a) Each equipment covered in an application for equipment authorization shall bear a nameplate or label listing the following:

(1) FCC Identifier consisting of the two elements in the exact order specified in § 2.926. The FCC Identifier shall be preceded by the term *FCC ID* in capital letters on a single line, and shall

be of a type size large enough to be legible without the aid of magnification.

*Example:* FCC ID XXX123. XXX—Grantee Code 123—Equipment Product Code

(2) Any other statements or labeling requirements imposed by the rules governing the operation of the specific class of equipment, except that such statement(s) of compliance may appear on a separate label at the option of the applicant/grantee.

(3) Equipment subject only to registration will be identified pursuant to part 68 of this chapter.

(b) Any device subject to more than one equipment authorization procedure may be assigned a single FCC Identifier. However, a single FCC Identifier is required to be assigned to any device consisting of two or more sections assembled in a common enclosure, on a common chassis or circuit board, and with common frequency controlling circuits. Devices to which a single FCC Identifier has been assigned shall be identified pursuant to paragraph (a) of this section.

(1) Separate FCC Identifiers may be assigned to a device consisting of two or more sections assembled in a common enclosure, but constructed on separate sub-units or circuit boards with independent frequency controlling circuits. The FCC Identifier assigned to any transmitter section shall be preceded by the term *TX FCC ID,* the FCC Identifier assigned to any receiver section shall be preceded by the term *RX FCC ID* and the identifier assigned to any remaining section(s) shall be preceded by the term *FCC ID*.

(2) Where telephone equipment subject to part 68 of this chapter, and a radiofrequency device subject to equipment authorization requirements are assembled in a common enclosure, the nameplate/label shall display the FCC Registration Number in the format specified in part 68 and the FCC Identifier in the format specified in paragraph (a) of this section.

(3) Applications filed on or after May 1, 1981, and applications filed earlier requesting equipment authorization using the single system of identification pursuant to section (a)(1) will receive a review of the identification portion by the Commission's Laboratory with respect to nameplate/label design within 30 days after receipt at the Laboratory. Failure by the Laboratory to reject a nameplate design proposed in any particular application within this time period will constitute de-facto acceptance of the nameplate/label design for that particular equipment. Such *de facto* acceptance will be limited to the equipment covered by the particular application and will not be considered to establish a precedent for other applications. This review deadline applies only to the proposed nameplate/label design, not to the remainder of the application.

(4) For a transceiver, the receiver portion of which is subject to verification pursuant to § 15.101 of this chapter, the FCC Identifier required for the transmitter portion shall be preceded by the term *FCC ID*.

(c) [Reserved]

(d) In order to validate the grant of equipment authorization, the nameplate or label shall be permanently affixed to the equipment and shall be readily visible to the purchaser at the time of purchase.

(1) As used here, *permanently affixed* means that the required nameplate data is etched, engraved, stamped, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment enclosure. Alternatively, the required information may be permanently marked on a nameplate of metal, plastic, or other material fastened to the equipment enclosure by welding, riveting, etc., or with a permanent adhesive. Such a nameplate must be able to last the expected lifetime of the equipment in the environment in which the equipment will be operated and must not be readily detachable.

(2) As used here, *readily visible* means that the nameplate or nameplate data must be visible from the outside of the equipment enclosure. It is preferable that it be visible at all times during normal installation or use, but this is not a prerequisite for grant of equipment authorization.

(e) A software defined radio may be equipped with a means such as a user display screen to display the FCC identification number normally contained

in the nameplate or label. The information must be readily accessible, and the user manual must describe how to access the electronic display.

(f) Where it is shown that a permanently affixed nameplate is not desirable or is not feasible, an alternative method of positively identifying the equipment may be used if approved by the Commission. The proposed alternative method of identification and the justification for its use must be included with the application for equipment authorization.

NOTE: As an example, a device intended to be implanted within the body of a test animal or person would probably require an alternate method of identification.

(g) The term *FCC ID* and the coded identification assigned by the Commission shall be in a size of type large enough to be readily legible, consistent with the dimensions of the equipment and its nameplate. However, the type size for the FCC Identifier is not required to be larger than eight-point.

[44 FR 17177, Mar. 21, 1979, as amended at 44 FR 55574, Sept. 27, 1979; 46 FR 21013, Apr. 8, 1981; 52 FR 21687, June 9, 1987; 54 FR 1698, Jan. 17, 1989; 62 FR 10470, Mar. 7, 1997; 66 FR 50840, Oct. 5, 2001]

### § 2.926 FCC identifier.

(a) A grant of equipment authorization issued by the Commission will list the validated FCC Identifier consisting of the grantee code assigned by the FCC pursuant to paragraph (b) of this section, and the equipment product code assigned by the grantee pursuant to paragraph (c) of this section. See § 2.925.

(b) The grantee code assigned pursuant to paragraph (c) of this section is assigned permanently to applicants/grantees and is valid only for the party specified as the applicant/grantee in the code assignment(s).

(c) A grantee code will have three characters consisting of Arabic numerals, capital letters, or combination thereof. A prospective grantee or his authorized representative may receive a grantee code electronically via the Internet at *https://gullfoss2.fcc.gov/prod/oet/cf/eas/index.cfm*. The code may be obtained at any time prior to submittal of the application for equipment authorization. However, the fee required by § 1.1103 of this chapter must be submitted and validated within 30 days of the issuance of the grantee code, or the code will be removed from the Commission's records and a new grantee code will have to be obtained.

(1) After assignment of a grantee code each grantee will continue to use the same grantee code for subsequent equipment authorization applications.

In the event the grantee name is changed or ownership is transferred, the circumstances shall be reported to the Commission so that a new grantee code can be assigned, if appropriate. See §§ 2.934 and 2.935 for additional information.

(2) [Reserved]

(d) The equipment product code assigned by the grantee shall consist of a series of Arabic numerals, capital letters or a combination thereof, and may include the dash or hyphen (-). The total of Arabic numerals, capital letters and dashes or hyphens shall not exceed 14 and shall be one which has not been previously used in conjunction with:

(1) The same grantee code, or

(2) An application denied pursuant to § 2.919 of this chapter.

(e) No FCC Identifier may be used on equipment to be marketed unless that specific identifier has been validated by a grant of equipment authorization issued by the Commission. This shall not prohibit placement of an FCC identifier on a transceiver which includes a verified receiver subject to § 15.101, provided that the transmitter portion of such transceiver is covered by a valid grant of type acceptance or certification. The FCC Identifier is uniquely assigned to the grantee and may not be placed on the equipment without authorization by the grantee. See § 2.803 for conditions applicable to the display at trade shows of equipment which has not been granted equipment authorization where such grant is required prior to marketing. Labelling of such equipment may include model or type numbers, but shall not include a purported FCC Identifier.

[44 FR 17179, Mar. 21, 1979, as amended at 46 FR 21014, Apr. 8, 1981; 52 FR 21687, June 9, 1987; 54 FR 1698, Jan. 17, 1989; 62 FR 10471, Mar. 7, 1997; 69 FR 54033, Sept. 7, 2004]

CONDITIONS ATTENDANT TO AN EQUIPMENT AUTHORIZATION

### § 2.927 Limitations on grants.

(a) A grant of equipment authorization is valid only when the FCC Identifier is permanently affixed on the device and remains effective until revoked or withdrawn, rescinded, surrendered, or a termination date is otherwise established by the Commission.

(b) A grant of an equipment authorization signifies that the Commission has determined that the equipment has been shown to be capable of compliance with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. The issuance of a grant of equipment authorization shall not be construed as a finding by the Commission with respect to matters not encompassed by the Commission's rules, especially with respect to compliance with 18 U.S.C. 2512.

(c) No person shall, in any advertising matter, brochure, etc., use or make reference to an equipment authorization in a deceptive or misleading manner or convey the impression that such equipment authorization reflects more than a Commission determination that the device or product has been shown to be capable of compliance with the applicable technical standards of the Commission's rules.

[39 FR 5919, Feb. 15, 1974, as amended at 44 FR 29066, May 18, 1979; 62 FR 10471, Mar. 7, 1997]

### § 2.929 Changes in name, address, ownership or control of grantee.

(a) An equipment authorization issued by the Commission may not be assigned, exchanged or in any other way transferred to a second party, except as provided in this section.

(b) The grantee of an equipment authorization may license or otherwise authorize a second party to manufacture the equipment covered by the grant of the equipment authorization provided:

(1) The equipment manufactured by such second party bears the FCC Identifier as is set out in the grant of the equipment authorization.

NOTE TO PARAGRAPH (b)(1): Any change in the FCC Identifier desired as a result of such production or marketing agreement will require the filing of a new application for an equipment authorization as specified in § 2.933.

(2) The grantee of the equipment authorization shall continue to be responsible to the Commission for the equipment produced pursuant to such an agreement.

(c) Whenever there is a change in the name and/or address of the grantee of an equipment authorization, notice of such change(s) shall be submitted to the Commission via the Internet at *https://gullfoss2.fcc.gov/prod/oet/cf/eas/index.cfm* within 30 days after the grantee starts using the new name and/or address.

(d) In the case of transactions affecting the grantee, such as a transfer of control or sale to another company, mergers, or transfer of manufacturing rights, notice must be given to the Commission via the Internet at *https://gullfoss2.fcc.gov/prod/oet/cf/eas/index.cfm* within 60 days after the consummation of the transaction. Depending on the circumstances in each case, the Commission may require new applications for equipment authorization. In reaching a decision the Commission will consider whether the acquiring party can adequately ensure and accept responsibility for continued compliance with the regulations. In general, new applications for each device will not be required. A single application for equipment authorization may be filed covering all the affected equipment.

[63 FR 36598, July 7, 1998, as amended at 69 FR 54033, Sept. 7, 2004]

### § 2.931 Responsibility of the grantee.

In accepting a grant of an equipment authorization, the grantee warrants that each unit of equipment marketed under such grant and bearing the identification specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) filed with the application for certification continues to be representative of the equipment being produced under such grant within the variation that can be

expected due to quantity production and testing on a statistical basis.

[63 FR 36598, July 7, 1998]

### § 2.932 Modification of equipment.

(a) A new application for an equipment authorization shall be filed whenever there is a change in the design, circuitry or construction of an equipment or device for which an equipment authorization has been issued, except as provided in paragraphs (b) through (d) of this section.

(b) Permissive changes may be made in certificated equipment, and equipment that was authorized under the former type acceptance procedure, pursuant to § 2.1043.

(c) Permissive changes may be made in equipment that was authorized under the former notification procedure without submittal of information to the Commission, unless the equipment is currently subject to authorization under the certification procedure. However, the grantee shall submit information documenting continued compliance with the pertinent requirements upon request.

(d) All requests for permissive changes submitted to the Commission must be accompanied by the anti-drug abuse certification required under § 1.2002 of this chapter.

[63 FR 36598, July 7, 1998, as amended at 66 FR 50840, Oct. 5, 2001; 70 FR 23039, May 4, 2005]

### § 2.933 Change in identification of equipment.

(a) A new application for equipment authorization shall be filed whenever there is a change in the FCC Identifier for the equipment with or without a change in design, circuitry or construction. However, a change in the model/type number or trade name performed in accordance with the provisions in § 2.924 of this chapter is not considered to be a change in identification and does not require additional authorization from the Commission.

(b) An application filed pursuant to paragraph (a) of this section where no change in design, circuitry or construction is involved, need not be accompanied by a resubmission of equipment or measurement or test data customarily required with a new application, unless specifically requested by the Commission. In lieu thereof, the applicant shall attach a statement setting out:

(1) The original identification used on the equipment prior to the change in identification.

(2) The date of the original grant of the equipment authorization.

(3) How the equipment bearing the modified identification differs from the original equipment.

(4) Whether the original test results continue to be representative of and applicable to the equipment bearing the changed identification.

(5) The photographs required by § 2.1033(b)(7) or § 2.1033(c)(12) showing the exterior appearance of the equipment, including the operating controls available to the user and the identification label. Photographs of the construction, the component placement on the chassis, and the chassis assembly are not required to be submitted unless specifically requested by the Commission.

(c) If the change in the FCC Identifier also involves a change in design or circuitry which falls outside the purview of a permissive change described in § 2.1043, a complete application shall be filed pursuant to § 2.911.

[63 FR 36598, July 7, 1998]

### § 2.936 FCC inspection.

Upon reasonable request, each responsible party shall submit the following to the Commission or shall make the following available for inspection:

(a) The records required by §§ 2.938, 2.955, and 2.1075.

(b) A sample unit of the equipment covered under an authorization.

(c) The manufacturing plant and facilities.

[62 FR 10471, Mar. 7, 1997]

### § 2.937 Equipment defect and/or design change.

When a complaint is filed with the Commission concerning the failure of equipment subject to this chapter to comply with pertinent requirements of the Commission's rules, and the Commission determines that the complaint

is justified and arises out of an equipment fault attributable to the responsible party, the Commission may require the responsible party to investigate such complaint and report the results of such investigation to the Commission. The report shall also indicate what action if any has been taken or is proposed to be taken by the responsible party to correct the defect, both in terms of future production and with reference to articles in the possession of users, sellers and distributors.

[61 FR 31046, June 19, 1996]

### § 2.938 Retention of records.

(a) For each equipment subject to the Commission's equipment authorization standards, the responsible party shall maintain the records listed as follows:

(1) A record of the original design drawings and specifications and all changes that have been made that may affect compliance with the standards and the requirements of § 2.931.

(2) A record of the procedures used for production inspection and testing to ensure conformance with the standards and the requirements of § 2.931.

(3) A record of the test results that demonstrate compliance with the appropriate regulations in this chapter.

(b) The provisions of paragraph (a) of this section shall also apply to a manufacturer of equipment produced under the provisions of § 2.929(b). The retention of the records by the manufacturer under these circumstances shall satisfy the grantee's responsibility under paragraph (a) of this section.

(c) The records listed in paragraph (a) of this section shall be retained for one year for equipment subject to authorization under the certification procedure or former type acceptance procedure, or for two years for equipment subject to authorization under any other procedure, after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party (or, under paragraph (b) of this section, the manufacturer) is officially notified that an investigation or any other administrative proceeding involving its equipment has been instituted.

(d) If radio frequency equipment is modified by any party other than the original responsible party, and that party is not working under the authorization of the original responsible party, the party performing the modifications is not required to obtain the original design drawings specified in paragraph (a)(1) of this section. However, the party performing the modifications must maintain records showing the changes made to the equipment along with the records required in paragraphs (a)(3) of this section. A new equipment authorization may also be required. See, for example, §§ 2.909, 2.924, 2.933, and 2.1043.

[62 FR 10471, Mar. 7, 1997, as amended at 63 FR 36599, July 7, 1998]

### § 2.939 Revocation or withdrawal of equipment authorization.

(a) The Commission may revoke any equipment authorization:

(1) For false statements or representations made either in the application or in materials or response submitted in connection therewith or in records required to be kept by § 2.938.

(2) If upon subsequent inspection or operation it is determined that the equipment does not conform to the pertinent technical requirements or to the representations made in the original application.

(3) If it is determined that changes have been made in the equipment other than those authorized by the rules or otherwise expressly authorized by the Commission.

(4) Because of conditions coming to the attention of the Commission which would warrant it in refusing to grant an original application.

(b) Revocation of an equipment authorization shall be made in the same manner as revocation of radio station licenses.

(c) The Commission may withdraw any equipment authorization in the event of changes in its technical standards. The procedure to be followed will be set forth in the order promulgating such new technical standards (after appropriate rulemaking proceedings) and will provide a suitable amortization period for equipment in hands of users and in the manufacturing process.

[39 FR 5919, Feb. 15, 1974, as amended at 51 FR 39535, Oct. 29, 1986]

### § 2.941 Availability of information relating to grants.

(a) Grants of equipment authorization, other than for receivers and equipment authorized for use under parts 15 or 18 of this chapter, will be publicly announced in a timely manner by the Commission. Information about the authorization of a device using a particular FCC Identifier may be obtained by contacting the Commission's Office of Engineering and Technology Laboratory.

(b) Information relating to equipment authorizations, such as data submitted by the applicant in connection with an authorization application, laboratory tests of the device, etc., shall be available in accordance with §§ 0.441 through 0.470 of this chapter.

[62 FR 10472, Mar. 7, 1997]

### § 2.943 Submission of equipment for testing.

(a) The Commission may require an applicant to submit one or more sample units for measurement at the Commission's laboratory.

(b) In the event the applicant believes that shipment of the sample to the Commission's laboratory is impractical because of the size or weight of the equipment, or the power requirement, or for any other reason, the applicant may submit a written explanation why such shipment is impractical and should not be required.

[39 FR 5919, Feb. 15, 1974, as amended at 48 FR 3621, Jan. 26, 1983; 63 FR 36599, July 7, 1998]

### § 2.944 Software defined radios.

(a) Manufacturers must take steps to ensure that only software that has been approved with a software defined radio can be loaded into the radio. The software must not allow the user to operate the transmitter with operating frequencies, output power, modulation types or other radio frequency parameters outside those that were approved. Manufacturers may use means including, but not limited to the use of a private network that allows only authenticated users to download software, electronic signatures in software or coding in hardware that is decoded by software to verify that new software can be legally loaded into a device to meet these requirements and must describe the methods in their application for equipment authorization.

(b) Any radio in which the software is designed or expected to be modified by a party other than the manufacturer and would affect the operating parameters of frequency range, modulation type or maximum output power (either radiated or conducted), or the circumstances under which the transmitter operates in accordance with Commission rules, must comply with the requirements in paragraph (a) of this section and must be certified as a software defined radio.

(c) Applications for certification of software defined radios must include a high level operational description or flow diagram of the software that controls the radio frequency operating parameters.

[70 FR 23039, May 4, 2005]

### § 2.945 Sampling tests of equipment compliance.

The Commission will, from time to time, request the responsible party to submit equipment subject to this chapter to determine the extent to which subsequent production of such equipment continues to comply with the data filed by the applicant (or on file with the responsible party for equipment subject to notification or a Declaration of Conformity). Shipping costs to the Commission's laboratory and return shall be borne by the responsible party.

[61 FR 31046, June 19, 1996]

### § 2.946 Penalty for failure to provide test samples and data.

(a) Any responsible party, as defined in § 2.909, or any party who markets equipment subject to the provisions of this chapter, shall provide test sample(s) or data upon request by the Commission. Failure to comply with such a request within 14 days may be cause for forfeiture, pursuant to § 1.80 of this chapter, or other administrative sanctions such as suspending action on any applications for equipment authorization submitted by such party while the matter is being resolved.

(b) The Commission may consider extensions of time upon submission of a showing of good cause.

[63 FR 36599, July 7, 1998]

### § 2.947 Measurement procedure.

(a) The Commission will accept data which have been measured in accordance with the following standards or measurement procedures:

(1) Those set forth in bulletins or reports prepared by the Commission's Office of Engineering and Technology. These will be issued as required, and specified in the particular part of the rules where applicable.

(2) Those acceptable to the Commission and published by national engineering societies such as the Electronic Industries Association, the Institute of Electrical and Electronic Engineers, Inc., and the American National Standards Institute.

(3) Any measurement procedure acceptable to the Commission may be used to prepare data demonstrating compliance with the requirements of this chapter.

(b) Information submitted pursuant to paragraph (a) of this section shall completely identify the specific standard or measurement procedure used.

(c) In the case of equipment requiring measurement procedures not specified in the references set forth in paragraphs (a) (1) and (2) of this section, the applicant shall submit a detailed description of the measurement procedures actually used.

(d) A listing of the test equipment used shall be submitted.

(e) If deemed necessary, the Commission may require additional information concerning the measurement procedures employed in obtaining the data submitted for equipment authorization purposes.

[42 FR 44987, Sept. 8, 1977, as amended at 44 FR 39181, July 5, 1979; 51 FR 12616, Apr. 14, 1986]

### § 2.948 Description of measurement facilities.

(a) Each party making measurements of equipment that is subject to an equipment authorization under part 15 or part 18 of this chapter, regardless of whether the measurements are filed with the Commission or kept on file by the party responsible for compliance of equipment marketed within the U.S. or its possessions, shall compile a description of the measurement facilities employed.

(1) If the measured equipment is subject to the verification procedure, the description of the measurement facilities shall be retained by the party responsible for verification of the equipment.

(i) If the equipment is verified through measurements performed by an independent laboratory, it is acceptable for the party responsible for verification of the equipment to rely upon the description of the measurement facilities retained by or placed on file with the Commission by that laboratory. In this situation, the party responsible for verification of the equipment is not required to retain a duplicate copy of the description of the measurement facilities.

(ii) If the equipment is verified based on measurements performed at the installation site of the equipment, no specific site calibration data is required. It is acceptable to retain the description of the measurement facilities at the site at which the measurements were performed.

(2) If the equipment is to be authorized by the Commission under the certification procedure, the description of the measurement facilities shall be filed with the Commission's Laboratory in Columbia, Maryland. The data describing the measurement facilities need only be filed once but must be updated as changes are made to the measurement facilities or as otherwise described in this section. At least every three years, the organization responsible for filing the data with the Commission shall certify that the data on file is current. A laboratory that has been accredited in accordance with paragraph (d) of this section is not required to file a description of its facilities with the Commission's laboratory, provided the accrediting organization (or designating authority in the case of foreign laboratories) submits the following information to the Commission's laboratory:

(i) Laboratory name, location of test site(s), mailing address and contact information;

(ii) Name of accrediting organization;

(iii) Date of expiration of accreditation;

(iv) Designation number;

(v) FCC Registration Number (FRN);

(vi) A statement as to whether or not the laboratory performs testing on a contract basis;

(vii) For laboratories outside the United States, the name of the mutual recognition agreement or arrangement under which the accreditation of the laboratory is recognized.

(3) If the equipment is to be authorized under the Declaration of Conformity procedure, the laboratory making the measurements must be accredited in accordance with paragraph (d) of this section.

(b) The description shall contain the following information:

(1) Location of the test site.

(2) Physical description of the test site accompanied by photographs of size A4 (21 cm × 29.7 cm) or 8×10 inches (20.3 cm × 25.4 cm). Smaller photographs may be used if they clearly show the details of the test site and are mounted on full size sheets of paper.

(3) A drawing showing the dimensions of the site, physical layout of all supporting structures, and all structures within 5 times the distance between the measuring antenna and the device being measured.

(4) Description of structures used to support the device being measured and the test instrumentation.

(5) List of measuring equipment used.

(6) Information concerning the calibration of the measuring equipment, i.e., the date the equipment was last calibrated and how often the equipment is calibrated.

(7) If desired, a statement as to whether the test site is available to do measurement services for the public on a fee basis.

(8) For a measurement facility that will be used for testing radiated emissions, a plot of site attenuation data taken pursuant to the procedures contained in Sections 5.4.6 through 5.5 of the following procedure: American National Standards Institute (ANSI) C63.4–2001, entitled ''American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz'' published by the American National Standards Institute on June 22, 2001 as document number SH94908. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of C63.4–2001 may be obtained from: IEEE Customer Service, P.O. Box 1331, Piscataway, NJ 08855–1331, or *UPS only* IEEE Customer Service, 445 Hoes Lane, Piscataway, NJ 08854; telephone 1–800–678–4333 or +1–732–981–0600 (outside the United States and Canada). Copies of ANSI C63.4–2001 may be inspected at the following locations:

(i) Federal Communications Commission, 445 12th Street, SW., Office of Engineering and Technology (Room 7–B144), Washington, DC 20554,

(ii) Federal Communications Commission Laboratory, 7435 Oakland Mills Road, Columbia, MD 21046, or

(iii) at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(9) A description of the types of equipment intended to be measured or other information regarding the types of measurements that would be performed at the test facility.

(c) The Commission will publish a list of those parties who have filed the information required by this section, provided they indicate that they wish to perform measurement services for the public on a fee basis. However, it should be noted that the Commission does not endorse or approve any facility on this list.

(d) A laboratory that has been accredited with a scope covering the required measurements shall be deemed competent to test and submit test data for equipment subject to verification, Declaration of Conformity, and certification. Such a laboratory shall be accredited by an approved accreditation

organization based on the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Standard 17025, ''General Requirements for the Competence of Calibration and Testing Laboratories.'' The organization accrediting the laboratory must be approved by the Commission's Office of Engineering and Technology, as indicated in § 0.241 of this chapter, to perform such accreditation based on ISO/IEC 58, ''Calibration and Testing Laboratory Accreditation Systems—General Requirements for Operation and Recognition.'' The frequency for revalidation of the test site and the information that is required to be filed or retained by the testing party shall comply with the requirements established by the accrediting organization. However, in all cases, test site revalidation shall occur on an interval not to exceed two years.

(e) The accreditation of a laboratory located outside of the United States, or its possessions, will be acceptable only under one of the following conditions:

(1) If the accredited laboratory has been designated by a foreign designating authority and recognized by the Commission under the terms of a government-to-government Mutual Recognition Agreement/Arrangement; or

(2) If the laboratory has been recognized by the Commission as being accredited by an organization that has entered into an arrangement between accrediting organizations and the arrangement has been recognized by the Commission.

[54 FR 17712, Apr. 25, 1989, as amended at 57 FR 24990, June 12, 1992; 58 FR 37430, July 12, 1993; 58 FR 44893, Aug. 25, 1993; 61 FR 31046, June 19, 1996; 62 FR 41880, Aug. 4, 1997; 63 FR 36599, July 7, 1998; 65 FR 58466, Sept. 29, 2000; 68 FR 68544, Dec. 9, 2003; 69 FR 18803, Apr. 9, 2004; 69 FR 54033, Sept. 7, 2004; 69 FR 55982, Sept. 17, 2004]

## VERIFICATION

AUTHORITY: Sections 2.951 through 2.957 are issued under secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.

SOURCE: Sections 2.951 through 2.957 appear at 46 FR 23249, Apr. 24, 1981, unless otherwise noted.

### § 2.951 Cross reference.

The provisions of § 2.901, *et seq.*, shall apply to equipment subject to verification.

### § 2.952 Limitation on verification.

(a) Verification signifies that the manufacturer or importer has determined that the equipment has been shown to be capable of compliance with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. Compliance with these standards shall not be construed to be a finding by the manufacturer or importer with respect to matters not encompassed by the Commission's rules.

(b) Verification of the equipment by the manufacturer or importer is effective until a termination date is otherwise established by the Commission.

(c) No person shall, in any advertising matter, brochure, etc., use or make reference to a verification in a deceptive or misleading manner or convey the impression that such verification reflects more than a determination by the manufacturer or importer that the device or product has been shown to be capable of compliance with the applicable technical standards of the Commission's rules.

### § 2.953 Responsibility for compliance.

(a) In verifying compliance, the responsible party, as defined in § 2.909 warrants that each unit of equipment marketed under the verification procedure will be identical to the unit tested and found acceptable with the standards and that the records maintained by the responsible party continue to reflect the equipment being produced under such verification within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) The importer of equipment subject to verification may upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical standards rely on the manufacturer or independent testing agency to verify compliance. The test records required by § 2.955 however should be in the English language and made available to the

Commission upon a reasonable request, in accordance with § 2.956.

(c) In the case of transfer of control of equipment, as in the case of sale or merger of the grantee, the new manufacturer or importer shall bear the responsibility of continued compliance of the equipment.

(d) Verified equipment shall be reverified if any modification or change adversely affects the emanation characteristics of the modified equipment. The party designated in § 2.909 bears responsibility for continued compliance of subsequently produced equipment.

[39 FR 5919, Feb. 15, 1974, as amended at 62 FR 10472, Mar. 7, 1997]

### § 2.954 Identification.

Devices subject only to verification shall be uniquely identified by the person responsible for marketing or importing the equipment within the United States. However, the identification shall not be of a format which could be confused with the FCC Identifier required on certified, notified or type accepted equipment. The importer or manufacturer shall maintain adequate identification records to facilitate positive identification for each verified device.

[62 FR 10472, Mar. 7, 1997]

### § 2.955 Retention of records.

(a) For each equipment subject to verification, the responsible party, as shown in § 2.909 shall maintain the records listed as follows:

(1) A record of the original design drawings and specifications and all changes that have been made that may affect compliance with the requirements of § 2.953.

(2) A record of the procedures used for production inspection and testing (if tests were performed) to insure the conformance required by § 2.953. (Statistical production line emission testing is not required.)

(3) A record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations in this chapter. The record shall:

(i) Indicate the actual date all testing was performed;

(ii) State the name of the test laboratory, company, or individual performing the verification testing. The Commission may request additional information regarding the test site, the test equipment or the qualifications of the company or individual performing the verification tests;

(iii) Contain a description of how the device was actually tested, identifying the measurement procedure and test equipment that was used;

(iv) Contain a description of the equipment under test (EUT) and support equipment connected to, or installed within, the EUT;

(v) Identify the EUT and support equipment by trade name and model number and, if appropriate, by FCC Identifier and serial number;

(vi) Indicate the types and lengths of connecting cables used and how they were arranged or moved during testing;

(vii) Contain at least two drawings or photographs showing the test set-up for the highest line conducted emission and showing the test set-up for the highest radiated emission. These drawings or photographs must show enough detail to confirm other information contained in the test report. Any photographs used must be focused originals without glare or dark spots and must clearly show the test configuration used;

(viii) List all modifications, if any, made to the EUT by the testing company or individual to achieve compliance with the regulations in this chapter;

(ix) Include all of the data required to show compliance with the appropriate regulations in this chapter; and

(x) Contain, on the test report, the signature of the individual responsible for testing the product along with the name and signature of an official of the responsible party, as designated in § 2.909.

(4) For equipment subject to the provisions in part 15 of this chapter, the records shall indicate if the equipment was verified pursuant to the transition provisions contained in § 15.37 of this chapter.

(b) The records listed in paragraph (a) of this section shall be retained for two years after the manufacture of said equipment item has been permanently

discontinued, or until the conclusion of an investigation or a proceeding if the manufacturer or importer is officially notified that an investigation or any other administrative proceeding involving his equipment has been instituted.

[54 FR 17713, Apr. 25, 1989, as amended at 62 FR 10472, Mar. 7, 1997]

### § 2.956 FCC inspection and submission of equipment for testing.

(a) Each responsible party shall upon receipt of reasonable request:

(1) Submit to the Commission the records required by § 2.955.

(2) Submit one or more sample units for measurements at the Commission's Laboratory.

(i) Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party.

(ii) In the event the responsible party believes that shipment of the sample to the Commission's Laboratory is impractical because of the size or weight of the equipment, or the power requirement, or for any other reason, the responsible party may submit a written explanation why such shipment is impractical and should not be required.

(b) Requests for the submission of the records in § 2.955 or for the submission of sample units are covered under the provisions of § 2.946.

[62 FR 10472, Mar. 7, 1997]

## TELECOMMUNICATION CERTIFICATION BODIES (TCBS)

### § 2.960 Designation of Telecommunication Certification Bodies (TCBs).

(a) The Commission may designate Telecommunication Certification Bodies (TCBs) to approve equipment as required under this part. Certification of equipment by a TCB shall be based on an application with all the information specified in this part. The TCB shall process the application to determine whether the product meets the Commission's requirements and shall issue a written grant of equipment authorization. The grant shall identify the TCB and the source of authority for issuing it.

(b) The Federal Communications Commission shall designate TCBs in the United States to approve equipment subject to certification under the Commission's rules. TCBs shall be accredited by the National Institute of Standards and Technology (NIST) under its National Voluntary Conformity Assessment Evaluation (NVCASE) program, or other recognized programs based on ISO/IEC Guide 65, to comply with the Commission's qualification criteria for TCBs. NIST may, in accordance with its procedures, allow other appropriately qualified accrediting bodies to accredit TCBs and testing laboratories. TCBs shall comply with the requirements in § 2.962 of this part.

(c) In accordance with the terms of an effective bilateral or multilateral mutual recognition agreement or arrangement (MRA) to which the United States is a party, bodies outside the United States shall be permitted to authorize equipment in lieu of the Commission. A body in an MRA partner economy may authorize equipment to U.S. requirements only if that economy permits bodies in the United States to authorize equipment to its requirements. The authority designating these telecommunication certification bodies shall meet the following criteria.

(1) The organization accrediting the prospective telecommunication certification body shall be capable of meeting the requirements and conditions of ISO/IEC Guide 61.

(2) The organization assessing the telecommunication certification body shall appoint a team of qualified experts to perform the assessment covering all of the elements within the scope of accreditation. For assessment of telecommunications equipment, the areas of expertise to be used during the assessment shall include, but not be limited to, electromagnetic compatibility and telecommunications equipment (wired and wireless).

[64 FR 4995, Feb. 2, 1999]

**§ 2.962 Requirements for Telecommunication Certification Bodies.**

(a) Telecommunication certification bodies (TCBs) designated by the Commission, or designated by another authority pursuant to an effective bilateral or multilateral mutual recognition agreement or arrangement to which the United States is a party, shall comply with the following requirements.

(b) *Certification methodology*. (1) The certification system shall be based on type testing as identified in sub-clause 1.2(a) of ISO/IEC Guide 65.

(2) Certification shall normally be based on testing no more than one unmodified representative sample of each product type for which certification is sought. Additional samples may be requested if clearly warranted, such as when certain tests are likely to render a sample inoperative.

(c) *Criteria for Designation*. (1) To be designated as a TCB under this section, an entity shall, by means of accreditation, meet all the appropriate specifications in ISO/IEC Guide 65 for the scope of equipment it will certify. The accreditation shall specify the group of equipment to be certified and the applicable regulations for product evaluation.

(2) The TCB shall demonstrate expert knowledge of the regulations for each product with respect to which the body seeks designation. Such expertise shall include familiarity with all applicable technical regulations, administrative provisions or requirements, as well as the policies and procedures used in the application thereof.

(3) The TCB shall have the technical expertise and capability to test the equipment it will certify and shall also be accredited in accordance with ISO/IEC Standard 17025 to demonstrate it is competent to perform such tests.

(4) The TCB shall demonstrate an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel shall demonstrate a knowledge of how to obtain current and correct technical regulation interpretations. The competence of the Telecommunication Certification Body shall be demonstrated by assessment. The general competence, efficiency, experience, familiarity with technical regulations and products included in those technical regulations, as well as compliance with applicable parts of the ISO/IEC Standard 17025 and Guide 65, shall be taken into consideration.

(5) A TCB shall participate in any consultative activities, identified by the Commission or NIST, to facilitate a common understanding and interpretation of applicable regulations.

(6) The Commission will provide public notice of the specific methods that will be used to accredit TCBs, consistent with these qualification criteria.

(7) A TCB shall be reassessed for continued accreditation on intervals not exceeding two years.

(d) *Sub-contractors*. (1) In accordance with the provisions of sub-clause 4.4 of ISO/IEC Guide 65, the testing of a product, or a portion thereof, may be performed by a sub-contractor of a designated TCB, provided the laboratory has been assessed by the TCB as competent and in compliance with the applicable provisions of ISO/IEC Guide 65 and other relevant standards and guides.

(2) When a subcontractor is used, the TCB shall be responsible for the test results and shall maintain appropriate oversight of the subcontractor to ensure reliability of the test results. Such oversight shall include periodic audits of products that have been tested.

(e) *Designation of a TCB*. (1) The Commission will designate as a TCB any organization that meets the qualification criteria and is accredited by NIST or its recognized accreditor.

(2) The Commission will withdraw the designation of a TCB if the TCB's accreditation by NIST or its recognized accreditor is withdrawn, if the Commission determines there is just cause for withdrawing the designation, or if the TCB requests that it no longer hold the designation. The Commission will provide a TCB with 30 days notice of its intention to withdraw the designation and provide the TCB with an opportunity to respond.

(3) A list of designated TCBs will be published by the Commission.

(f) *Scope of responsibility*. (1) A TCB shall certify equipment in accordance with the Commission's rules and policies.

(2) A TCB shall accept test data from any source, subject to the requirements in ISO/IEC Guide 65, and shall not unnecessarily repeat tests.

(3) A TCB may establish and assess fees for processing certification applications and other tasks as required by the Commission.

(4) A TCB may rescind a grant of certification within 30 days of grant for administrative errors. After that time, a grant can only be revoked by the Commission through the procedures in § 2.939 of this part. A TCB shall notify both the applicant and the Commission when a grant is rescinded.

(5) A TCB may not:

(i) Grant a waiver of the rules, or certify equipment for which the Commission rules or requirements do not exist or for which the application of the rules or requirements is unclear.

(ii) Take enforcement actions; or

(iii) Authorize a transfer of control of a grantee.

(6) All TCB actions are subject to Commission review.

(g) *Post-certification requirements*. (1) A TCB shall supply an electronic copy of each approved application form and grant of certification to the Commission.

(2) In accordance with ISO/IEC Guide 65, a TCB is required to conduct appropriate post-market surveillance activities. These activities shall be based on type testing a few samples of the total number of product types which the certification body has certified. Other types of surveillance activities of a product that has been certified are permitted, provided they are no more onerous than testing type. The Commission may at any time request a list of products certified by the certification body and may request and receive copies of product evaluation reports. The Commission may also request that a TCB perform post-market surveillance, under Commission guidelines, of a specific product it has certified.

(3) If during post market surveillance of a certified product, a TCB determines that a product fails to comply with the applicable technical regulations, the Telecommunication Certification Body shall immediately notify the grantee and the Commission. A follow-up report shall also be provided within thirty days of the action taken by the grantee to correct the situation.

(4) Where concerns arise, the TCB shall provide a copy of the application file to the Commission within 30 calendar days of a request for the file made by the Commission to the TCB and the manufacturer. Where appropriate, the file should be accompanied by a request for confidentiality for any material that may qualify for confidential treatment under the Commission's Rules. If the application file is not provided within 30 calendar days, a statement shall be provided to the Commission as to why it cannot be provided.

(h) In case of a dispute with respect to designation or recognition of a TCB and the testing or certification of products by a TCB, the Commission will be the final arbiter. Manufacturers and designated TCBs will be afforded at least 30 days to comment before a decision is reached. In the case of a TCB designated or recognized, or a product certified pursuant to an effective bilateral or multilateral mutual recognition agreement or arrangement (MRA) to which the United States is a party, the Commission may limit or withdraw its recognition of a TCB designated by an MRA party and revoke the certification of products using testing or certification provided by such a TCB. The Commission shall consult with the Office of the United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with the Telecommunications Trade Act of 1988 (Section 1371–1382 of the Omnibus Trade and Competitiveness Act of 1988).

[64 FR 4995, Feb. 2, 1999, as amended at 66 FR 27601, May 18, 2001; 69 FR 54034, Sept. 7, 2004]

CERTIFICATION

### § 2.1031 Cross reference.

The general provisions of this subpart § 2.901 *et seq*. shall apply to applications for and grants of certification.

### § 2.1033 Application for certification.

(a) An application for certification shall be filed on FCC Form 731 with all

questions answered. Items that do not apply shall be so noted.

(b) Applications for equipment operating under Parts 11, 15 and 18 of the rules shall be accompanied by a technical report containing the following information:

(1) The full name and mailing address of the manufacturer of the device and the applicant for certification.

(2) FCC identifier.

(3) A copy of the installation and operating instructions to be furnished the user. A draft copy of the instructions may be submitted if the actual document is not available. The actual document shall be furnished to the FCC when it becomes available.

(4) A brief description of the circuit functions of the device along with a statement describing how the device operates. This statement should contain a description of the ground system and antenna, if any, used with the device.

(5) A block diagram showing the frequency of all oscillators in the device. The signal path and frequency shall be indicated at each block. The tuning range(s) and intermediate frequency(ies) shall be indicated at each block. A schematic diagram is also required for intentional radiators.

(6) A report of measurements showing compliance with the pertinent FCC technical requirements. This report shall identify the test procedure used (e.g., specify the FCC test procedure, or industry test procedure that was used), the date the measurements were made, the location where the measurements were made, and the device that was tested (model and serial number, if available). The report shall include sample calculations showing how the measurement results were converted for comparison with the technical requirements.

(7) A sufficient number of photographs to clearly show the exterior appearance, the construction, the component placement on the chassis, and the chassis assembly. The exterior views shall show the overall appearance, the antenna used with the device (if any), the controls available to the user, and the required identification label in sufficient detail so that the name and FCC identifier can be read. In lieu of a photograph of the label, a sample label (or facsimile thereof) may be submitted together with a sketch showing where this label will be placed on the equipment. Photographs shall be of size A4 (21 cm × 29.7 cm) or 8×10 inches (20.3 cm × 25.4 cm). Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on A4 (21 cm × 29.7 cm) or 8.5×11 inch (21.6 cm × 27.9 cm) paper. A sample label or facsimile together with the sketch showing the placement of this label shall be on the same size paper.

(8) If the equipment for which certification is being sought must be tested with peripheral or accessory devices connected or installed, a brief description of those peripherals or accessories. The peripheral or accessory devices shall be unmodified, commercially available equipment.

(9) For equipment subject to the provisions of part 15 of this chapter, the application shall indicate if the equipment is being authorized pursuant to the transition provisions in § 15.37 of this chapter.

(10) Applications for the certification of scanning receivers shall include a statement describing the methods used to comply with the design requirements of all parts of § 15.121 of this chapter. The application must specifically include a statement assessing the vulnerability of the equipment to possible modification and describing the design features that prevent the modification of the equipment by the user to receive transmissions from the Cellular Radiotelephone Service. The application must also demonstrate compliance with the signal rejection requirement of § 15.121 of this chapter, including details on the measurement procedures used to demonstrate compliance.

(11) Applications for certification of transmitters operating within the 59.0–64.0 GHz band under part 15 of this chapter shall also be accompanied by an exhibit demonstrating compliance with the provisions of § 15.255 (g) and (i) of this chapter.

(12) An application for certification of a software defined radio must include the information required by § 2.944.

(c) Applications for equipment other than that operating under parts 15 and 18 of the rules shall be accompanied by a technical report containing the following information:

(1) The full name and mailing address of the manufacturer of the device and the applicant for certification.

(2) FCC identifier.

(3) A copy of the installation and operating instructions to be furnished the user. A draft copy of the instructions may be submitted if the actual document is not available. The actual document shall be furnished to the FCC when it becomes available.

(4) Type or types of emission.

(5) Frequency range.

(6) Range of operating power values or specific operating power levels, and description of any means provided for variation of operating power.

(7) Maximum power rating as defined in the applicable part(s) of the rules.

(8) The dc voltages applied to and dc currents into the several elements of the final radio frequency amplifying device for normal operation over the power range.

(9) Tune-up procedure over the power range, or at specific operating power levels.

(10) A schematic diagram and a description of all circuitry and devices provided for determining and stabilizing frequency, for suppression of spurious radiation, for limiting modulation, and for limiting power.

(11) A photograph or drawing of the equipment identification plate or label showing the information to be placed thereon.

(12) Photographs (8″×10″) of the equipment of sufficient clarity to reveal equipment construction and layout, including meters, if any, and labels for controls and meters and sufficient views of the internal construction to define component placement and chassis assembly. Insofar as these requirements are met by photographs or drawings contained in instruction manuals supplied with the certification request, additional photographs are necessary only to complete the required showing.

(13) For equipment employing digital modulation techniques, a detailed description of the modulation system to be used, including the response characteristics (frequency, phase and amplitude) of any filters provided, and a description of the modulating wavetrain, shall be submitted for the maximum rated conditions under which the equipment will be operated.

(14) The data required by §§ 2.1046 through 2.1057, inclusive, measured in accordance with the procedures set out in § 2.1041.

(15) The application for certification of an external radio frequency power amplifier under part 97 of this chapter need not be accompanied by the data required by paragraph (b)(14) of this section. In lieu thereof, measurements shall be submitted to show compliance with the technical specifications in subpart C of part 97 of this chapter and such information as required by § 2.1060 of this part.

(16) An application for certification of an AM broadcast stereophonic exciter-generator intended for interfacing with existing certified, or formerly type accepted or notified transmitters must include measurements made on a complete stereophonic transmitter. The instruction book must include complete specifications and circuit requirements for interconnecting with existing transmitters. The instruction book must also provide a full description of the equipment and measurement procedures to monitor modulation and to verify that the combination of stereo exciter-generator and transmitter meet the emission limitations of § 73.44.

(17) Applications for certification required by § 25.129 of this chapter shall include any additional equipment test data required by that section.

(18) An application for certification of a software defined radio must include the information required by § 2.944.

(d) Applications for certification of equipment operating under part 20, that a manufacturer is seeking to certify as hearing aid compatible, as set forth in § 20.19 of that part, shall include a statement indicating compliance with the test requirements of § 20.19 and indicating the appropriate U-rating for the equipment. The manufacturer of the equipment shall be responsible for maintaining the test results.

(e) A single application may be filed for a composite system that incorporates devices subject to certification under multiple rule parts, however, the appropriate fee must be included for each device. Separate applications must be filed if different FCC Identifiers will be used for each device.

[63 FR 36599, July 7, 1998, as amended at 63 FR 42278, Aug. 7, 1998; 64 FR 22561, Apr. 27, 1999; 67 FR 42734, June 25, 2002; 68 FR 54175, Sept. 16, 2003; 68 FR 68545, Dec. 9, 2003; 69 FR 5709, Feb. 6, 2004; 70 FR 23039, May 4, 2005]

### § 2.1035 [Reserved]

### § 2.1041 Measurement procedure.

For equipment operating under parts 15 and 18, the measurement procedures are specified in the rules governing the particular device for which certification is requested. For equipment operating in the authorized radio services, measurements are required as specified in §§ 2.1046, 2.1047, 2.1049, 2.1051, 2.1053, 2.1055 and 2.1057. See also § 2.947.

[63 FR 36600, July 7, 1998]

### § 2.1043 Changes in certificated equipment.

(a) Except as provided in paragraph (b)(3) of this section, changes to the basic frequency determining and stabilizing circuitry (including clock or data rates), frequency multiplication stages, basic modulator circuit or maximum power or field strength ratings shall not be performed without application for and authorization of a new grant of certification. Variations in electrical or mechanical construction, other than these indicated items, are permitted provided the variations either do not affect the characteristics required to be reported to the Commission or the variations are made in compliance with the other provisions of this section. Changes to the software installed in a transmitter that do not affect the radio frequency emissions do not require a filing with the Commission and may be made by parties other than the holder of the grant of certification.

(b) Three classes of permissive changes may be made in certificated equipment without requiring a new application for and grant of certification. None of the classes of changes shall result in a change in identification.

(1) A Class I permissive change includes those modifications in the equipment which do not degrade the characteristics reported by the manufacturer and accepted by the Commission when certification is granted. No filing with the Commission is required for a Class I permissive change.

(2) A Class II permissive change includes those modifications which degrade the performance characteristics as reported to the Commission at the time of the initial certification. Such degraded performance must still meet the minimum requirements of the applicable rules. When a Class II permissive change is made by the grantee, the grantee shall supply the Commission with complete information and the results of tests of the characteristics affected by such change. The modified equipment shall not be marketed under the existing grant of certification prior to acknowledgement by the Commission that the change is acceptable.

(3) A Class III permissive change includes modifications to the software of a software defined radio transmitter that change the frequency range, modulation type or maximum output power (either radiated or conducted) outside the parameters previously approved, or that change the circumstances under which the transmitter operates in accordance with Commission rules. When a Class III permissive change is made, the grantee shall supply the Commission with a description of the changes and test results showing that the equipment complies with the applicable rules with the new software loaded, including compliance with the applicable RF exposure requirements. The modified software shall not be loaded into the equipment, and the equipment shall not be marketed with the modified software under the existing grant of certification, prior to acknowledgement by the Commission that the change is acceptable. Class III changes are permitted only for equipment in which no Class II changes have been made from the originally approved device.

NOTE TO PARAGRAPH (b)(3): Any software change that degrades spurious and out-of-band emissions previously reported to the

Commission at the time of initial certification would be considered a change in frequency or modulation and would require a Class III permissive change or new equipment authorization application.

(4) Class I and Class II permissive changes may only be made by the holder of the grant of certification, except as specified below.

(c) A grantee desiring to make a change other than a permissive change shall file an application on FCC Form 731 accompanied by the required fees. The grantee shall attach a description of the change(s) to be made and a statement indicating whether the change(s) will be made in all units (including previous production) or will be made only in those units produced after the change is authorized.

(d) A modification which results in a change in the identification of a device with or without change in circuitry requires a new application for, and grant of certification. If the changes affect the characteristics required to be reported, a complete application shall be filed. If the characteristics required to be reported are not changed the abbreviated procedure of § 2.933 may be used.

(e) Equipment that has been certificated or formerly type accepted for use in the Amateur Radio Service pursuant to the requirements of part 97 of this chapter may be modified without regard to the conditions specified in paragraph (b) of this section, provided the following conditions are met:

(1) Any person performing such modifications on equipment used under part 97 of this chapter must possess a valid amateur radio operator license of the class required for the use of the equipment being modified.

(2) Modifications made pursuant to this paragraph are limited to equipment used at licensed amateur radio stations.

(3) Modifications specified or performed by equipment manufacturers or suppliers must be in accordance with the requirements set forth in paragraph (b) of this section.

(4) Modifications specified or performed by licensees in the Amateur Radio Service on equipment other than that at specific licensed amateur radio stations must be in accordance with the requirements set forth in paragraph (b) of this section.

(5) The station licensee shall be responsible for ensuring that modified equipment used at his station will comply with the applicable technical standards in part 97 of this chapter.

(f) For equipment other than that operating under parts 15 or 18, when a Class II permissive change is made by other than the grantee of certification, the information and data specified in paragraph (b)(2) of this section shall be supplied by the person making the change. The modified equipment shall not be operated under an authorization of the Commission prior to acknowledgement by the Commission that the change is acceptable.

(g) The interconnection of a certificated or formerly type accepted AM broadcast stereophonic exciter-generator with a certificated or formerly type accepted AM broadcast transmitter in accordance with the manufacturer's instructions and upon completion of measurements showing that the modified transmitter meets the emission limitation requirements of § 73.44 is defined as a Class I permissive change for compliance with this section.

(h) The interconnection of a multiplexing exciter with a certificated or formerly type accepted AM broadcast transmitter in accordance with the manufacturer's instructions without electrical or mechanical modification of the transmitter circuits and completion of equipment performance measurements showing the transmitter meets the minimum performance requirements applicable thereto is defined as a Class I permissive change for compliance with this section.

(i) The addition of TV broadcast subcarrier generators to a certificated or formerly type accepted TV broadcast transmitter or the addition of FM broadcast subcarrier generators to a type accepted FM broadcast transmitter, provided the transmitter exciter is designed for subcarrier operation without mechanical or electrical alterations to the exciter or other transmitter circuits.

(j) The addition of TV broadcast stereophonic generators to a certificated or formerly type accepted TV

broadcast transmitter or the addition of FM broadcast stereophonic generators to a certificated or formerly type accepted FM broadcast transmitter, provided the transmitter exciter is designed for stereophonic sound operation without mechanical or electrical alterations to the exciter or other transmitter circuits.

(k) The addition of subscription TV encoding equipment for which the FCC has granted advance approval under the provisions of § 2.1400 in subpart M and § 73.644(c) of part 73 to a certificated or formerly type accepted transmitter is considered a Class I permissive change.

(l) Notwithstanding the provisions of this section, broadcast licensees or permittees are permitted to modify certificated or formerly type accepted equipment pursuant to § 73.1690 of the FCC's rules.

[63 FR 36600, July 7, 1998, as amended at 66 FR 50840, Oct. 5, 2001; 70 FR 23040, May 4, 2005]

### § 2.1046 Measurements required: RF power output.

(a) For transmitters other than single sideband, independent sideband and controlled carrier radiotelephone, power output shall be measured at the RF output terminals when the transmitter is adjusted in accordance with the tune-up procedure to give the values of current and voltage on the circuit elements specified in § 2.1033(c)(8). The electrical characteristics of the radio frequency load attached to the output terminals when this test is made shall be stated.

(b) For single sideband, independent sideband, and single channel, controlled carrier radiotelephone transmitters the procedure specified in paragraph (a) of this section shall be employed and, in addition, the transmitter shall be modulated during the test as follows. In all tests, the input level of the modulating signal shall be such as to develop rated peak envelope power or carrier power, as appropriate, for the transmitter.

(1) Single sideband transmitters in the A3A or A3J emission modes—by two tones at frequencies of 400 Hz and 1800 Hz (for 3.0 kHz authorized bandwidth), or 500 Hz and 2100 Hz (3.5 kHz authorized bandwidth), or 500 Hz and 2400 Hz (for 4.0 kHz authorized bandwidth), applied simultaneously, the input levels of the tones so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude.

(2) Single sideband transmitters in the A3H emission mode—by one tone at a frequency of 1500 Hz (for 3.0 kHz authorized bandwidth), or 1700 Hz (for 3.5 kHz authorized bandwidth), or 1900 Hz (for 4.0 kHz authorized bandwidth), the level of which is adjusted to produce a radio frequency signal component equal in magnitude to the magnitude of the carrier in this mode.

(3) As an alternative to paragraphs (b) (1) and (2) of this section other tones besides those specified may be used as modulating frequencies, upon a sufficient showing of need. However, any tones so chosen must not be harmonically related, the third and fifth order intermodulation products which occur must fall within the −25 dB step of the emission bandwidth limitation curve, the seventh and ninth order intermodulation product must fall within the 35 dB step of the referenced curve and the eleventh and all higher order products must fall beyond the −35 dB step of the referenced curve.

(4) Independent sideband transmitters having two channels by 1700 Hz tones applied simultaneously in both channels, the input levels of the tones so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude.

(5) Independent sideband transmitters having more than two channels by an appropriate signal or signals applied to all channels simultaneously. The input signal or signals shall simulate the input signals specified by the manufacturer for normal operation.

(6) Single-channel controlled-carrier transmitters in the A3 emission mode—by a 2500 Hz tone.

(c) For measurements conducted pursuant to paragraphs (a) and (b) of this section, all calculations and methods used by the applicant for determining carrier power or peak envelope power, as appropriate, on the basis of measured power in the radio frequency load

attached to the transmitter output terminals shall be shown. Under the test conditions specified, no components of the emission spectrum shall exceed the limits specified in the applicable rule parts as necessary for meeting occupied bandwidth or emission limitations.

[39 FR 5919, Feb. 15, 1974. Redesignated and amended at 63 FR 36599, July 7, 1998]

### § 2.1047 Measurements required: Modulation characteristics.

(a) *Voice modulated communication equipment*. A curve or equivalent data showing the frequency response of the audio modulating circuit over a range of 100 to 5000 Hz shall be submitted. For equipment required to have an audio low-pass filter, a curve showing the frequency response of the filter, or of all circuitry installed between the modulation limiter and the modulated stage shall be submitted.

(b) *Equipment which employs modulation limiting*. A curve or family of curves showing the percentage of modulation versus the modulation input voltage shall be supplied. The information submitted shall be sufficient to show modulation limiting capability throughout the range of modulating frequencies and input modulating signal levels employed.

(c) *Single sideband and independent sideband radiotelephone transmitters which employ a device or circuit to limit peak envelope power*. A curve showing the peak envelope power output versus the modulation input voltage shall be supplied. The modulating signals shall be the same in frequency as specified in paragraph (c) of § 2.1049 for the occupied bandwidth tests.

(d) *Other types of equipment*. A curve or equivalent data which shows that the equipment will meet the modulation requirements of the rules under which the equipment is to be licensed.

[39 FR 5919, Feb. 15, 1974. Redesignated and amended at 63 FR 36599, July 7, 1998]

### § 2.1049 Measurements required: Occupied bandwidth.

The occupied bandwidth, that is the frequency bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5 percent of the total mean power radiated by a given emission shall be measured under the following conditions as applicable:

(a) Radiotelegraph transmitters for manual operation when keyed at 16 dots per second.

(b) Other keyed transmitters—when keyed at the maximum machine speed.

(c) Radiotelephone transmitters equipped with a device to limit modulation or peak envelope power shall be modulated as follows. For single sideband and independent sideband transmitters, the input level of the modulating signal shall be 10 dB greater than that necessary to produce rated peak envelope power.

(1) Other than single sideband or independent sideband transmitters—when modulated by a 2500 Hz tone at an input level 16 dB greater than that necessary to produce 50 percent modulation. The input level shall be established at the frequency of maximum response of the audio modulating circuit.

(2) Single sideband transmitters in A3A or A3J emission modes—when modulated by two tones at frequencies of 400 Hz and 1800 Hz (for 3.0 kHz authorized bandwidth), or 500 Hz and 2100 Hz (for 3.5 kHz authorized bandwidth), or 500 Hz and 2400 Hz (for 4.0 kHz authorized bandwidth), applied simultaneously. The input levels of the tones shall be so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude.

(3) Single sideband transmitters in the A3H emission mode—when modulated by one tone at a frequency of 1500 Hz (for 3.0 kHz authorized bandwidth), or 1700 Hz (for 3.5 kHz authorized bandwidth), or 1900 Hz (for 4.0 kHz authorized bandwidth), the level of which is adjusted to produce a radio frequency signal component equal in magnitude to the magnitude of the carrier in this mode.

(4) As an alternative to paragraphs (c) (2) and (3) of this section, other tones besides those specified may be used as modulating frequencies, upon a sufficient showing of need. However, any tones so chosen must not be harmonically related, the third and fifth order intermodulation products which occur must fall within the −25 dB step of the emission bandwidth limitation

curve, the seventh and ninth order products must fall within the −35 dB step of the referenced curve and the eleventh and all higher order products must fall beyond the −35 dB step of the referenced curve.

(5) Independent sideband transmitters having two channels—when modulated by 1700 Hz tones applied simultaneously to both channels. The input levels of the tones shall be so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude.

(d) Radiotelephone transmitters without a device to limit modulation or peak envelope power shall be modulated as follows. For single sideband and independent sideband transmitters, the input level of the modulating signal should be that necessary to produce rated peak envelope power.

(1) Other than single sideband or independent sideband transmitters—when modulated by a 2500 Hz tone of sufficient level to produce at least 85 percent modulation. If 85 percent modulation is unattainable, the highest percentage modulation shall be used.

(2) Single sideband transmitters in A3A or A3J emission modes—when modulated by two tones at frequencies of 400 Hz and 1800 Hz (for 3.0 kHz authorized bandwidth), or 500 Hz and 2100 Hz (for 3.5 kHz authorized bandwidth), or 500 Hz and 2400 Hz (for 4.0 kHz authorized bandwidth), applied simultaneously. The input levels of the tones shall be so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude.

(3) Single sideband transmitters in the A3H emission mode—when modulated by one tone at a frequency of 1500 Hz (for 3.0 kHz authorized bandwidth), or 1700 Hz (for 3.5 kHz authorized bandwidth), or 1900 Hz (for 4.0 kHz authorized bandwidth), the level of which is adjusted to produce a radio frequency signal component equal in magnitude to the magnitude of the carrier in this mode.

(4) As an alternative to paragraphs (d) (2) and (3) of this section, other tones besides those specified may be used as modulating frequencies, upon a sufficient showing of need. However any tones so chosen must not be harmonically related, the third and fifth order intermodulation products which occur must fall within the −25 dB step of the emission bandwidth limitation curve, the seventh and ninth order products must fall within the −35 dB step of the referenced curve and the eleventh and all higher order products must fall beyond the −35 dB step of the referenced curve.

(5) Independent sideband transmitters having two channels—when modulated by 1700 Hz tones applied simultaneously to both channels. The input levels of the tones shall be so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude.

(e) Transmitters for use in the Radio Broadcast Services:

(1) AM broadcast transmitters for monaural operation—when amplitude modulated 85% by a 7,500 Hz input signal.

(2) AM broadcast stereophonic operation—when the transmitter operated under any stereophonic modulation condition not exceeding 100% on negative peaks and tested under the conditions specified in §73.128 in part 73 of the FCC rules for AM broadcast stations.

(3) FM broadcast transmitter not used for multiplex operation—when modulated 85 percent by a 15 kHz input signal.

(4) FM broadcast transmitters for multiplex operation under Subsidiary Communication Authorization (SCA)—when carrier is modulated 70 percent by a 15 kHz main channel input signal, and modulated an additional 15 percent simultaneously by a 67 kHz subcarrier (unmodulated).

(5) FM broadcast transmitter for stereophonic operation—when modulated by a 15 kHz input signal to the main channel, a 15 kHz input signal to the stereophonic subchannel, and the pilot subcarrier simultaneously. The input signals to the main channel and stereophonic subchannel each shall produce 38 percent modulation of the carrier. The pilot subcarrier should produce 9 percent modulation of the carrier.

(6) Television broadcast monaural transmitters—when modulated 85% by a 15 kHz input signal.

(7) Television broadcast stereophonic sound transmitters—when the transmitter is modulated with a 15 kHz input signal to the main channel and the stereophonic subchannel, any pilot subcarrier(s) and any unmodulated auxiliary subcarrier(s) which may be provided. The signals to the main channel and the stereophonic subchannel must be representative of the system being tested and when combined with any pilot subcarrier(s) or other auxiliary subcarriers shall result in 85% deviation of the maximum specified aural carrier deviation.

(f) Transmitters for which peak frequency deviation (D) is determined in accordance with § 2.202(f), and in which the modulating baseband comprises more than 3 independent speech channels—when modulated by a test signal determined in accordance with the following:

(1) A modulation reference level is established for the characteristic baseband frequency. (Modulation reference level is defined as the average power level of a sinusoidal test signal delivered to the modulator input which provides the specified value of per-channel deviation.)

(2) Modulation reference level being established, the total rms deviation of the transmitter is measured when a test signal consisting of a band of random noise extending from below 20 kHz to the highest frequency in the baseband, is applied to the modulator input through any preemphasis networks used in normal service. The average power level of the test signal shall exceed the modulation reference level by the number of decibels determined using the appropriate formula in the following table:

| Number of message circuits that modulate the transmitter | Number of dB by which the average power ($P_{avg}$) level test signal shall exceed the modulation reference level | Limits of $P_{avg}$ (dBm0) |
|---|---|---|
| More than 3, but less than 12 | To be specified by the equipment manufacturer subject to FCC approval. | |
| At least 12, but less than 60 | $X+2 \log_{10} N_c$ | X: −2 to +2.6 |
| At least 60, but less than 240 | $X+4 \log_{10} N_c$ | X: −5.6 to −1.0 |
| 240 or more | $X+10 \log_{10} N_c$ | X: −19.6 to −15.0 |

Where X represents the average power in a message circuit in dBm0; $N_c$ is the number of circuits in the multiplexed message load. $P_{avg}$ shall be selected by the transmitter manufacturer and included with the technical data submitted with the application for type acceptance. (See § 2.202(e) in this chapter.)

(g) Transmitters in which the modulating baseband comprises not more than three independent channels—when modulated by the full complement of signals for which the transmitter is rated. The level of modulation for each channel should be set to that prescribed in rule parts applicable to the services for which the transmitter is intended. If specific modulation levels are not set forth in the rules, the tests should provide the manufacturer's maximum rated condition.

(h) Transmitters employing digital modulation techniques—when modulated by an input signal such that its amplitude and symbol rate represent the maximum rated conditions under which the equipment will be operated. The signal shall be applied through any filter networks, pseudo-random generators or other devices required in normal service. Additionally, the occupied bandwidth shall be shown for operation with any devices used for modifying the spectrum when such devices are optional at the discretion of the user.

(i) Transmitters designed for other types of modulation—when modulated by an appropriate signal of sufficient amplitude to be representative of the type of service in which used. A description of the input signal should be supplied.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[39 FR 5919, Feb. 15, 1974, as amended at 39 FR 35664, Oct. 3, 1974; 47 FR 13164, Mar. 29, 1982; 48 FR 16493, Apr. 18, 1983; 49 FR 18105, Apr. 27, 1984. Redesignated at 63 FR 36599, July 7, 1998]

### § 2.1051 Measurements required: Spurious emissions at antenna terminals.

The radio frequency voltage or powers generated within the equipment and appearing on a spurious frequency

shall be checked at the equipment output terminals when properly loaded with a suitable artificial antenna. Curves or equivalent data shall show the magnitude of each harmonic and other spurious emission that can be detected when the equipment is operated under the conditions specified in § 2.1049 as appropriate. The magnitude of spurious emissions which are attenuated more than 20 dB below the permissible value need not be specified.

[39 FR 5919, Feb. 15, 1974. Redesignated and amended at 63 FR 36599, July 7, 1998]

### § 2.1053 Measurements required: Field strength of spurious radiation.

(a) Measurements shall be made to detect spurious emissions that may be radiated directly from the cabinet, control circuits, power leads, or intermediate circuit elements under normal conditions of installation and operation. Curves or equivalent data shall be supplied showing the magnitude of each harmonic and other spurious emission. For this test, single sideband, independent sideband, and controlled carrier transmitters shall be modulated under the conditions specified in paragraph (c) of § 2.1049, as appropriate. For equipment operating on frequencies below 890 MHz, an open field test is normally required, with the measuring instrument antenna located in the far-field at all test frequencies. In the event it is either impractical or impossible to make open field measurements (e.g. a broadcast transmitter installed in a building) measurements will be accepted of the equipment as installed. Such measurements must be accompanied by a description of the site where the measurements were made showing the location of any possible source of reflections which might distort the field strength measurements. Information submitted shall include the relative radiated power of each spurious emission with reference to the rated power output of the transmitter, assuming all emissions are radiated from halfwave dipole antennas.

(b) The measurements specified in paragraph (a) of this section shall be made for the following equipment:

(1) Those in which the spurious emissions are required to be 60 dB or more below the mean power of the transmitter.

(2) All equipment operating on frequencies higher than 25 MHz.

(3) All equipment where the antenna is an integral part of, and attached directly to the transmitter.

(4) Other types of equipment as required, when deemed necessary by the Commission.

[39 FR 5919, Feb. 15, 1974. Redesignated and amended at 63 FR 36599, July 7, 1998]

### § 2.1055 Measurements required: Frequency stability.

(a) The frequency stability shall be measured with variation of ambient temperature as follows:

(1) From −30° to +50° centigrade for all equipment except that specified in paragraphs (a) (2) and (3) of this section.

(2) From −20° to +50° centigrade for equipment to be licensed for use in the Maritime Services under part 80 of this chapter, except for Class A, B, and S Emergency Position Indicating Radiobeacons (EPIRBS), and equipment to be licensed for use above 952 MHz at operational fixed stations in all services, stations in the Local Television Transmission Service and Point-to-Point Microwave Radio Service under part 21 of this chapter, equipment licensed for use aboard aircraft in the Aviation Services under part 87 of this chapter, and equipment authorized for use in the Family Radio Service under part 95 of this chapter.

(3) From 0° to +50° centigrade for equipment to be licensed for use in the Radio Broadcast Services under part 73 of this chapter.

(b) Frequency measurements shall be made at the extremes of the specified temperature range and at intervals of not more than 10° centigrade through the range. A period of time sufficient to stabilize all of the components of the oscillator circuit at each temperature level shall be allowed prior to frequency measurement. The short term transient effects on the frequency of the transmitter due to keying (except for broadcast transmitters) and any heating element cycling normally occurring at each ambient temperature

level also shall be shown. Only the portion or portions of the transmitter containing the frequency determining and stabilizing circuitry need be subjected to the temperature variation test.

(c) In addition to all other requirements of this section, the following information is required for equipment incorporating heater type crystal oscillators to be used in mobile stations, for which type acceptance is first requested after March 25, 1974, except for battery powered, hand carried, portable equipment having less than 3 watts mean output power.

(1) Measurement data showing variation in transmitter output frequency from a cold start and the elapsed time necessary for the frequency to stabilize within the applicable tolerance. Tests shall be made after temperature stabilization at each of the ambient temperature levels; the lower temperature limit, 0° centigrade and +30° centigrade with no primary power applied.

(2) Beginning at each temperature level specified in paragraph (c)(1) of this section, the frequency shall be measured within one minute after application of primary power to the transmitter and at intervals of no more than one minute thereafter until ten minutes have elapsed or until sufficient measurements are obtained to indicate clearly that the frequency has stabilized within the applicable tolerance, whichever time period is greater. During each test, the ambient temperature shall not be allowed to rise more than 10° centigrade above the respective beginning ambient temperature level.

(3) The elapsed time necessary for the frequency to stabilize within the applicable tolerance from each beginning ambient temperature level as determined from the tests specified in this paragraph shall be specified in the instruction book for the transmitter furnished to the user.

(4) When it is impracticable to subject the complete transmitter to this test because of its physical dimensions or power rating, only its frequency determining and stabilizing portions need be tested.

(d) The frequency stability shall be measured with variation of primary supply voltage as follows:

(1) Vary primary supply voltage from 85 to 115 percent of the nominal value for other than hand carried battery equipment.

(2) For hand carried, battery powered equipment, reduce primary supply voltage to the battery operating end point which shall be specified by the manufacturer.

(3) The supply voltage shall be measured at the input to the cable normally provided with the equipment, or at the power supply terminals if cables are not normally provided. Effects on frequency of transmitter keying (except for broadcast transmitters) and any heating element cycling at the nominal supply voltage and at each extreme also shall be shown.

(e) When deemed necessary, the Commission may require tests of frequency stability under conditions in addition to those specifically set out in paragraphs (a), (b), (c), and (d) of this section. (For example measurements showing the effect of proximity to large metal objects, or of various types of antennas, may be required for portable equipment.)

[39 FR 5919, Feb. 14, 1974, as amended at 51 FR 31304, Sept. 2, 1986; 56 FR 11682, Mar. 20, 1991. Redesignated at 63 FR 36599, July 7, 1998. 68 FR 68545, Dec. 9, 2003]

### § 2.1057 Frequency spectrum to be investigated.

(a) In all of the measurements set forth in §§ 2.1051 and 2.1053, the spectrum shall be investigated from the lowest radio frequency signal generated in the equipment, without going below 9 kHz, up to at least the frequency shown below:

(1) If the equipment operates below 10 GHz: to the tenth harmonic of the highest fundamental frequency or to 40 GHz, whichever is lower.

(2) If the equipment operates at or above 10 GHz and below 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 100 GHz, whichever is lower.

(3) If the equipment operates at or above 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 200 GHz, whichever is lower.

(b) Particular attention should be paid to harmonics and subharmonics of the carrier frequency as well as to

those frequencies removed from the carrier by multiples of the oscillator frequency. Radiation at the frequencies of multiplier stages should also be checked.

(c) The amplitude of spurious emissions which are attenuated more than 20 dB below the permissible value need not be reported.

(d) Unless otherwise specified, measurements above 40 GHz shall be performed using a minimum resolution bandwidth of 1 MHz.

[61 FR 14502, Apr. 2, 1996. Redesignated and amended at 63 FR 36599, July 7, 1998]

### § 2.1060 Equipment for use in the amateur radio service.

(a) The general provisions of §§ 2.925, 2.1031, 2.1033, 2.1041, 2.1043, 2.1051, 2.1053 and 2.1057 shall apply to applications for, and grants of, certification for equipment operated under the requirements of part 97 of this chapter, the Amateur Radio Service.

(b) When performing the tests specified in §§ 2.1051 and 2.1053 of this part, the center of the transmitted bandwidth shall be within the operating frequency band by an amount equal to 50 percent of the bandwidth utilized for the tests. In addition, said tests shall be made on at least one frequency in each of the bands within which the equipment is capable of tuning.

(c) Certification of external radio frequency power amplifiers may be denied when denial would prevent the use of these amplifiers in services other than the Amateur Radio Service.

[63 FR 36601, July 7, 1998, as amended at 71 FR 66461, Nov. 15, 2006]

## DECLARATION OF CONFORMITY

### § 2.1071 Cross reference.

The general provisions of this subpart, shall apply to equipment subject to a Declaration of Conformity.

[61 FR 31046, June 19, 1996]

### § 2.1072 Limitation on Declaration of Conformity.

(a) The Declaration of Conformity signifies that the responsible party, as defined in § 2.909, has determined that the equipment has been shown to comply with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. Compliance with these standards shall not be construed to be a finding by the responsible party with respect to matters not encompassed by the Commission's rules.

(b) A Declaration of Conformity by the responsible party is effective until a termination date is otherwise established by the Commission.

(c) No person shall, in any advertising matter, brochure, etc., use or make reference to a Declaration of Conformity in a deceptive or misleading manner or convey the impression that such a Declaration of Conformity reflects more than a determination by the responsible party that the device or product has been shown to be capable of complying with the applicable technical standards of the Commission's rules.

[61 FR 31046, June 19, 1996]

### § 2.1073 Responsibilities.

(a) The responsible party, as defined in § 2.909, must warrant that each unit of equipment marketed under a Declaration of Conformity is identical to the unit tested and found acceptable with the standards and that the records maintained by the responsible party continue to reflect the equipment being produced under the Declaration of Conformity within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) The responsible party, if different from the manufacturer, may upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical standards rely on the manufacturer or independent testing agency to determine compliance. However, the test records required by § 2.1075 shall be in the English language and shall be made available to the Commission upon a reasonable request in accordance with the provisions of § 2.1076.

(c) In the case of transfer of control of the equipment, as in the case of sale or merger of the responsible party, the new responsible party shall bear the responsibility of continued compliance of the equipment.

(d) Equipment shall be retested to demonstrate continued compliance with the applicable technical standards if any modifications or changes that could adversely affect the emanation characteristics of the equipment are made by the responsible party. The responsible party bears responsibility for the continued compliance of subsequently produced equipment.

(e) If any modifications or changes are made by anyone other than the responsible party for the Declaration of Conformity, the party making the modifications or changes, if located within the U.S., becomes the new responsible party. The new responsible party must comply with all provisions for the Declaration of Conformity, including having test data on file demonstrating that the product continues to comply with all of the applicable technical standards.

[61 FR 31046, June 19, 1996]

### § 2.1074 Identification.

Devices subject only to a Declaration of Conformity shall be uniquely identified by the responsible party. This identification shall not be of a format which could be confused with the FCC Identifier required on certified, notified, type accepted or type approved equipment. The responsible party shall maintain adequate identification records to facilitate positive identification for each device.

[61 FR 31047, June 19, 1996]

### § 2.1075 Retention of records.

(a) Except as shown in paragraph (b) of this section, for each product subject to a Declaration of Conformity, the responsible party, as shown in § 2.909, shall maintain the following records:

(1) A record of the original design drawings and specifications and all changes that have been made that may affect compliance with the requirements of § 2.1073.

(2) A record of the procedures used for production inspection and testing (if tests were performed) to insure the conformance required by § 2.1073. (Statistical production line emission testing is not required.)

(3) A record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations. The record shall contain:

(i) The actual date or dates testing was performed;

(ii) The name of the test laboratory, company, or individual performing the testing. The Commission may request additional information regarding the test site, the test equipment or the qualifications of the company or individual performing the tests;

(iii) A description of how the device was actually tested, identifying the measurement procedure and test equipment that was used;

(iv) A description of the equipment under test (EUT) and support equipment connected to, or installed within, the EUT;

(v) The identification of the EUT and support equipment by trade name and model number and, if appropriate, by FCC Identifier and serial number;

(vi) The types and lengths of connecting cables used and how they were arranged or moved during testing;

(vii) At least two photographs showing the test set-up for the highest line conducted emission and showing the test set-up for the highest radiated emission. These photographs must be focused originals which show enough detail to confirm other information contained in the test report;

(viii) A description of any modifications made to the EUT by the testing company or individual to achieve compliance with the regulations;

(ix) All of the data required to show compliance with the appropriate regulations;

(x) The signature of the individual responsible for testing the product along with the name and signature of an official of the responsible party, as designated in § 2.909; and

(xi) A copy of the compliance information, as described in § 2.1077, required to be provided with the equipment.

(b) If the equipment is assembled using modular components that, by themselves, are subject to authorization under a Declaration of Conformity and/or a grant of certification, and the assembled product is also subject to authorization under a Declaration of Conformity but, in accordance with the

applicable regulations, does not require additional testing, the assembler shall maintain the following records in order to show the basis on which compliance with the standards was determined:

(1) A listing of all of the components used in the assembly;

(2) Copies of the compliance information, as described in § 2.1077 for all of the modular components used in the assembly;

(3) A listing of the FCC Identifier numbers for all of the components used in the assembly that are authorized under a grant of certification;

(4) A listing of equipment modifications, if any, that were made during assembly; and

(5) A copy of any instructions included with the components that were required to be followed to ensure the assembly of a compliant product, along with a statement, signed by the assembler, that these instructions were followed during assembly. This statement shall also contain the name and signature of an official of the responsible party, as designated in § 2.909.

(c) The records listed in paragraphs (a) and (b) of this section shall be retained for two years after the manufacture or assembly, as appropriate, of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted. Requests for the records described in this section and for sample units also are covered under the provisions of § 2.946.

[61 FR 31047, June 19, 1996]

### § 2.1076 FCC inspection and submission of equipment for testing.

(a) Each responsible party, upon receipt of a reasonable request, shall submit to the Commission the records required by § 2.1075 or one or more sample units for measurements at the Commission's laboratory.

(b) Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party. In the event the responsible party believes that shipment of the sample to the Commission's Laboratory is impractical because of the size or weight of the equipment, or the power requirement, or for any other reason, the responsible party may submit a written explanation why such shipment is impractical and should not be required.

[61 FR 31047, June 19, 1996]

### § 2.1077 Compliance information.

(a) If a product must be tested and authorized under a Declaration of Conformity, a compliance information statement shall be supplied with the product at the time of marketing or importation, containing the following information:

(1) Identification of the product, e.g., name and model number;

(2) A statement, similar to that contained in § 15.19(a)(3) of this chapter, that the product complies with part 15 of this chapters; and

(3) The identification, by name, address and telephone number, of the responsible party, as defined in § 2.909. The responsible party for a Declaration of Conformity must be located within the United States.

(b) If a product is assembled from modular components that, by themselves, are authorized under a Declaration of Conformity and/or a grant of certification, and the assembled product is also subject to authorization under a Declaration of Conformity but, in accordance with the applicable regulations, does not require additional testing, the product shall be supplied, at the time of marketing or importation, with a compliance information statement containing the following information:

(1) Identification of the assembled product, e.g., name and model number.

(2) Identification of the modular components used in the assembly. A modular component authorized under a Declaration of Conformity shall be identified as specified in paragraph (a)(1) of this section. A modular component authorized under a grant of certification shall be identified by name and model number (if applicable) along with the FCC Identifier number.

(3) A statement that the product complies with part 15 of this chapter.

(4) The identification, by name, address and telephone number, of the responsible party who assembled the product from modular components, as

defined in § 2.909. The responsible party for a Declaration of Conformity must be located within the United States.

(5) Copies of the compliance information statements for each modular component used in the system that is authorized under a Declaration of Conformity.

(c) The compliance information statement shall be included in the user's manual or as a separate sheet. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

[61 FR 31048, June 19, 1996, as amended at 62 FR 41880, Aug. 4, 1997; 69 FR 71383, Dec. 9, 2004]

RADIOFREQUENCY RADIATION EXPOSURE

### § 2.1091 Radiofrequency radiation exposure evaluation: mobile devices.

(a) Requirements of this section are a consequence of Commission responsibilities under the National Environmental Policy Act to evaluate the environmental significance of its actions. See subpart I of part 1 of this chapter, in particular § 1.1307(b).

(b) For purposes of this section, a mobile device is defined as a transmitting device designed to be used in other than fixed locations and to generally be used in such a way that a separation distance of at least 20 centimeters is normally maintained between the transmitter's radiating structure(s) and the body of the user or nearby persons. In this context, the term ''fixed location'' means that the device is physically secured at one location and is not able to be easily moved to another location. Transmitting devices designed to be used by consumers or workers that can be easily re-located, such as wireless devices associated with a personal computer, are considered to be mobile devices if they meet the 20 centimeter separation requirement.

(c) Mobile devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services, the Satellite Communications Services, the General Wireless Communications Service, the Wireless Communications Service, the Maritime Services and the Specialized Mobile Radio Service authorized under subpart H of part 22 of this chapter, parts 24, 25, 26 and 27 of this chapter, part 80 of this chapter (ship earth stations devices only) and part 90 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if they operate at frequencies of 1.5 GHz or below and their effective radiated power (ERP) is 1.5 watts or more, or if they operate at frequencies above 1.5 GHz and their ERP is 3 watts or more. Unlicensed personal communications service devices, unlicensed millimeter wave devices and unlicensed NII devices authorized under §§ 15.253, 15.255, and 15.257, and subparts D and E of part 15 of this chapter are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if their ERP is 3 watts or more or if they meet the definition of a portable device as specified in § 2.1093(b) requiring evaluation under the provisions of that section. All other mobile and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure prior to equipment authorization or use, except as specified in §§ 1.1307(c) and 1.1307(d) of this chapter. Applications for equipment authorization of mobile and unlicensed transmitting devices subject to routine environmental evaluation must contain a statement confirming compliance with the limits specified in paragraph (d) of this section as part of their application. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(d) The limits to be used for evaluation are specified in § 1.1310 of this chapter. All unlicensed personal communications service (PCS) devices and unlicensed NII devices shall be subject to the limits for general population/uncontrolled exposure.

(1) For purposes of analyzing mobile transmitting devices under the occupational/controlled criteria specified in § 1.1310 of this chapter, time-averaging

provisions of the guidelines may be used in conjunction with typical maximum duty factors to determine maximum likely exposure levels.

(2) Time-averaging provisions may not be used in determining typical exposure levels for devices intended for use by consumers in general population/uncontrolled environments as defined in § 1.1310 of this chapter. However, ''source-based'' time-averaging based on an inherent property or duty-cycle of a device is allowed. An example of this is the determination of exposure from a device that uses digital technology such as a time-division multiple-access (TDMA) scheme for transmission of a signal. In general, maximum average power levels must be used to determine compliance.

(3) If appropriate, compliance with exposure guidelines for devices in this section can be accomplished by the use of warning labels and by providing users with information concerning minimum separation distances from transmitting structures and proper installation of antennas.

(4) In some cases, e.g., modular or desktop transmitters, the potential conditions of use of a device may not allow easy classification of that device as either mobile or portable (also see § 2.1093). In such cases, applicants are responsible for determining minimum distances for compliance for the intended use and installation of the device based on evaluation of either specific absorption rate (SAR), field strength or power density, whichever is most appropriate.

[61 FR 41017, Aug. 7, 1996, as amended at 62 FR 4655, Jan. 31, 1997; 62 FR 9658, Mar. 3, 1997; 62 FR 47966, Sept. 12, 1997; 68 FR 38638, June 30, 2003; 69 FR 3264, Jan. 23, 2004; 70 FR 24725, May 11, 2005]

### § 2.1093 Radiofrequency radiation exposure evaluation: portable devices.

(a) Requirements of this section are a consequence of Commission responsibilities under the National Environmental Policy Act to evaluate the environmental significance of its actions. See subpart I of part 1 of this chapter, in particular § 1.1307(b).

(b) For purposes of this section, a portable device is defined as a transmitting device designed to be used so that the radiating structure(s) of the device is/are within 20 centimeters of the body of the user.

(c) Portable devices that operate in the Cellular Radiotelephone Service, the Personal Communications Service (PCS), the Satellite Communications Services, the General Wireless Communications Service, the Wireless Communications Service, the Maritime Services, the Specialized Mobile Radio Service, the 4.9 GHz Band Service, the Wireless Medical Telemetry Service (WMTS) and the Medical Device Radiocommunication Service (MedRadio), authorized under subpart H of part 22 of this chapter, parts 24, 25, 26, 27, 80 and 90 of this chapter, subparts H and I of part 95 of this chapter, and unlicensed personal communication service, unlicensed NII devices and millimeter wave devices authorized under subparts D and E, 15.253, 15.255 and 15.257 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use. All other portable transmitting devices are categorically excluded from routine environmental evaluation for RF exposure prior to equipment authorization or use, except as specified in 1.1307(c) and 1.1307(d) of this chapter. Applications for equipment authorization of portable transmitting devices subject to routine environmental evaluation must contain a statement confirming compliance with the limits specified in paragraph (d) of this section as part of their application. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(d) The limits to be used for evaluation are based generally on criteria published by the American National Standards Institute (ANSI) for localized specific absorption rate (''SAR'') in Section 4.2 of ''IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz,'' ANSI/IEEE C95.1–1992, Copyright 1992 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York 10017. These criteria for SAR evaluation are similar to those recommended by the National Council on

Radiation Protection and Measurements (NCRP) in ''Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields,'' NCRP Report No. 86, Section 17.4.5. Copyright NCRP, 1986, Bethesda, Maryland 20814. SAR is a measure of the rate of energy absorption due to exposure to an RF transmitting source. SAR values have been related to threshold levels for potential biological hazards. The criteria to be used are specified in paragraphs (d)(1) and (d)(2) of this section and shall apply for portable devices transmitting in the frequency range from 100 kHz to 6 GHz. Portable devices that transmit at frequencies above 6 GHz are to be evaluated in terms of the MPE limits specified in §1.1310 of this chapter. Measurements and calculations to demonstrate compliance with MPE field strength or power density limits for devices operating above 6 GHz should be made at a minimum distance of 5 cm from the radiating source.

(1) Limits for Occupational/Controlled exposure: 0.4 W/kg as averaged over the whole-body and spatial peak SAR not exceeding 8 W/kg as averaged over any 1 gram of tissue (defined as a tissue volume in the shape of a cube). Exceptions are the hands, wrists, feet and ankles where the spatial peak SAR shall not exceed 20 W/kg, as averaged over an 10 grams of tissue (defined as a tissue volume in the shape of a cube). Occupational/Controlled limits apply when persons are exposed as a consequence of their employment provided these persons are fully aware of and exercise control over their exposure. Awareness of exposure can be accomplished by use of warning labels or by specific training or education through appropriate means, such as an RF safety program in a work environment.

(2) Limits for General Population/Uncontrolled exposure: 0.08 W/kg as averaged over the whole-body and spatial peak SAR not exceeding 1.6 W/kg as averaged over any 1 gram of tissue (defined as a tissue volume in the shape of a cube). Exceptions are the hands, wrists, feet and ankles where the spatial peak SAR shall not exceed 4 W/kg, as averaged over any 10 grams of tissue (defined as a tissue volume in the shape of a cube). General Population/Uncontrolled limits apply when the general public may be exposed, or when persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or do not exercise control over their exposure. Warning labels placed on consumer devices such as cellular telephones will not be sufficient reason to allow these devices to be evaluated subject to limits for occupational/controlled exposure in paragraph (d)(1) of this section.

(3) Compliance with SAR limits can be demonstrated by either laboratory measurement techniques or by computational modeling. Methodologies and references for SAR evaluation are described in numerous technical publications including ''IEEE Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields—RF and Microwave,'' IEEE C95.3–1991.

(4) For purposes of analyzing portable transmitting devices under the occupational/controlled criteria, the time-averaging provisions of the MPE guidelines identified in §1.1310 of this chapter can be used in conjunction with typical maximum duty factors to determine maximum likely exposure levels.

(5) Time-averaging provisions of the MPE guidelines identified in §1.1310 of this chapter may not be used in determining typical exposure levels for portable devices intended for use by consumers, such as hand-held cellular telephones, that are considered to operate in general population/uncontrolled environments as defined above. However, ''source-based'' time-averaging based on an inherent property or duty-cycle of a device is allowed. An example of this would be the determination of exposure from a device that uses digital technology such as a time-division multiple-access (TDMA) scheme for transmission of a signal. In general, maximum average power levels must be used to determine compliance.

[61 FR 41017, Aug. 7, 1996, as amended at 62 FR 4655, Jan. 31, 1997; 62 FR 9658, Mar. 3, 1997; 62 FR 47967, Sept. 12, 1997; 65 FR 44007, July 17, 2000; 68 FR 38638, June 30, 2003; 69 FR 3264, Jan. 23, 2004; 70 FR 24725, May 11, 2005; 74 FR 22704, May 14, 2009]

## Subpart K—Importation of Devices Capable of Causing Harmful Interference

### § 2.1201 Purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards, the rules governing the service may require that such equipment receive an equipment authorization from the Commission as a prerequisite for marketing and importing this equipment into the U.S.A. The marketing rules, § 2.801 *et seq.*, were adopted pursuant to the authority in section 302 of the Communications Act of 1934, as amended (47 U.S.C. 302).

(b) The rules in this section set out the conditions under which radio frequency devices as defined in § 2.801 that are capable of causing harmful interference to radio communications may be imported into the U.S.A.

(c) Nothing in this section prevents importers from shipping goods into foreign trade zones or Customs bonded warehouses, such as is the prescribed procedure under § 2.1204(a)(5). Radio frequency devices capable of causing harmful interference, however, cannot be withdrawn from these areas except in accordance with the provisions of this section.

[41 FR 25904, June 23, 1976, as amended at 54 FR 17714, Apr. 25, 1989; 56 FR 26619, June 10, 1991; 57 FR 38286, Aug. 24, 1992]

### § 2.1202 Exclusions.

The provisions of this section do not apply to the importation of:

(a) Cameras, musical greeting cards, quartz watches and clocks, modules of quartz watches and clocks, hand-held calculators and electronic games, and other similar unintentional radiators which utilize low level battery power and which do not contain provisions for operation while connected to AC power lines.

(b) Unintentional radiators which are exempted from technical standards and other requirements as specified in § 15.103 of this chapter.

(c) Radio frequency devices manufactured and assembled in the U.S.A. that meet applicable FCC technical standards and which have not been modified or received further assembly.

(d) Radio frequency devices previously properly imported that have been exported for repair and re-imported for use.

(e) Subassemblies, parts, or components of radio frequency devices unless they constitute an essentially completed device which requires only the addition of cabinets, knobs, speakers, or similar minor attachments before marketing or use. Form 740 information will be required to be submitted for computer circuit boards that are actually peripheral devices as defined in § 15.3(r) of this chapter and all devices that, by themselves, are subject to FCC marketing rules.

[56 FR 26619, June 10, 1991]

### § 2.1203 General requirement for entry into the U.S.A.

(a) No radio frequency device may be imported into the Customs territory of the United States unless the importer or ultimate consignee, or their designated customs broker, declares that the device meets one of the conditions for entry set out in this section.

(b) A separate declaration shall be used for each line item in the entry or entry summary containing an RF device, or for each different radio frequency device within a line item when the elements of the declaration are not identical.

(c) Failure to properly declare the importation category for an entry of radio frequency devices may result in refused entry, refused withdrawal for consumption, required redelivery to the Customs port, and other administrative, civil and criminal remedies provided by law.

(d) Whoever makes a declaration pursuant to § 2.1203(a) must provide, upon request made within one year of the date of entry, documentation on how an imported radio frequency device was

determined to be in compliance with Commission requirements.

[56 FR 26619, June 10, 1991; 56 FR 32474, July 16, 1991]

**§ 2.1204 Import conditions.**

(a) Radio frequency devices may be imported only if one or more of these conditions are met:

(1) The radio frequency device has been issued an equipment authorization by the FCC.

(2) The radio frequency device is not required to have an equipment authorization and the device complies with FCC technical administrative regulations.

(3) The radio frequency device is being imported in limited quantities for testing and evaluation to determine compliance with the FCC Rules and Regulations or suitability for marketing. The devices will not be offered for sale or marketed. The phrase ''limited quantities,'' in this context means:

(i) 2000 or fewer units, provided the product is designed solely for operation within one of the Commission's authorized radio services for which an operating license is required to be issued by the Commission; or

(ii) 200 or fewer units for all other products.

(iii) Prior to importation of a greater number of units than shown above, written approval must be obtained from the Chief, Office of Engineering and Technology, FCC.

(iv) Distinctly different models of a product and separate generations of a particular model under development are considered to be separate devices.

(4) The radio frequency device is being imported in limited quantities for demonstration at industry trade shows and the device will not be offered for sale or marketed. The phrase ''limited quantities,'' in this context means:

(i) 200 or fewer units, provided the product is designed solely for operation within one of the Commission's authorized radio services for which an operating license is required to be issued by the Commission; or

(ii) 10 or fewer units for all other products.

(iii) Prior to importation of a greater number of units than shown above, written approval must be obtained from the Chief, Office of Engineering and Technology, FCC.

(iv) Distinctly different models of a product and separate generations of a particular model under development are considered to be separate devices.

(5) The radio frequency device is being imported solely for export. The device will not be marketed or offered for sale in the U.S., except:

(i) If the device is a foreign standard cellular phone solely capable of functioning outside the U.S.

(ii) If the device is a multi-mode wireless handset that has been certified under the Commission's rules and a component (or components) of the handset is a foreign standard cellular phone solely capable of functioning outside the U.S.

(6) The radio frequency device is being imported for use exclusively by the U.S. Government.

(7) Three or fewer radio receivers, computers, or other unintentional radiators as defined in part 15 of this chapter, are being imported for the individual's personal use and are not intended for sale.

(8) The radio frequency device is being imported for repair and will not be offered for sale or marketed.

(9) The radio frequency device is a medical implant transmitter inserted in a person or a medical body-worn transmitter as defined in part 95, granted entry into the United States or is a control transmitter associated with such an implanted or body-worn transmitter, provided, however that the transmitters covered by this provision otherwise comply with the technical requirements applicable to transmitters authorized to operate in the Medical Device Radiocommunication Service (MedRadio) under part 95 of this chapter. Such transmitters are permitted to be imported without the issuance of a grant of equipment authorization only for the personal use of the person in whom the medical implant transmitter has been inserted or on whom the medical body-worn transmitter is applied.

(10) Three or fewer portable earth-station transceivers, as defined in § 25.129 of this chapter, are being imported by a traveler as personal effects

and will not be offered for sale or lease in the United States.

(b) The ultimate consignee must be able to document compliance with the selected import condition and the basis for determining the import condition applied.

[56 FR 26619, June 10, 1991, as amended at 57 FR 38286, Aug. 24, 1992; 61 FR 8477, Mar. 5, 1996; 63 FR 31646, June 10, 1998; 64 FR 69929, Dec. 15, 1999; 64 FR 72572, Dec. 28, 1999; 69 FR 5709, Feb. 6, 2004; 74 FR 22704, May 14, 2009]

### § 2.1205 Filing of required declaration.

(a) For points of entry where electronic filing with Customs has not been implemented, use FCC Form 740 to provide the needed information and declarations. Attach a copy of the completed FCC Form 740 to the Customs entry papers.

(b)(1) For points of entry where electronic filing with Customs is available, submit the following information to Customs when filing the entry documentation and the entry summary documentation electronically. Follow procedures established by Customs for electronic filing.

(i) The terms under which the device is being imported, as indicated by citing the import condition number specified in § 2.1204(a).

(ii) The FCC identifier as specified in § 2.925, if the device has been granted an equipment authorization;

(iii) The quantity of devices being imported, regardless of what unit is specified in the Harmonized Tariff Schedule of the United States; and

(iv) A commercial product description which is to include the trade name, a model/type number (or model/type name) and other descriptive information about the device being imported.

(2) For importers unable to participate in the electronic filing process with Customs for good cause, declarations are to be made in accordance with paragraph (a) of this section.

[56 FR 26619, June 10, 1991, as amended at 64 FR 72572, Dec. 28, 1999]

### § 2.1207 Examination of imported equipment.

In order to determine compliance with its regulations, Commission representatives may examine or test any radio frequency device that is imported. If such radio frequency device has already entered the U.S., the ultimate consignee or subsequent owners of that device must, upon request, made within one year of the date of entry, make that device available for examination or testing by the Commission.

[56 FR 26620, June 10, 1991]

## Subpart L [Reserved]

## Subpart M—Advance Approval of Subscription TV Transmission Systems

ADVANCE APPROVAL PROCEDURE

### § 2.1400 Application for advance approval under part 73.

(a) An original application for advance approval of a subscription TV (STV) system and one copy thereof must be filed by the party who will be responsible for the conformance of the system with the subscription TV standards specified in part 73 of the Rules. The application must include information to show that the system conforms to the requirements of § 73.644(b).

(b) Advance approval may be applied for and granted in accordance with and subject to the following conditions and limitations:

(1) A separate request for each different technical system must be made by the applicant in writing.

(2) The applicant must certify that the application was prepared by or under the direction of the applicant and that the facts set forth are true and correct to the best of the applicant's knowledge and belief.

(3) The applicant must identify the technical system by a name or type number and define the system in terms of its technical characteristics; a functional block diagram must be included. In addition, a complete description of the encoded aural and visual baseband and transmitted signals and of the encoding equipment used by the applicant must be supplied. These descriptions must include equipment circuit diagrams and photographs, and diagrams or oscillographs of both baseband and transmitted aural and

visual signal waveforms and of the signal basebands and occupied bandwidths. If aural subcarriers are to be used for transmitting aural portion of the subscription program, for decoder control, or for other purposes, a full description and specifications of the multiplex subcarrier signals and all modulation levels must be included.

(4) Preliminary test data must be submitted to show system capability with regard to compliance with the criteria set forth in § 73.644(b).

(5) The applicant must identify the specific requirements of §§ 73.682, 73.687 and 73.699 (Figures 6 and 7) from which the transmitted signal will normally deviate.

(6) The applicant must specify the method to be used in determining and maintaining the operating power of the transmitter if the procedures given in § 73.663 cannot be used due to suppression of the synchronizing pulses or for other reasons. If the operating power of the station must be reduced to accommodate the encoded aural or video signal, the operating power limitations must be specified.

(7) The applicant must supply any additional information and test data requested by the FCC, to show to its satisfaction that the criteria given in § 73.644(b) are met.

(8) The information submitted by the applicant may be subject to check by field tests conducted without expense to the FCC or, if deemed necessary, at the laboratory or in the field by FCC personnel. This may include the actual submission of equipment for system testing under the provisions of § 2.945 of part 2 of the Rules.

(9) No technical system will be deemed approved unless and until the FCC has notified the applicant in writing of the approval. Such notification of approval will be by letter to the applicant.

(10) Approval by the FCC is limited to a determination that the particular technical system (the scheme for encoding and decoding the subscription TV signal) is capable of meeting the criteria given in § 73.644(b).

(11) The FCC will maintain a listing of approved technical systems.

(c) Multichannel sound may be transmitted for stereophonic or bilingual service with encoded subscription programs provided the technical operating specifications for this service are included in the application for advance system approval.

(d) Subscriber decoder devices must comply with any applicable provisions of subpart H, part 15 of the FCC Rules for TV interface devices.

(e) No modifications may be made by either the applicant or the user of a system having advance FCC approval that would change any of the operating conditions as submitted in the application for advance approval. Should system modifications be necessary, a new application must be submitted in accordance with the requirements of this section.

[48 FR 56391, Dec. 21, 1983]

## Subpart N—FCC Procedure for Testing Class A, B and S Emergency Position Indicating Radiobeacons (EPIRBs)

SOURCE: 56 FR 11683, Mar. 20, 1991, unless otherwise noted.

GENERAL

### § 2.1501 Introduction.

The procedure described herein sets forth uniform methods for testing Class A, B and S Emergency Position Indicating Radiobeacons (EPIRBs) for compliance with the applicable portions of the FCC Rules and Regulations. Other methods and test results may be used provided they are fully documented and deemed by the Commission to yield results equivalent to the procedures set forth in this section.

### § 2.1503 Test environment.

(a) *Measurement sites.* Radiated emission tests for peak effective radiated power (PERP), spurious emissions and power in the test mode are to be performed on an open field test site as shown in Figure 1. The site is to be located on level ground with an obstruction-free, 60 m by 52 m, elliptical area. The site is to be equipped with an antenna mast capable of adjustment from 1 to 4 m. The center of a metal ground

plane at least one wavelength in diameter at 121.5 MHz (2.47 m) is to be located 30 m from the receiving antenna. The ground plane is to have provisions for mounting removable quarter-wave verticle elements to produce a monopole antenna at both 121.5 and 243 MHz with the VSWR of less than 1.5.

NOTE: It is desirable that the level of radiated ambient EME at the test site be at least 6 dB below the FCC limits applicable to the EPIRB. It is, of course, not always possible to meet this condition. If the ambient field strength at some frequencies within the specified measurement ranges is too high, it is recommended that one or more of the following corrective steps be employed:

(1) Perform measurements in critical frequency bands during hours when broadcast and other radio stations are off-the-air and ambients from industrial equipment are lower.

(2) Insofar as is possible, orient the axis of an open area test site to discriminate against strong ambient signals.

(3) Vary the bandwidth of the measuring instrument to separate ambient EME from emissions from the EPIRB.

(b) *Temperature*. Except as otherwise noted, the ambient temperature during testing is to be within the range of 4 to 35 °C (40 to 95 °F).

### § 2.1505 Test instrumentation and equipment.

(a) *Receiver (field intensity meter)*. A calibrated field intensity meter (FIM) with a frequency range of 30 to 1000 MHz is required for measuring radiated emission levels. This instrument should be capable of making peak measurements with a bandwidth of 100 kHz.

(b) *Spectrum analyzer*. Spectral measurements are to be made with a spectrum analyzer with a minimum resolution bandwidth no greater than 10 Hz. The video filter, if used, should have a bandwidth wide enough so as to not affect peak readings. A linear video output is desirable for performing measurements of modulation characteristics.

(c) *Storage oscilloscope*. Measurements of modulation characteristics are to be made using a calibrated storage oscilloscope. This instrument is to be DC coupled and capable of manually triggered single sweeps.

(d) *Frequency counter*. A frequency counter with an accuracy of at least 5 parts per million is required for measuring the carrier frequency.

(e) *Signal generator*. A calibrated signal generator with an output of at least 75 mW at 121.5 and 243 MHz is required for generating a reference signal for site calibration.

(f) *Antenna*. Radiated emissions are to be measured with calibrated, tuned, half-wave dipole antennas covering the frequency range of 30 to 1000 MHz.

(g) *Temperature chamber*. Tests which call for subjecting the EPIRB to temperature levels other than the ambient temperature are to be performed in a temperature test chamber which can be adjusted to stable temperatures from −20 to +55 °C. This chamber is to be of sufficient size to accommodate the EPIRB under test.

(h) *Vibration table*. A vibration table capable of vibrating the EPIRB with a sinusoidal motion is required. The table must be capable of varying the frequency of vibration either linearly or logarithmically over a range of 4 to 33 Hz with maximum peak amplitudes of up to 2.5 mm.

(i) *Salt fog chamber*. A chamber capable of producing salt fog at a temperature of 35 °C for 48 hours is required. This chamber is to be of sufficient size to accommodate the EPIRB under test.

(j) *Drop test facility*. A facility which will permit dropping an EPIRB from a height of 20 m into water is required. The water must be deep enough so that the EPIRB will not touch bottom when dropped.

## ENVIRONMENTAL AND OPERATIONAL TEST PROCEDURES

### § 2.1507 Test frequencies.

Testing of an EPIRB for compliance outside a shielded room on a distress frequency is prohibited, since this may interfere with emergency communications. Therefore, all compliance testing outside a shielded room should be conducted on one of the pairs of alternate frequencies specified below:

121.600/243.200 MHz
121.650/243.300 MHz
121.700/243.400 MHz
121.750/243.500 MHz
121.800/243.600 MHz
121.850/243.700 MHz

121.900/243.800 MHz

The above frequencies are to be used for limited testing of EPIRBs for compliance with FCC Rules, subject to the following conditions:

(a) The testing shall not cause harmful interference to authorized communications on these frequencies.

(b) The testing shall be coordinated with the nearest FCC district office.

For simplicity, 121.5 MHz and 243 MHz will be used throughout this test procedure to indicate the alternate test frequency.

### § 2.1509 Environmental and duration tests.

The environmental and operational tests in § 2.1509 (a) through (e) are to be conducted on a single test unit in the order given below. This sequence of tests also includes the electrical tests in §§ 2.1511, 2.1513 and 2.1515 of this part. The test unit is not to be adjusted, nor is the battery to be replaced during these tests, and a log of battery on-time should be maintained. The above tests are to be performed on the same test unit. The tests in § 2.1509 (f) through (i) may be run in any sequence or may be performed on separate test units.

(a) *Vibration test.*

Step (1) Secure the EPIRB to the vibration table. The EPIRB is not to be operated and should not activate while being vibrated.

Step (2) Subject the EPIRB to sinusoidal motion parallel to one of the three major orthogonal axes under the following conditions:

| A. Frequency (Hz) | Peak amplitude (mm) |
|---|---|
| 4–10 | 2.5 |
| 10–15 | 0.8 |
| 15–25 | 0.4 |
| 25–33 | 0.2 |

B. The frequency is to be changed either linearly or logarithmically with time between 4 Hz and 33 Hz such that a complete cycle (4 Hz to 33 Hz to 4 Hz) takes approximately 5 minutes.

C. The EPIRB is to be vibrated for at least 30 minutes or six complete cycles.

Step (3) Remount the EPIRB, if necessary, and repeat step 2 for each of the other two major orthogonal axes.

Step (4) Upon completion of the test, perform an exterior mechanical inspection and verify operation by turning the unit on and observing the RF power indicator on the unit or monitoring the transmission with a receiver. Record test results.

(b) *Thermal shock tests.* These tests are to be performed on EPIRBs which are required or intended to float. (1) *Low temperature thermal shock test.*

Step (1) Place the EPIRB in a temperature chamber for at least 3 hours at −20 °C or colder. The EPIRB is not to be operated while being cooled.

Step (2) Immediately place the EPIRB in water that has been maintained at +10 °C or warmer.

Step (3) After 15 minutes, perform as exterior mechanical inspection and verify operation by turning the unit on and observing the RF power indicator on the unit or monitoring the transmission with a receiver. Record test results.

(2) *High temperature thermal shock test.*

Step (1) Place the EPIRB in a temperature chamber for at least 3 hours at +55 degrees C or warmer. The EPIRB is not to be operated while being heated.

Step (2) Immediately float the EPIRB in water that is maintained at +25 degrees C or colder.

Step (3) After 15 minutes, perform an exterior mechanical inspection and verify operation by turning the unit on and observing the RF power indicator on the unit or monitoring the transmission with a receiver. Record test results.

(c) *Salt fog test.*

Step (1) Place the EPIRB in a salt fog chamber for a period of at least 2 hours at a temperature of 35 °C (±2 °C) before exposing it to salt fog. The EPIRB is to be turned off during this test.

Step (2) With the chamber temperature maintained at 35 °C, introduce salt fog at the saturation point for 48 hours. The salt fog is to be prepared from a 5% (±1%) salt (sodium chloride solution. For detailed guidance on the preparation of the solution and the apparatus for generating salt fog, refer to MIL-STD-810D (19 July 1983), method 509.2.

Step (3) Upon completion of the salt fog exposure, the EPIRB is to be airdried at room temperature for 12 hours and operation verified by turning the unit on and observing the RF power indicator on the unit or monitoring the transmission with a receiver. Record observations.

(d) *Drop test.* This test is to be performed on EPIRB which are required or intended to float.

Step (1) Turn the EPIRB on, log the time and drop it three times into water from a height of 20 meters. The water is to be deep enough so that the EPIRB does not touch

bottom when dropped. Each drop should be initiated from a different orientation as follows: antenna vertical up; antenna vertical down; antenna horizontal.

Step (2) Upon completion of the drop test, an exterior mechanical inspection is to be performed and operation verified by observing the RF power indicator on the unit or monitoring the transmission with a receiver. Record observations. Turn the test unit off and log the total on-time.

(e) *Forty-eight hour operational test.* This test includes the battery life test and all the electrical tests given in §§ 2.1511, 2.1513 and 2.1515 of this part, at various temperatures. The tests are to be performed on the same EPIRB in the sequence specified herein. Be sure to record the on-time of the unit during each test. No more than 8 hours of total on-time is permitted before commencing step 4. When operating the EPIRB in the environmental chamber, a non-radiating load may be substituted for the antenna provided it is electrically equivalent to the standard antenna and does not reduce the battery current drain.

Step (1) Perform the radiated emissions test in § 2.1511 of this part.

Step (2) Perform the modulation characteristic tests in § 2.1513 of this part.

Step (3) Perform the spectral tests in § 2.1515 of this part.

Step (4) With the EPIRB off, place unit in an environmental chamber at a temperature of −20 °C for at least 2 hours.

Step (5) With the EPIRB in the chamber, repeat the carrier frequency test in § 2.1515(d) of this part. (Leave the EPIRB turned on.)

Step (6) Near the end of 48 hours of total on-time for the EPIRB, repeat the carrier frequency test in § 2.1515(d) of this part.

Step (7) At the end of 48 hours of total on-time, remove EPIRB from the chamber and immediately repeat the PERP test for the fundamental emissions in § 2.1511(c) of this part. The unit should be maintained at −20 °C to the extent possible for this test.

(f) *Float free and activation test.* This test is required only for Class A EPIRBs.

Step (1) The EPIRB is to be installed in the automatic release mechanism and the assembly is to be mounted on a fixture simulating a deck or bulkhead as per manufacturer' installation instructions.

Step (2) Submerge the fixture in water in its normal mounted orientation. The EPIRB must float free before reaching a depth of 4 meters and should automatically activate. Activation is to be verified by observing the RF power indicator on the unit or monitoring the transmission with a receiver.

If the EPIRB is equipped with an automatically deployable antenna, the antenna must properly deploy during each immersion. Record observations.

(g) *Stability and buoyancy test.* This test is to be performed on EPIRBs which are required or intended to float. This test is to be conducted in fresh water.

Step (1) With the antenna deployed in its normal operating position, submerge the EPIRB in a horizontal position just below the surface of the water.

Step (2) Release the EPIRB and observe the amount of time required for it to come to an upright position. It must reach its upright position within one second from each position.

The EPIRB must have a reserve buoyancy of at least 5% of its gross weight. It must also float upright in calm water with the base of the antenna a minimum of 5 cm above the water. Record the time required for the test unit to right itself.

(h) *Temperature/frequency test.* The frequency stability shall be measured over an ambient temperature from −20° to +55 °C at intervals of not more than 10 °C. A period of time sufficient to stabilize all of the components of the oscillator circuit at each temperture level shall be allowed prior to frequency measurement.

Step (1) Place the EPIRB in the environmental test chamber.

Step (2) Adjust the temperature in the chamber to +20 °C and allow sufficient time for the oscillator to stabilize at that temperature.

Step (3) Measure the carrier frequency in accordance with the procedure in § 2.1515(d) of this part. Record the carrier frequency in Hertz. The carrier frequency at +20 °C is the reference for determining the frequency tolerance.

Step (4) Increase the temperature in the chamber to +55 °C and allow sufficient time for the oscillator to stabilize at that temperature. Measure the carrier frequency using the procedure in § 2.1515(d) of this part.

Step (5) Reduce the temperature in the chamber in 10 °C maximum increments until −20 °C is reached. At each new temperature, allow sufficient time for the oscillator to stabilize at that temperature. Measure the temperature and frequency in each case and plot the frequency vs temperature from −20° to +55 °C.

(i) *Leakage and immersion test.*

Step (1) Completely submerge the EPIRB in water for 48 hours. The EPIRB is to be turned off during this test.

Step (2) Remove the EPIRB from the water and wipe dry.

Step (3) Verify operation by briefly turning the EPIRB on and observing the RF power indicator on the unit or monitoring the transmission with a receiver.

Step (4) Open the EPIRB for examination. There is to be no water inside the unit. Record observations.

### § 2.1511 Measurements of radiated emissions.

The Commission's Rules require that the peak efficetive radiated power (PERP) of a Class A, B or S EPIRB not be less than 75 mW under certain specified conditions. The PERP of an EPIRB transmitter is determined by comparing its level to a reference PERP generated by a standard quarter-wave monopole antenna located on a one wavelength minimum diameter metal ground plane. The Rules also require that all spurious and harmonic emissions be attenuated by a specified amount with respect to the reference PERP. In addition, there is a limit on the PERP of radiated emissions with the switch in the test mode. These measurements are to be made in accordance with the following procedure.

(a) *General set-up instructions.* Measurements of radiated electromagnetic emissions (EME) are to be performed on the 30 meter open field test site described in § 2.1503(a) of this part and on one of the pair of frequencies listed in § 2.1507 of this part. A receiver, tuned dipole antennas and a calibrated signal generator as described in § 2.1505 of this part are required. The EPIRB should be powered by its own internal battery with its standard antenna attached and deployed.

(b) *Set-up for radiated EME tests.*

Step (1) Place a 121.5 MHz quarter-wave vertical antenna element at the center of the ground plane and connect the output of the calibrated signal generator to the antenna.

Step (2) Mount the tuned dipole antenna on the antenna mast, tune the elements to 121.5 MHz and connect the antenna to the receiver.

Step (3) After an appropriate warm up, turn the receiver to the frequency of the test unit, set the detector to peak mode and the bandwidth to 100 kHz.

(NOTE: It is sometimes helpful to monitor the receiver audio output with a speaker. The EPIRB signal may be identified by its distinctive modulation.)

(c) *Radiated EME tests.*

*Fundamental emissions-peak effective radiated power*

Step (1) Turn on the signal generator and adjust the output to 75 mW at 121.5 MHz.

Step (2) Vary the antenna height from one to four meters in both vertical and horizontal polarization. Record the highest receiver reading in dBm as the reference level.

Step (3) Disconnect the signal generator and replace the quarter-wave vertical element on the ground plane with the EPIRB under test. The EPIRB is to be positioned directly on the surface of and in the center of the metal ground plane.

Step (4) Activate the EPIRB.

Step (5) Vary the receive antenna height from one to four meters in both vertical and horizontal polarization. Record the highest receiver reading in dBm and the instrument settings, antenna height and direction for maximum radiation, antenna polarization and conversion factors, if any, associated with that reading.

Step (6) Repeat Step 5 with the EPIRB switch in the test position. Return the switch to the normal operation position.

Step (7) Rotate the EPIRB 30 degrees and repeat Steps 5 and 6. Repeat this step for all successive 30 degrees segments of a full, 360 degree rotation of the EPIRB.

Step (8) Repeat § 2.1511(b) and Steps 1 through 7 for 243 MHz.

Step (9) Compute the peak effective radiated power for the maximum level of each measured emission using the following formula:

$$\mathrm{PERP} = 75 \times \log_{10}{}^{-1}\left[\frac{\mathrm{dBm}_{\mathrm{meas-dBmref}}}{10}\right]$$

where:

$\mathrm{dBm}_{\mathrm{meas}}$ is the measured receiver reading in dBm, and

$\mathrm{dBm}_{\mathrm{ref}}$ is the reference receiver reading found in step 2 of § 2.1511(c).

Step (10) Record the PERP in mW. The FCC limit for minimum power in the normal operation mode (i.e., with the EPIRB switch in the normal operating position) is 75 mW. The FCC limit for maximum power in the test mode is 0.0001 mW.

*Spurious emissions*

Step (11) Reset the signal generator to operate at 121.5 MHz.

Step (12) For each spurious and harmonic emission to be measured, retune the receive antenna to the appropriate frequency and repeat Steps 5 and 7.

Step (13) Determine the FCC limit on power for spurious emissions on the frequency of each measured emission as follows:

The rules require that spurious emissions be attenuated at least 30 decibels below the transmit power level. Therefore, the maximum received power limit for a spurious emission can be calculated from the formula:

$$dBm_{spur} = dBm_{meas} + AF_{121.5} - AF_{spurfreq} - 30$$

where:

$dBm_{meas}$ = measured receiver reading (Section 2.1511(c), step 5).

$AF_{121.5}$ = tuned dipole antenna factor at 121.5 MHz.

$AF_{spurfreq}$ = tuned dipole antenna factor at spurious freq.

Step (14) Record in dB below the fundamental emissions the level of all spurious and harmonic emissions within 10 dB of the FCC limits.

## § 2.1513 Measurements of modulation characteristics.

(a) *Set-up.* Test of modulation characteristics are to be performed in an RF shielded room.

Step (1) Place the EPIRB directly on a metal ground plane, such as the shielded room floor.

Step (2) Place a suitable receiving antenna at a convenient distance from the EPIRB and connect it to the input of the spectrum analyzer or receiver to observe the radiated signal from the EPIRB.

Step (3) Set the spectrum analyzer or receiver controls as follows:

I.F. bandwidth: 300 kHz minimum
Video filter: OFF or as wide as possible
Amplitude scale: Linear
Frequency: 121.5 MHz
Scan width: 0 Hz

Step (4) Connect the detected output of the spectrum analyzer or receiver to the input of the storage oscilloscope.

Step (5) Set the oscilloscope controls as necessary to allow the demodulated waveform to be viewed. The input signal is to be DC coupled.

(b) *Measurement of Audio Frequencies.*

Step (1) Activate the EPIRB.

Step (2) Trigger the oscilloscope and store at least one complete cycle of the audio waveform.

Step (3) Measure the period (T) of the waveform. The period is the time difference between the half voltage points at the beginning and end of one complete cycle of the waveform. See Figure 2.

Step (4) Calculate the frequency (F), where:

$F=1/T$.

Step (5) Repeat Steps 2 through 4 until the highest and lowest audio frequencies are found.

NOTE: The lowest and highest frequencies may occur several cycles before or after the transition from low to high frequency.)

Step (6) Determine the audio frequency range ($F_{range}$), where:

$F_{range}=F_{high}-F_{low}$

Step (7) Record instrument settings and the lowest and highest audio frequencies. Record the audio frequency range in Hertz.

Step (8) Repeat Steps 1–7, above, for 243 MHz.

(c) *Modulation factor.*

Step (1) Activate the EPIRB.

Step (2) Trigger the oscilloscope and store at least one complete cycle of the audio waveform. The input signal is to be DC coupled or erroneous results will be obtained.

Step (3) Measure the maximum voltage ($V_{max}$), and the minimum voltage ($V_{min}$) for the cycle. The modulation factor (M) is calculated from the following formula:

$$M = \frac{V_{max} - V_{min}}{V_{max} + V_{min}}$$

See Figure 2.

Step (4) Repeat Steps 2 and 3 until the lowest modulation factor is found.

Step (5) Record instrument settings and the lowest modulation factor, expressed as a ratio between 0 and 1.

Step (6) Repeat the above measurements for 243 MHz.

(d) *Modulation duty cycle.*

Step (1) Activate the EPIRB.

Step (2) Trigger the oscilloscope and store at least one complete cycle of the audio waveform.

Step (3) Measure the period (T) of the waveform. The period is the time difference between the half voltage points at the beginning and end of one cycle of the waveform. See Figure 2.

Step (4) Measure the pulse width ($t_p$) of the waveform. The pulse width is the time difference between the half voltage points on the rising and falling portions of the waveform. See Figure 2.

Step (5) Calculate the duty cycle (D) as follows:

$$D = \frac{t_p}{T}$$

Step (6) Repeat Steps 2 through 5 a sufficient number of times to determine the highest and lowest duty cycles.

Step (7) Record instrument settings and the highest and lowest duty cycles in percent.

Step (8) Repeat Steps 1–7 for 243 MHz.

(e) *Sweep repetition rate.*

Step (1) Connect a speaker to the detected output of the spectrum analyzer or receiver so the audio frequencies are audible. Alternatively, an FM radio tuned to 108 MHz placed in the vicinity of the EPIRB may be used.

Step (2) Activate the EPIRB.

Step (3) Time the number of audio sweeps (N) for a one minute interval.

Step (4) Calculate the audio sweep rate (R) using R=N/60.

Step (5) Record instrument settings and the sweep repetition rate in Hertz.

### §2.1515 Spectral measurements.

(a) *Set-up.* Spectral measurements are to be performed in a shielded room.

Step (1) Place the EPIRB directly on a metal ground plane, such as the shielded room floor. The EPIRB should be powered by its own internal battery with its standard antenna attached and deployed.

Step (2) Place a suitable receiving antenna at a convenient distance from the EPIRB and connect it to the input of the spectrum analyzer to observe the radiated signal from the EPIRB. A signal generator and frequency counter capable of operating at 121.5 and 243 MHz are also required for these tests.

(b) *Occupied bandwidth test.*

Step (1) Activate the EPIRB and observe the fundamental frequency on a spectrum analyzer. Adjust location of receiving antenna and spectrum analyzer controls to obtain a suitable signal level (i.e., a level which will not overload the spectrum analyzer, but is far enough above the noise floor to allow determination of whether or not the sidebands are attenuated by at least the amount required in the rules).

Step (2) Set spectrum analyzer controls as follows:

I.F. bandwidth: 10 kHz
Video filter: OFF or as wide as possible
Scan time: 100 ms./div.
Amplitude scale: 10 dB/div.
Scan width: 20 Hz/div.
Center frequency: 121.5 MHz

Step (3) Record the signal level in dbm.

Step (4) Calculate the mean power reference level by adding 10 $\log_{10}$ (D), where D is the modulation duty cycle determined in section 2.1513(d) of this part, to the recorded signal level.

Step (5) Set spectrum analyzer controls as follows:

I.F. bandwidth: 100 Hz
Video filter: OFF or as wide as possible
Scan time: 10 sec./div.
Amplitude scale: 10 dB/div.
Scan width: 20 kHz/div.

Step (6) Check the modulation sidebands for compliance with the required attenuation below the mean power reference level specified in §80.211 of the rules.

Step (7) Record how the test was performed, instrument settings and the occupied bandwidth in kHz and the 3 dB bandwidth of the carrier in Hz. (See §2.1517 of this part).

Step (8) Repeat Steps 1 through 7 for the signal at 243 MHz.

(c) *Signal enhancement test.* The setup specified in §2.1515(a) is to be used in this method of measuring signal enhancement. Other methods may be used if shown to give results equivalent to or more accurate than this method.

Step (1) Activate the EPIRB and locate the carrier frequency at 121.5 MHz on the spectrum analyzer. Adjust location of receiving antenna and spectrum analyzer controls to obtain a suitable signal level (i.e., a level which will not overload the analyzer, but is far enough above the noise floor to allow sidebands at least 40 dB below the carrier to be viewed).

Step (2) Set the spectrum analyzer controls as follows:

I.F. bandwidth: 10 kHz
Video filter: OFF or as wide as possible
Scan time: 100 ms./div.
Amplitude scale: 5 dB/div.
Scan width: 10 kHz/div.
Center frequency: 121.5 MHz

Step (3) Record the amplitude in dBm.

Step (4) Calculate the total power output by adding 10 log(D), where D is the modulation duty cycle determined in §2.1513(d) of this part, to the recorded signal level.

Step (5) Set the spectrum analyzer controls as follows:

I.F. bandwidth: 60 Hz or less
Video filter: OFF or as wide as possible
Scan time: 10 sec./div.
Amplitude scale: 5 dB/div.
Scan width: 20 Hz/div.
Center frequency: 121.5 MHz

Step (6) Measure and record the carrier power dBm as displayed on the spectrum analyzer.

Step (7) Calculate the ratio of carrier power to total power from Steps 4 and 6 using the following formula:

$$\frac{\text{carrier power}}{\text{total power}} = \log_{10}{}^{-1}\left[\frac{dB_c - dB_T}{10}\right]$$

$dB_C$ = carrier power in step 6
$dB_T$ = total power in step 4

Step (8) Record instrument settings, sample calculation and the percent of power within ±30 Hz at 121.5 MHz or ±60 Hz at 243 MHz of the carrier frequency.

Step (9) Repeat the above measurement Steps 1 through 8 for 243 MHz. For the higher frequency, the I.F. bandwidth in step 5 must be 120 Hz or less.

(d) *Carrier frequency test.* The setup specified in § 2.1515(a) is to be used in measuring the carrier frequency.

Step (1) Activate the EPIRB and locate the 121.5 MHz signal on the spectrum analyzer. Adjust location of receiving antenna and spectrum analyzer controls to obtain a suitable signal level.

Step (2) Set the spectrum analyzer controls as follows:

I.F. bandwidth: 100 Hz
Video filter: OFF or as wide as possible
Scan time: 10 sec./div.
Amplitude scale: 10 dB/div.
Scan width: 20 Hz/div.
Center frequency: 121.5 MHz

Step (3) Combine the output of the signal generator with the EPIRB signal at the input to the spectrum analyzer.

Step (4) Adjust amplitude and frequency of signal generator output to determine center of carrier frequency component.

Step (5) Measure signal generator frequency with frequency counter with accuracy of 5 PPM or better and record as carrier frequency.

Step (6) If applicable, change the type of modulation of the EPIRB and record the shift in carrier frequency as observed on the spectrum analyzer display.

Step (7) Repeat the above measurement Steps 1 through 6 for 243 MHz.

[56 FR 11683, Mar. 20, 1991; 60 FR 47302, Sept. 12, 1995]

DATA RECORDING/REPORTING REQUIREMENTS

## § 2.1517 Data recording/reporting requirements.

The test report for an EPIRB shall contain the following information:

(a) Specific identification, including the FCC ID, model and serial numbers, of the EPIRB under test.

(b) The name and location of the test sites used for the measurements.

(c) A description of the instrumentation and equipment, including antennas, used to perform the tests. For purchased equipment, the type, manufacturer and model number are generally sufficient as a description.

(d) The test results and associated comparative information.

(e) A description of any modifications made to the EUT or other system components during the testing.

(f) A description and justification of all deviations from the procedures described herein.

(g) The name and qualifications of the person responsible for the tests.

(h) The date the tests were performed.

(i) A statement signed by the individual responsible for the test that the EPIRB as tested complies or does not comply with the applicable FCC rules.

(j) A statement signed by the individual responsible, either directly or indirectly, for production or marketing of the device tested that the unit tested is representative of the equipment that all be marketed.

FIGURE 1 TO SUBPART N OF PART 2—MEASUREMENT SITE

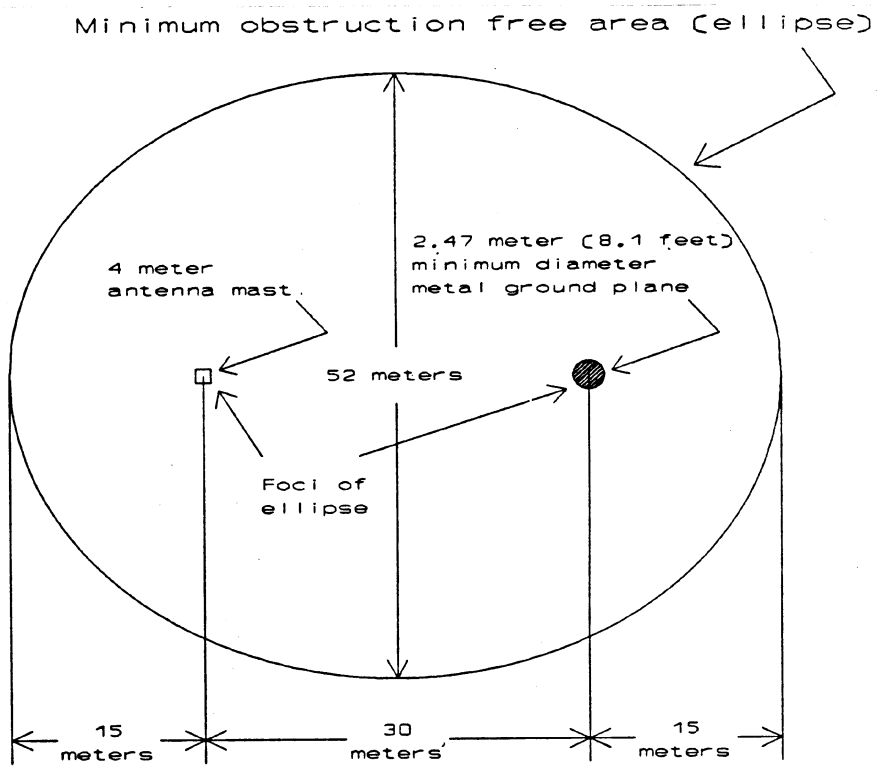
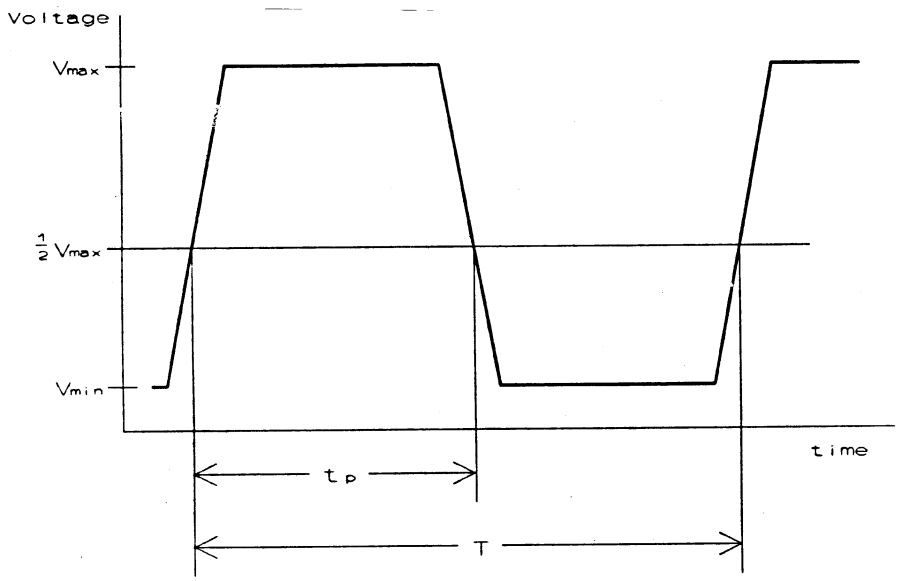



**Figure 1 - Measurement Site**

FIGURE 2 TO SUBPART N OF PART 2—TYPICAL AUDIO WAVE




Frequency: $f = \frac{1}{T}$

Duty cycle: $D = \frac{t_p}{T}$

Modulation factor: $M = \frac{V_{max} - V_{min}}{V_{max} + V_{min}}$

Figure 2 - Typical Audio Waveform

FIGURE 3 TO SUBPART N OF PART 2—EXAMPLE OF IDEAL EPIRB SPECTRUM

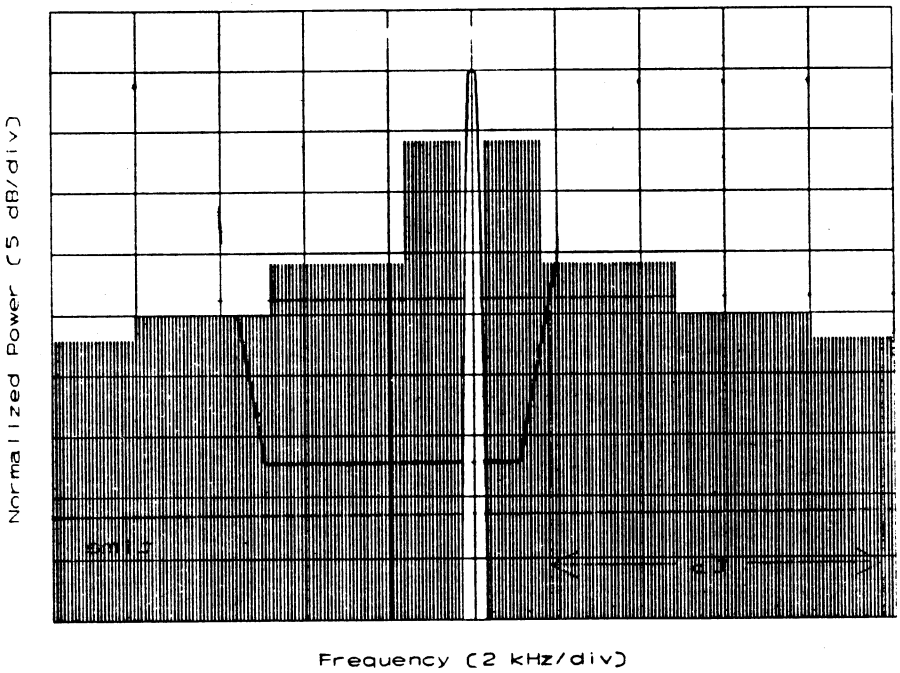



**Figure 3 - Example of ideal EPIRB Spectrum**

FIGURE 4 TO SUBPART N OF PART 2—EXAMPLE OF EPIRB CARRIER COMPONENT

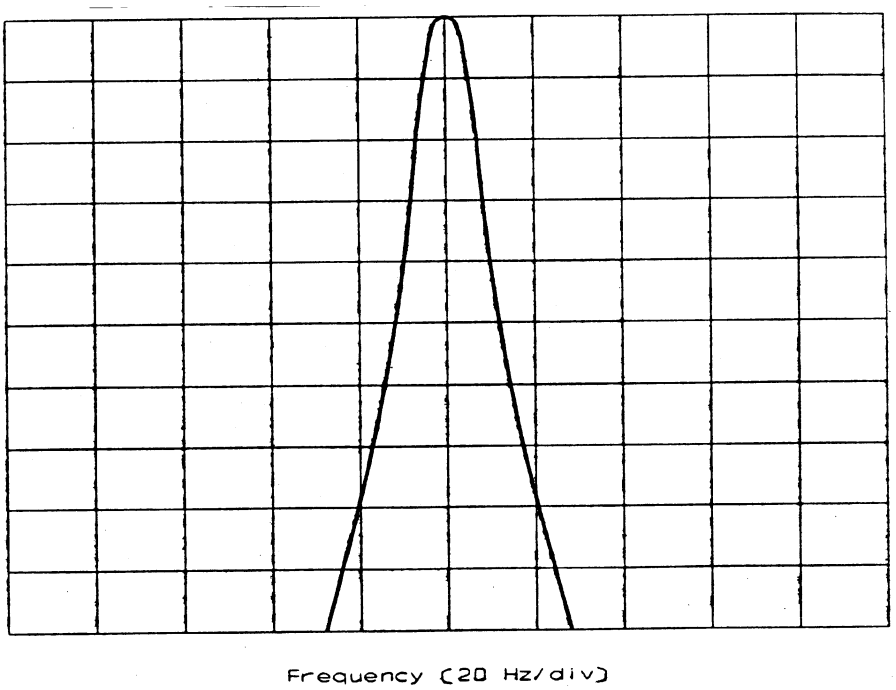



**Figure 4 – Example of EPIRB Carrier Component**

## PART 3—AUTHORIZATION AND ADMINISTRATION OF ACCOUNTING AUTHORITIES IN MARITIME AND MARITIME MOBILE-SATELLITE RADIO SERVICES

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AUTHORITY: 47 U.S.C. 154(i), 154(j) and 303(r).

SOURCE: 61 FR 20165, May 6, 1996, unless otherwise noted.

GENERAL

### §3.1 Scope, basis, purpose.

By these rules the Federal Communications Commission (FCC) is delineating its responsibilities in certifying and monitoring accounting authorities in the maritime mobile and maritime mobile-satellite radio services. These entities settle accounts for public correspondence due to foreign administrations for messages transmitted at sea by or between maritime mobile stations located on board ships subject to U.S. registry and utilizing foreign coast and coast earth station facilities. These rules are intended to ensure that settlements of accounts for U.S. licensed ship radio stations are conducted in accordance with the International Telecommunication Regulations (ITR), taking into account the applicable ITU-T Recommendations.

### §3.2 Terms and definitions.

(a) *Accounting Authority*. The Administration of the country that has issued the license for a mobile station or the recognized operating agency or other entity/entities designated by the Administration in accordance with ITR, Appendix 2 and ITU-T Recommendation D.90 to whom maritime accounts in respect of mobile stations licensed by that country may be sent.

(b) *Accounting Authority Certification Officer*. The official designated by the Managing Director, Federal Communications Commission, who is responsible, based on the coordination and review of information related to applicants, for granting certification as an accounting authority in the maritime mobile and maritime mobile-satellite radio services. The Accounting Authority Certification Officer may initiate action to suspend or cancel an accounting authority certification if it is determined to be in the public's best interest.

(c) *Accounting Authority Identification Codes (AAICs)*. The discrete identification code of an accounting authority responsible for the settlement of maritime accounts (Annex A to ITU-T Recommendation D.90).

(d) *Administration*. Any governmental department or service responsible for discharging the obligations undertaken in the Convention of the International Telecommunication Union and the Radio Regulations. For purposes of these rules, ''Administration'' refers to a foreign government or the U.S. Government, and more specifically, to the Federal Communications Commission.

(e) *Authorization*. Approval by the Federal Communications Commission to operate as an accounting authority. Synonymous with ''certification''.

(f) *CCITT*. The internationally recognized French acronym for the International Telegraph and Telephone Consultative Committee, one of the former sub-entities of the International Telecommunication Union (ITU). The CCITT (ITU-T)[1] is responsible for developing international telecommunications recommendations relating to standardization of international telecommunications services and facilities,

[1] At the ITU Additional Plenipotentiary Conference in Geneva (December, 1992), the structure, working methods and construct of the basic ITU treaty instrument were modified. The result is that the names of the sub-entities of the ITU have changed (e.g., the CCITT has become the Telecommunication Standardization Sector—ITU-T and Recognized Private Operating Agency has become Recognized Operating Agency-ROA). The changes were placed into provisional effect on March 1, 1993 with the formal entry into force of these changes being July 1, 1994. We will refer to the new nomenclatures within these rules, wherever practicable.

including matters related to international charging and accounting principles and the settlement of international telecommunications accounts.

Such recommendations are, effectively, the detailed implementation provisions for topics addressed in the International Telecommunication Regulations (ITR).

(g) *Certification*. Approval by the FCC to operate as an accounting authority. Synonymous with ''authorization''.

(h) *Coast Earth Station*. An earth station in the fixed-satellite service or, in some cases, in the maritime mobile-satellite service, located at a specified fixed point on land to provide a feeder link for the maritime mobile-satellite service.

(i) *Coast Station*. A land station in the maritime mobile service.

(j) *Commission*. The Federal Communications Commission. The FCC.

(k) *Gold Franc*. A monetary unit representing the value of a particular nation's currency to a gold par value. One of the monetary units used to effect accounting settlements in the maritime mobile and the maritime mobile-satellite services.

(l) *International Telecommunication Union (ITU)*. One of the United Nations family organizations headquartered in Geneva, Switzerland along with several other United Nations (UN) family organizations. The ITU is the UN agency responsible for all matters related to international telecommunications. The ITU has over 180 Member Countries, including the United States, and provides an international forum for dealing with all aspects of international telecommunications, including radio, telecom services and telecom facilities.

(m) *Linking Coefficient*. The ITU mandated conversion factor used to convert gold francs to Special Drawing Rights (SDRs). Among other things, it is used to perform accounting settlements in the maritime mobile and the maritime mobile-satellite services.

(n) *Maritime Mobile Service*. A mobile service between coast stations and ship stations, or between ship stations, or between associated on-board communication stations. Survival craft stations and emergency position- indicating radiobeacon stations may also participate in this service.

(o) *Maritime Mobile-Satellite Service*. A mobile-satellite service in which mobile earth stations are located on board ships. Survival craft stations and emergency position-indicating radiobeacon stations may also participate in this radio service.

(p) *Public Correspondence*. Any telecommunication which the offices and stations must, by reason of their being at the disposal of the public, accept for transmission. This usually applies to maritime mobile and maritime mobile-satellite stations.

(q) *Recognized Operating Agencies (ROAs)*.[2] Individuals, companies or corporations, other than governments or agencies, recognized by administrations, which operate telecommunications installations or provide telecommunications services intended for international use or which are capable of causing interference to international telecommunications. ROAs which settle debtor accounts for public correspondence in the maritime mobile and maritime mobile-satellite radio services must be certified as accounting authorities.

(r) *Ship Station*. A mobile station in the maritime mobile service located on board a vessel which is not permanently moored, other than a survival craft station.

(s) *Special Drawing Right (SDR)*. A monetary unit of the International Monetary Fund (IMF) currently based on a market basket of exchange rates for the United States, West Germany, Great Britain, France and Japan but is subject to IMF's definition. One of the monetary units used to effect accounting settlements in the maritime mobile and maritime mobile-satellite services.

(t) *United States*. The continental U.S., Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands or any territory or possession of the United States.

ELIGIBILITY

### § 3.10 Basic qualifications.

(a) Applicants must meet the requirements and conditions contained in these rules in order to be certified as an accounting authority. No individual

[2] Id.

or other entity, including accounting authorities approved by other administrations, may act as a United States accounting authority and settle accounts of U.S. licensed vessels in the maritime mobile or maritime mobile-satellite services without a certification from the Federal Communications Commission. Accounting authorities with interim certification as of the effective date of this rule must submit to the application process discussed in § 3.20. They will be ''grandfathered'', i.e, granted permanent certification provided they demonstrate their eligibility and present a proper application.

(b) U.S. citizenship is not required of individuals in order to receive certification from the Commission to be an accounting authority. Likewise, joint ventures need not be organized under the laws of the United States in order to be eligible to perform settlements for U.S. licensed vessels. See, however, § 3.11.

(c) Prior experience in maritime accounting, general commercial accounting, international shipping or any other related endeavor will be taken into consideration by the Commission in certifying accounting authorities. The lack of such expertise, however, will not automatically disqualify an individual, partnership, corporation or other entity from becoming an accounting authority.

(d) Applicants must provide formal financial statements or documentation proving all assets, liabilities, income and expenses.

(e) Applicants must offer their services to any member of the public making a reasonable request therefor, without undue discrimination against any customer or class of customer, and fees charged for providing such services shall be reasonable and non-discriminatory. This requirement will be waived for applicants who settle their own accounts *only* and are eligible to be ''grandfathered'' during the initial application period. However, should the need for additional accounting authorities be proven, these accounting authorities will be required to offer their services to the public or relinquish their certification.

[61 FR 20165, May 6, 1996, as amended at 64 FR 40776, July 28, 1999]

### § 3.11 Location of settlement operation.

(a) *Within the United States.* A certified accounting authority maintaining all settlement operations, as well as associated documentation, within the United States will be assigned an AAIC with a ''US'' prefix.

(b) *Outside the United States.* A certified accounting authority maintaining settlement operations outside the United States will be assigned the same AAIC as that originally assigned to such entity by the administration of the country of origin. However, in no case will an entity be certified as an accounting authority for settlement of U.S. licensed vessel accounts unless the entity is requesting to conduct a settlement operation in the United States or has already been issued an AAIC by another administration.

## APPLICATION PROCEDURES

### § 3.20 Application form.

Written application must be made to the Federal Communications Commission on FCC Form 44, ''Application For Certification As An Accounting Authority'' in order to be considered for certification as an accounting authority. No other application form may be used. No consideration will be given to applicants not submitting applications in accordance with these rules or in accordance with any other instructions the Commission may issue. FCC Form 44 may be obtained from the Commission by writing to the address shown in § 3.61.

### § 3.21 Order of consideration.

(a) Accounting Authority applications will be processed on a first-come, first-served basis. When applications are received on the same day, the application with the earliest mailing date, as evidenced by the postmark, will be processed first. Interim accounting authorities seeking permanent certifications through the ''grandfathering'' process will not compete with other applicants during the first 60 days following the effective date of these rules which is allowed for submission of their applications. After the ''grandfathering'' process is completed, all other applicants will be

processed as in paragraph (a) of this section.

(b) At any given time, there will be no more than 25 certified accounting authorities with a minimum of 15 ''US'' AAICs reserved for use by accounting authorities conducting settlement operations within the United States. The Commission will retain all valid applications received after the maximum number of accounting authorities have been approved and will inform such applicants that should an AAIC become available for reassignment in the future, the Commission will conditionally certify as an accounting authority the oldest of the qualified pending applicants, as determined by the order of receipt. Final certification would be conditional upon filing of an amended application (if necessary). The Commission will inform the applicant of his/her conditional selection in writing to confirm the applicant's continued interest in becoming an accounting authority.

### § 3.22 Number of accounting authority identification codes per applicant.

(a) No entity will be entitled to or assigned more than one AAIC.

(b) AAICs may not be reassigned, sold, bartered or transferred and do not convey upon sale or absorption of a company or firm without the express written approval of the Commission. Only the FCC may certify accounting authorities and assign U.S. AAICs for entities settling accounts of U.S. licensed vessels in the maritime mobile and maritime mobile-satellite services.

(c) Accounting authorities who are ''grandfathered'' during the initial application period may retain their interim AAIC.

### § 3.23 Legal applicant.

The application shall be signed by the individual, partner or primary officer of a corporation who is legally able to obligate the entity for which he or she is a representative.

### § 3.24 Evidence of financial responsibility.

All applicants must provide evidence of sound financial status. To the extent that the applicant is a business, formal financial statements will be required. Other applicants may submit documentation proving all assets, liabilities, income and expenses which supports their ability to meet their personal obligations. Applicants must provide any additional information deemed necessary by the Commission.

### § 3.25 Number of copies.

One original and one copy of FCC Form 44, ''Application For Certification As An Accounting Authority'' will be required. Only applications mailed to the Commission on official, Commission approved application forms will be considered. Applications should be mailed at least 90 days prior to planned commencement of settlement activities to allow time for the Commission to review the application and to allow for the informal public comment period.

### § 3.26 Where application is to be mailed.

All applications shall be mailed to the Accounting Authority Certification Officer in Washington, D.C. The designated address will be provided on the FCC Form 44, ''Application for Certification As An Accounting Authority''.

### § 3.27 Amended application.

Changes in circumstances that cause information previously supplied to the FCC to be incorrect or incomplete and that could affect the approval process, require the submission of an amended application. The amended application should be mailed to the Commission immediately following such change. See also §§ 3.24 and 3.51.

### § 3.28 Denial of privilege.

(a) The Commission, in its sole discretion, may refuse to grant an application to become an accounting authority for any of the following reasons:

(1) Failure to provide evidence of acceptable financial responsibility;

(2) If the applicant, in the opinion of the FCC reviewing official, does not possess the qualifications necessary to the proper functioning of an accounting authority;

(3) Application is not personally signed by the proper official(s);

(4) Applicant does not provide evidence that accounting operations will take place in the United States or its territories and the applicant does not already possess an AAIC issued by another administration;

(5) Application is incomplete, the applicant fails to provide additional information requested by the Commission or the applicant indicates that it cannot meet a particular provision; or

(6) When the Commission determines that the grant of an authorization is contrary to the public interest.

(b) These rules provide sufficient latitude to address defects in applications. Entities seeking review should follow procedures set forth in § 1.106 or § 1.115 of this chapter.

### § 3.29 Notifications.

(a) The Commission will publish the name of an applicant in a Public Notice before granting certification and will invite informal public comment on the qualifications of the applicant from any interested parties. Comments received will be taken into consideration by the Commission in making its determination as to whether to approve an applicant as an accounting authority. Thirty days will be allowed for submission of comments.

(b) The Commission will notify each applicant in writing as to whether the applicant has been approved as an accounting authority. If the application is not approved, the Commission will provide a brief statement of the grounds for denial.

(c) The names and addresses of all newly certified accounting authorities will be published in a Public Notice issued by the Commission. Additionally, the Commission will notify the ITU within 30 days of any changes to its approved list of accounting authorities.

## SETTLEMENT OPERATIONS

### § 3.40 Operational requirements.

All accounting authorities must conduct their operations in conformance with the provisions contained in this section and with relevant rules and guidance issued from time to time by the Commission.

### § 3.41 Amount of time allowed before initial settlements.

An accounting authority must begin settling accounts no later than six months from the date of certification. Failure to commence settlement operations is cause for suspension or cancellation of an accounting authority certification.

### § 3.42 Location of processing facility.

Settlement of maritime mobile and maritime mobile-satellite service accounts must be performed within the United States by all accounting authorities possessing the ''US'' prefix. Other accounting authorities approved by the Commission may settle accounts either in the U.S. or elsewhere. See also §§ 3.11 and 3.21(b).

### § 3.43 Applicable rules and regulations.

Accounting authority operations must be conducted in accordance with applicable FCC rules and regulations, the International Telecommunication Regulations (ITR), and other international rules, regulations, agreements, and, where appropriate, ITU-T Recommendations. In particular, the following must be adhered to or taken into account in the case of ITU-T.

(a) The latest basic treaty instrument(s) of the International Telecommunication Union (ITU);

(b) Binding agreements contained in the Final Acts of World Administrative Radio Conferences and/or World International Telecommunication Conferences;

(c) ITU Radio Regulations;

(d) ITU International Telecommunication Regulations (ITR);

(e) ITU-T Recommendations (particularly D.90 and D.195); and

(f) FCC Rules and Regulations (47 CFR part 3).

### § 3.44 Time to achieve settlements.

All maritime telecommunications accounts should be timely paid in accordance with applicable ITU Regulations, Article 66 and International Telecommunication Regulations (Melbourne, 1988). Accounting authorities are deemed to be responsible for remitting, in a timely manner, all valid

amounts due to foreign administrations or their agents.

### § 3.45 Amount of charges.

Accounting Authorities may charge any reasonable fee for their settlement services. Settlements themselves, however, must adhere to the standards set forth in these rules and must be in accordance with the International Telecommunication Regulations (ITR) taking into account the applicable ITU-T Recommendations and other guidance issued by the Commission.

### § 3.46 Use of gold francs.

An accounting authority must accept accounts presented to it from foreign administrations in gold francs. These gold francs must be converted on the date of receipt of the bill to the applicable Special Drawing Right (SDR) rate (as published by the International Monetary Fund) on that date utilizing the linking coefficient of 3.061 gold francs = 1 SDR. An equivalent amount in U.S. dollars must be paid to the foreign administration. Upon written concurrence by the FCC, an accounting authority may make separate agreements, in writing, with foreign administrations or their agents for alternative settlement methods, in accordance with ITU-T Recommendation D.195.

### § 3.47 Use of SDRs.

An accounting authority must accept accounts presented to it from foreign administrations in Special Drawing Rights (SDRs). These SDRs must be converted to dollars on the date of receipt by the accounting authority and an equivalent amount in US dollars must be paid to the foreign administration. The conversion rate will be the applicable rate published by the International Monetary Fund (IMF) for the date of receipt of the account from the foreign administration. Upon written concurrence by the FCC, any accounting authority may make separate agreements, in writing, with foreign administrations or their agents for alternative settlement methods, provided account is taken of ITU-T Recommendation D.195.

### § 3.48 Cooperation with the Commission.

Accounting authorities must cooperate fully with the FCC in all respects concerning international maritime settlements issues, including the resolution of questions of fact or other issues arising as a result of settlement operations.

### § 3.49 Agreement to be audited.

Accounting authorities accept their certifications on condition that they are subject to audit of their settlement activities by the Commission or its representative. Additionally, the Commission reserves the right to verify any statement(s) made or any materials submitted to the Commission under these rules. Verification may involve discussions with ship owners or others as well as the requirement to submit additional information to the Commission. Failure to respond satisfactorily to any audit findings is grounds for forfeiture or suspension or cancellation of authority to act as an accounting authority for U.S. vessels.

### § 3.50 Retention of settlement records.

Accounting authorities must maintain, for the purpose of compliance with these rules, all settlement records for a period of at least seven years following settlement of an account with a foreign administration or agent.

### § 3.51 Cessation of operations.

The FCC must be notified immediately should an accounting authority plan to relinquish its certification or cease to perform settlements as authorized. Additionally, the Commission must be advised in advance of any proposed transfer of control of an accounting authority's firm or organization, by any means, to another entity.

(a) When an accounting authority is transferred, merged or sold, the new entity must apply for certification in its own right if it is interested in becoming an accounting authority. Provided the new applicant is eligible and completes the application process satisfactorily, the AAIC will be transferred to the new applicant. In the case of a merger of two accounting authorities, the merged entity must decide which AAIC to retain.

(b) Section 3.21(a) will be waived for these applicants.

(c) The applicant must comply with application process including public comment.

(d) The applicant must certify acceptance of all accounts and must furnish a list of the accounts to the Commission at the time of application.

### § 3.52 Complaint/inquiry resolution procedures.

(a) Accounting authorities must maintain procedures for resolving complaints and/or inquiries from its contractual customers (vessels for which it performs settlements), the FCC, the ITU, and foreign administrations or their agents. These procedures must be available to the Commission upon request.

(b) If a foreign administration requests assistance in collection of accounts from ships licensed by the FCC, the appropriate accounting authority will provide all information requested by the Commission in a timely manner to enable the Commission to determine the cause of the complaint and to resolve the issue. If accounts are in dispute, the Commission will determine the amount due the foreign administration, accounting authority or ROA, and may direct the accounting authority to pay the accounts to the foreign administration. If the accounting authority does not pay the disputed accounts within a reasonable timeframe, the Commission may take action to levy a forfeiture, cancel the AAIC privilege and/or to revoke any operating authority or licenses held by that accounting authority. (See also § 3.72).

### § 3.53 FCC notification of refusal to provide telecommunications service to U.S. registered vessel(s).

An accounting authority must inform the FCC immediately should it receive notice from any source that a foreign administration or facility is refusing or plans to refuse legitimate public correspondence to or from any U.S. registered vessel.

### § 3.54 Notification of change in address.

The Commission must be notified in writing within 15 days of any change in address of an accounting authority. Such written notification should be sent to the address shown in § 3.61.

REPORTING REQUIREMENTS

### § 3.60 Reports.

(a) *Initial Inventory of Vessels*. Within 60 days after receiving final approval from the FCC to be an accounting authority, each certified accounting authority must provide to the FCC an initial list of vessels for which it is performing settlements. This list should contain only U.S. registered vessels. Such list shall be typewritten or computer generated, be annotated to indicate it is the initial inventory and be in the general format of the following and provide the information shown:

| *Vessel Name* | *Call Sign* |
|---|---|

(b) *Semi-Annual Additions/Modifications/Deletions to Vessel Inventory*. Beginning with the period ending on the last day of March or September following submission of an accounting authority's Initial Inventory of Vessels (See paragraph (a) of this section.) and each semi-annual period thereafter, each accounting authority is required to submit to the FCC a report on additions, modifications or deletions to its list of vessels for which it is performing or intending to perform settlements, whether or not settlements actually have taken place. The list should contain only U.S. registered vessels. The report shall be typewritten or computer generated and be in the following general format:

ADDITIONS TO CURRENT VESSEL INVENTORY

| *Vessel Name* | *Call Sign* | *Effective Date* |
|---|---|---|

MODIFICATIONS TO CURRENT VESSEL INVENTORY

| *Previous Vessel Name* | *Previous Call Sign* | *New Vessel Name* | *New Call Sign* | *Effective Date* |
|---|---|---|---|---|

DELETIONS TO CURRENT VESSEL INVENTORY

| *Vessel Name* | *Call Sign* | *Effective Date* |
|---|---|---|

The preceding report must be received by the Commission no later than 15 days following the end of the period (March or September) for which the report pertains. Modifications refer to changes to call sign or ship name of vessels for which the accounting authority settles accounts and for which fbasic information has previously been provided to the Commission. Reports are to be submitted even if there have been no additions, modifications or deletions to vessel inventories since the previous report. If there are no changes to an inventory, this should be indicated on the report.

(c) *End of Year Inventory*. By February 1st of each year, each accounting authority must submit an end-of-year inventory report listing vessels for which the accounting authority performed settlements as of the previous December 31st. The list should contain only U.S. registered vessels. The report must be typewritten or computer generated and prepared in the same general format as that shown in paragraph (a) of this section except it should be annotated to indicate it is the End of Year inventory.

(d) *Annual Statistical Report of Settlement Operations*. By February 1st of each year, each accounting authority settling accounts for U.S. registered vessels must submit to the FCC an Annual Statistical Report, FCC Form 45, which details the number and dollar amount of settlements, by foreign administration, during the preceding twelve months. Information contained in this report provides statistical data that will enable the Commission to monitor operations to ensure adherence to these rules and to appropriate international settlement procedures. FCC Form 45 can be obtained by writing to the address in 3.61 of these rules.

### § 3.61 Reporting address.

All reports must be received at the following address no later than the required reporting date:

Accounting Authority Certification Officer, Financial Operations Center, Federal Communications Commission, 445 12th Street, SW., Washington, D.C. 20554

[61 FR 20165, May 6, 1996, as amended at 65 FR 58466, Sept. 29, 2000]

### § 3.62 Request for confidentiality.

Applicants should comply with § 0.459 of this chapter when requesting confidentiality and cannot assume that it will be offered automatically.

ENFORCEMENT

### § 3.70 Investigations.

The Commission may investigate any complaints made against accounting authorities to ensure compliance with the Commission's rules and with applicable ITU Regulations and other international maritime accounting procedures.

### § 3.71 Warnings.

The Commission may issue written warnings or forfeitures to accounting authorities which are found not to be operating in accordance with established rules and regulations. Warnings will generally be issued for violations which do not seriously or immediately affect settlement functions or international relations. Continued or unresolved violations may lead to further enforcement action by the Commission, including any or all legally available sanctions, including but not limited to, forfeitures (Communications Act of 1934, Sec. 503), suspension or cancellation of the accounting authority certification.

### § 3.72 Grounds for further enforcement action.

(a) The Commission may take further enforcement action, including forfeiture, suspension or cancellation of an accounting authority certification, if it is determined that the public interest so requires. Reasons for which such action may be taken include, inter alia:

(1) Failure to initiate settlements within six months of certification or failure to perform settlements during any subsequent six month period;

(2) Illegal activity or fraud;

(3) Non-payment or late payment to a foreign administration or agent;

(4) Failure to follow ITR requirements and procedures;

(5) Failure to take into account ITU-T Recommendations;

(6) Failure to follow FCC rules and regulations;

(7) Bankruptcy; or

(8) Providing false or incomplete information to the Commission or failure to comply with or respond to requests for information.

(b) Prior to taking any of the enforcement actions in paragraph (a) of this section, the Commission will give notice of its intent to take the specified action and the grounds therefor, and afford a 30-day period for a response in writing; provided that, where the public interest so requires, the Commission may temporarily suspend a certification pending completion of these procedures. Responses must be forwarded to the Accounting Authority Certification Officer. See §3.61.

### §3.73 Waiting period after cancellation.

An accounting authority whose certification has been cancelled must wait a minimum of three years before reapplying to be an accounting authority.

### §3.74 Ship stations affected by suspension, cancellation or relinquishment.

(a) Whenever the accounting authority privilege has been suspended, cancelled or relinquished, the accounting authority is responsible for immediately notifying all U.S. ship licensees for which it was performing settlements of the circumstances and informing them of the requirement contained in paragraph (b) of this section.

(b) Those ship stations utilizing an accounting authority's AAIC for which the subject accounting authority certification has been suspended, cancelled or relinquished, should make contractual arrangements with another properly authorized accounting authority to settle its accounts.

(c) The Commission will notify the ITU of all accounting authority suspensions, cancellations and relinquishments, and

(d) The Commission will publish a Public Notice detailing all accounting authority suspensions, cancellations and relinquishments.

### §3.75 Licensee's failure to make timely payment.

Failure to remit proper and timely payment to the Commission or to an accounting authority may result in one or more of the following actions against the licensee:

(a) Forfeiture or other authorized sanction.

(b) The refusal by foreign countries to accept or refer public correspondence communications to or from the vessel or vessels owned, operated or licensed by the person or entity failing to make payment. This action may be taken at the request of the Commission or independently by the foreign country or coast station involved.

(c) Further action to recover amounts owed utilizing any or all legally available debt collection procedures.

### §3.76 Licensee's liability for payment.

The U.S. ship station licensee bears ultimate responsibility for final payment of its accounts. This responsibility cannot be superseded by the contractual agreement between the ship station licensee and the accounting authority. In the event that an accounting authority does not remit proper and timely payments on behalf of the ship station licensee:

(a) The ship station licensee will make arrangements for another accounting authority to perform future settlements, and

(b) The ship station licensee will settle any outstanding accounts due to foreign entities.

(c) The Commission will, upon request, take all possible steps, within the limits of applicable national law, to ensure settlement of the accounts of the ship station licensee. As circumstances warrant, this may include issuing warnings to ship station licensees when it becomes apparent that an accounting authority is failing to settle accounts. See also §§3.70 through 3.74.

## PART 4—DISRUPTIONS TO COMMUNICATIONS

GENERAL

Sec.

4.1 Scope, basis and purpose.
4.2 Availability of reports filed under this part.

REPORTING REQUIREMENTS FOR DISRUPTIONS TO COMMUNICATIONS

4.3 Communications providers covered by the requirements of this part.
4.5 Definitions of outage, special offices and facilities, and 911 special facilities.
4.7 Definitions of metrics used to determine the general outage-reporting threshold criteria.
4.9 Outage reporting requirements—threshold criteria.
4.11 Notification and initial and final communications outage reports that must be filed by communications providers.
4.13 Reports by the National Communications System (NCS) and by special offices and facilities, and related responsibilities of communications providers.

AUTHORITY: 47 U.S.C. 151, 154(i), 154(j), 154(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r), 403, 621(b)(3), and 621(d), unless otherwise noted.

SOURCE: 69 FR 70338, Dec. 3, 2004, unless otherwise noted.

## GENERAL

### § 4.1 Scope, basis and purpose.

In this part, the Federal Communications Commission is setting forth requirements pertinent to the reporting of disruptions to communications and to the reliability and security of communications infrastructures.

### § 4.2 Availability of reports filed under this part.

Reports filed under this part will be presumed to be confidential. Public access to reports filed under this part may be sought only pursuant to the procedures set forth in 47 CFR § 0.461. Notice of any requests for inspection of outage reports will be provided pursuant to 47 CFR 0.461(d)(3).

## REPORTING REQUIREMENTS FOR DISRUPTIONS TO COMMUNICATIONS

### § 4.3 Communications providers covered by the requirements of this part.

(a) *Cable communications providers* are cable service providers that also provide circuit-switched telephony. Also included are affiliated and non-affiliated entities that maintain or provide communications networks or services used by the provider in offering telephony.

(b) *Communications provider* is an entity that provides for a fee to one or more unaffiliated entities, by radio, wire, cable, satellite, and/or lightguide: two-way voice and/or data communications, paging service, and/or SS7 communications.

(c) *IXC or LEC tandem facilities* refer to tandem switches (or their equivalents) and interoffice facilities used in the provision of interexchange or local exchange communications.

(d) *Satellite communications providers* use space stations as a means of providing the public with communications, such as telephony and paging. Also included are affiliated and non-affiliated entities that maintain or provide communications networks or services used by the provider in offering such communications. ''Satellite operators'' refer to entities that operate space stations but do not necessarily provide communications services directly to end users.

(e) *Signaling System 7 (SS7)* is a signaling system used to control telecommunications networks. It is frequently used to ''set up,'' process, control, and terminate circuit-switched telecommunications, including but not limited to domestic and international telephone calls (irrespective of whether the call is wholly or in part wireless, wireline, local, long distance, or is carried over cable or satellite infrastructure), SMS text messaging services, 8XX number type services, local number portability, VoIP signaling gateway services, 555 number type services, and most paging services. For purposes of this rule part, SS7 refers to both the SS7 protocol and the packet networks through which signaling information is transported and switched or routed. It includes future modifications to the existing SS7 architecture that will provide the functional equivalency of the SS7 services and network elements that exist as of August 4, 2004. SS7 communications providers are subject to the provisions of this part 4 regardless of whether or not they provide service directly to end users. Also subject to part 4 of the Commission's rules

are affiliated and non-affiliated entities that maintain or provide communications networks or services used by the SS7 provider in offering SS7 communications.

(f) *Wireless service providers* include Commercial Mobile Radio Service communications providers that use cellular architecture and CMRS paging providers. In particular, they include Cellular Radio Telephone Service (part 22 of the Commission's Rules) providers; Personal Communications Service (PCS) (part 24) providers; those Special Mobile Radio Service (part 90) providers that meet the definition of ''covered CMRS'' providers pursuant to §§20.18(a), 52.21, and 52.31 of the Commission's rules, those private paging (part 90) providers that are treated as CMRS providers (*see* §20.9 of this chapter); and narrowband PCS providers (part 24) of this chapter. Also included are affiliated and non-affiliated entities that maintain or provide communications networks or services used by the provider in offering such communications.

(g) *Wireline communications providers* offer terrestrial communications through direct connectivity, predominantly by wire, coaxial cable, or optical fiber, between the serving central office (as defined in the appendix to part 36 of this chapter) and end user location(s). Also included are affiliated and non-affiliated entities that maintain or provide communications networks or services used by the provider in offering such communications.

(h) *Exclusion of equipment manufacturers or vendors*. Excluded from the requirements of this part 4 are those equipment manufacturers or vendors that do not maintain or provide communications networks or services used by communications providers in offering communications.

### §4.5 Definitions of outage, special offices and facilities, and 911 special facilities.

(a) *Outage* is defined as a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network.

(b) *Special offices and facilities* are defined as major military installations, key government facilities, nuclear power plants, and those airports that are listed as current primary (PR), commercial service (CM), and reliever (RL) airports in the FAA's National Plan of Integrated Airports Systems (NPIAS) (as issued at least one calendar year prior to the outage). The member agencies of the National Communications System (NCS) will determine which of their locations are ''major military installations'' and ''key government facilities.'' 911 special facilities are addressed separately in paragraph (e) of this section.

(c) All outages that potentially affect communications for at least 30 minutes with any airport that qualifies as a ''special office and facility'' pursuant to the preceding paragraph shall be reported in accordance with the provisions of §§4.11 and 4.13.

(d) A mission-affecting outage is defined as an outage that is deemed critical to national security/emergency preparedness (NS/EP) operations of the affected facility by the National Communications System member agency operating the affected facility.

(e) An outage that potentially affects a 911 special facility occurs whenever:

(1) There is a loss of communications to PSAP(s) potentially affecting at least 900,000 user-minutes and: The failure is neither at the PSAP(s) nor on the premises of the PSAP(s); no reroute for all end users was available; and the outage lasts 30 minutes or more; or

(2) There is a loss of 911 call processing capabilities in one or more E–911 tandems/selective routers for at least 30 minutes duration; or

(3) One or more end-office or MSC switches or host/remote clusters is isolated from 911 service for at least 30 minutes and potentially affects at least 900,000 user-minutes; or

(4) There is a loss of ANI/ALI (associated name and location information) and/or a failure of location determination equipment, including Phase II equipment, for at least 30 minutes and potentially affecting at least 900,000 user-minutes (provided that the ANI/ALI or location determination equipment was then currently deployed and

in use, and the failure is neither at the PSAP(s) or on the premises of the PSAP(s)).

### § 4.7 Definitions of metrics used to determine the general outage-reporting threshold criteria.

(a) *Administrative numbers* are defined as the telephone numbers used by communications providers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.

(b) *Assigned numbers* are defined as the telephone numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use. This excludes numbers that are not yet working but have a service order pending.

(c) *Assigned telephone number* minutes are defined as the mathematical result of multiplying the duration of an outage, expressed in minutes, by the sum of the number of assigned numbers (defined in paragraph (b) of this section) potentially affected by the outage and the number of administrative numbers (defined in paragraph (a) of this section) potentially affected by the outage. ''Assigned telephone number minutes'' can alternatively be calculated as the mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of working telephone numbers potentially affected by the outage, where working telephone numbers are defined as the telephone numbers, including DID numbers, working immediately prior to the outage.

(d) *DS3 minutes* are defined as the mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of previously operating DS3 circuits that were affected by the outage.

(e) *User minutes* are defined as:

(1) Assigned telephone number minutes (as defined in paragraph (c) of this section), for telephony and for those paging networks in which each individual user is assigned a telephone number;

(2) The mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of end users potentially affected by the outage, for all other forms of communications.

(f) *Working telephone numbers* are defined to be the sum of all telephone numbers that can originate, or terminate telecommunications. This includes, for example, all working telephone numbers on the customer's side of a PBX, or Centrex, or similar arrangement.

### § 4.9 Outage reporting requirements—threshold criteria.

(a) *Cable*. All cable communications providers shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that:

(1) Potentially affects at least 900,000 user minutes of telephony service;

(2) Affects at least 1,350 DS3 minutes;

(3) Potentially affects any special offices and facilities (in accordance with paragraphs (a) through (d) of § 4.5); or

(4) Potentially affects a 911 special facility (as defined in paragraph (e) of § 4.5), in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 911 facility as the provider's contact person for communications outages at that facility, and they shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on callers to that facility. (DS3 minutes and user minutes are defined in paragraphs (d) and (e) of § 4.7.) Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than thirty days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

(b) *IXC or LEC tandem facilities*. In the case of IXC or LEC tandem facilities, providers must, if technically possible,

use real-time blocked calls to determine whether criteria for reporting an outage have been reached. Providers must report IXC and LEC tandem outages of at least 30 minutes duration in which at least 90,000 calls are blocked or at least 1,350 DS3-minutes are lost. For interoffice facilities which handle traffic in both directions and for which blocked call information is available in one direction only, the total number of blocked calls shall be estimated as twice the number of blocked calls determined for the available direction. Providers may use historic carried call load data for the same day(s) of the week and the same time(s) of day as the outage, and for a time interval not older than 90 days preceding the onset of the outage, to estimate blocked calls whenever it is not possible to obtain real-time blocked call counts. When using historic data, providers must report incidents where at least 30,000 calls would have been carried during a time interval with the same duration of the outage. (DS3 minutes are defined in paragraph (d) of §4.7.) In situations where, for whatever reason, real-time and historic carried call load data are unavailable to the provider, even after a detailed investigation, the provider must determine the carried call load based on data obtained in the time interval between the onset of the outage and the due date for the final report; this data must cover the same day of the week, the same time of day, and the same duration as the outage. Justification that such data accurately estimates the traffic that would have been carried at the time of the outage had the outage not occurred must be available on request. If carried call load data cannot be obtained through any of the methods described, for whatever reason, then the provider shall report the outage.

(c) *Satellite.* (1) All satellite operators shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, of an outage of at least 30 minutes duration that manifests itself as a failure of any of the following key system elements: One or more satellite transponders, satellite beams, inter-satellite links, or entire satellites. In addition, all Mobile-Satellite Service (''MSS'') satellite operators shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, of an outage of at least 30 minutes duration that manifests itself as a failure of any gateway earth station, except in the case where other earth stations at the gateway location are used to continue gateway operations within 30 minutes of the onset of the failure.

(2) All satellite communications providers shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that manifests itself as:

(i) A loss of complete accessibility to at least one satellite or transponder;

(ii) A loss of a satellite communications link that potentially affects at least 900,000 user-minutes (as defined in §4.7(d)) of either telephony service or paging service;

(iii) Potentially affecting any special offices and facilities (in accordance with paragraphs (a) through (d) of §4.5) other than airports; or

(iv) Potentially affecting a 911 special facility (as defined in (e) of §4.5), in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 911 facility as the provider's contact person for communications outages at that facility, and they shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on callers to that facility.

(3) Not later than 72 hours after discovering the outage, the operator and/or provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than thirty days after discovering the outage, the operator and/or provider shall submit electronically a Final Communications Outage Report to the Commission.

(4) The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

(5) Excluded from these outage-reporting requirements are those satellites, satellite beams, inter-satellite links, MSS gateway earth stations, satellite networks, and transponders that are used exclusively for intra-corporate or intra-organizational private telecommunications networks, for the one-way distribution of video or audio programming, or for other non-covered services (that is, when they are never used to carry common carrier voice or paging communications).

(d) *Signaling system 7.* Signaling System 7 (SS7) providers shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize an outage of at least 30 minutes duration that is manifested as the generation of at least 90,000 blocked calls based on real-time traffic data or at least 30,000 lost calls based on historic carried loads. In cases where a third-party SS7 provider cannot directly estimate the number of blocked calls, the third-party SS7 provider shall use 500,000 real-time lost MTP messages as a surrogate for 90,000 real-time blocked calls, or 167,000 lost MTP messages on a historical basis as a surrogate for 30,000 lost calls based on historic carried loads. Historic carried load data or the number of lost MTP messages on a historical basis shall be for the same day(s) of the week and the same time(s) of day as the outage, and for a time interval not older than 90 days preceding the onset of the outage. In situations where, for whatever reason, real-time and historic data are unavailable to the provider, even after a detailed investigation, the provider must determine the carried load based on data obtained in the time interval between the onset of the outage and the due date for the final report; this data must cover the same day of the week and the same time of day as the outage. If this cannot be done, for whatever reason, the outage must be reported. Justification that such data accurately estimates the traffic that would have been carried at the time of the outage had the outage not occurred must be available on request. Finally, whenever a pair of STPs serving any communications provider becomes isolated from a pair of interconnected STPs that serve any other communications provider, for at least 30 minutes duration, each of these communications providers shall submit electronically a Notification to the Commission within 120 minutes of discovering such outage. Not later than 72 hours after discovering the outage, the provider(s) shall submit electronically an Initial Communications Outage Report to the Commission. Not later than thirty days after discovering the outage, the provider(s) shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

(e) *Wireless.* All wireless service providers shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration:

(1) Of a Mobile Switching Center (MSC);

(2) That potentially affects at least 900,000 user minutes of either telephony and associated data (2nd generation or lower) service or paging service;

(3) That affects at least 1,350 DS3 minutes;

(4) That potentially affects any special offices and facilities (in accordance with paragraphs (a) through (d) of § 4.5) other than airports through direct service facility agreements; or

(5) That potentially affects a 911 special facility (as defined in (e) of § 4.5), in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 911 facility as the provider's contact person for communications outages at that facility, and they shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on callers to that facility. (DS3 minutes and user minutes are defined

in paragraphs (d) and (e) of §4.7.) In determining the number of users potentially affected by a failure of a switch, a concentration ratio of 8 shall be applied. For providers of paging service solely, however, the following outage criteria shall apply instead of those in paragraphs (b)(1) through (b)(3) of this section. Notification must be submitted if the failure of a switch for at least 30 minutes duration potentially affects at least 900,000 user-minutes. Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than thirty days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of §4.11.

(f) *Wireline*. All wireline communications providers shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that:

(1) Potentially affects at least 900,000 user minutes of either telephony or paging;

(2) Affects at least 1,350 DS3 minutes;

(3) Potentially affects any special offices and facilities (in accordance with paragraphs (a) through (d) of §4.5); or

(4) Potentially affects a 911 special facility (as defined in paragraph (e) of §4.5), in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 911 facility as the provider's contact person for communications outages at that facility, and the provider shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on efforts to communicate with that facility. (DS3 minutes and user minutes are defined in paragraphs (d) and (e) of §4.7.) Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than thirty days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of §4.11.

**§4.11 Notification and initial and final communications outage reports that must be filed by communications providers.**

Notification and Initial and Final Communications Outage Reports shall be submitted by a person authorized by the communications provider to submit such reports to the Commission. The person submitting the Final report to the Commission shall also be authorized by the provider to legally bind the provider to the truth, completeness, and accuracy of the information contained in the report. Each Final report shall be attested by the person submitting the report that he/she has read the report prior to submitting it and on oath deposes and states that the information contained therein is true, correct, and accurate to the best of his/her knowledge and belief and that the communications provider on oath deposes and states that this information is true, complete, and accurate. The Notification shall provide: The name of the reporting entity; the date and time of onset of the outage; a brief description of the problem; service effects; the geographic area affected by the outage; and a contact name and contact telephone number by which the Commission's technical staff may contact the reporting entity. The Initial and Final Reports shall contain the information required in this part 4. The Initial report shall contain all pertinent information then available on the outage and shall be submitted in good faith. The Final report shall contain all pertinent information on the outage, including any information that was not contained in, or that has changed from that provided in, the Initial report. The Notification and the Initial and Final Communications Outage Reports are to be submitted electronically to the Commission. ''Submitted electronically'' refers to submission of the information using Commission-approved

Web-based outage report templates. If there are technical impediments to using the Web-based system during the Notification stage, then a written Notification to the Commission by e-mail, FAX, or courier may be used; such Notification shall contain the information required. All hand-delivered Notifications and Initial and Final Communications Outage Reports, shall be addressed to the Federal Communications Commission, The Office of Secretary, Attention: Chief, Public Safety & Homeland Security Bureau. Electronic filing shall be effectuated in accordance with procedures that are specified by the Commission by public notice.

[71 FR 69037, Nov. 29, 2006]

### § 4.13 Reports by the National Communications System (NCS) and by special offices and facilities, and related responsibilities of communications providers.

Reports by the National Communications System (NCS) and by special offices and facilities (other than 911 special offices and facilities) of outages potentially affecting them (see paragraphs (a) through (d) of § 4.5) shall be made according to the following procedures:

(a) When there is a mission-affecting outage, the affected facility will report the outage to the NCS and call the communications provider in order to determine if the outage is expected to last 30 minutes. If the outage is not expected to, and does not, last 30 minutes, it will not be reported to the Commission. If it is expected to last 30 minutes or does last 30 minutes, the NCS, on the advice of the affected special facility and in the exercise of its judgment, will either:

(1) Forward a report of the outage to the Commission, supplying the information for initial reports affecting special facilities specified in this section of the Commission's Rules;

(2) Forward a report of the outage to the Commission, designating the outage as one affecting ''special facilities,'' but reporting it at a level of detail that precludes identification of the particular facility involved; or

(3) Hold the report at the NCS due to the critical nature of the application.

(b) If there is to be a report to the Commission, an electronic, written, or oral report will be given by the NCS within 120 minutes of an outage to the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC. Notification may be served at such other facility designated by the Commission by public notice or (at the time of the emergency) by public announcement only if there is a telephone outage or similar emergency in Washington, DC. If the report is oral, it is to be followed by an electronic or written report not later than the next business day. Those providers whose service failures are in any way responsible for the outage must consult and cooperate in good faith with NCS upon its request for information.

(c) Additionally, if there is to be a report to the Commission, the communications provider will provide a written report to the NCS, supplying the information for final reports for special facilities required by this section of the Commission's rules. The communications provider's final report to the NCS will be filed within 28 days after the outage, allowing the NCS to then file the report with the Commission within 30 days after the outage. If the outage is reportable as described in paragraph (b) of this section, and the NCS determines that the final report can be presented to the Commission without jeopardizing matters of national security or emergency preparedness, the NCS will forward the report as provided in either paragraphs (a)(1) or (a)(2) of this section to the Commission.

## PART 5—EXPERIMENTAL RADIO SERVICE (OTHER THAN BROADCAST)

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AUTHORITY: Secs. 4, 302, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

SOURCE: 63 FR 64202, Nov. 19, 1998, unless otherwise noted.

## Subpart A—General

### §5.1 Basis and purpose.

(a) The rules following in this part are promulgated pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of this part is to prescribe the manner in which parts of the radio frequency spectrum may be made available for experimentation as defined and provided for in this part.

### §5.3 Scope of service.

Stations operating in the Experimental Radio Service will be permitted to conduct the following type of operations:

(a) Experimentations in scientific or technical radio research.

(b) Experimentations under contractual agreement with the United States Government, or for export purposes.

(c) Communications essential to a research project.

(d) Technical demonstrations of equipment or techniques.

(e) Field strength surveys by persons not eligible for authorization in any other service.

(f) Demonstration of equipment to prospective purchasers by persons engaged in the business of selling radio equipment.

(g) Testing of equipment in connection with production or regulatory approval of such equipment.

(h) Development of radio technique, equipment or engineering data not related to an existing or proposed service, including field or factory testing or calibration of equipment.

(i) Development of radio technique, equipment, operational data or engineering data related to an existing or proposed radio service.

(j) Limited market studies.

(k) Types of experiments that are not specifically covered under paragraphs (a) through (j) of this section will be considered upon demonstration of need for such additional types of experiments.

[63 FR 64202, Nov. 19, 1998; 64 FR 43094, Aug. 9, 1999]

### §5.5 Definition of terms.

For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to part 2 of this chapter (Frequency Allocations and Radio Treaty Matters; General Rules and Regulations).

*Authorized frequency*. The frequency assigned to a station by the Commission and specified in the instrument of authorization.

*Authorized power*. The power assigned to a radio station by the Commission

and specified in the instrument of authorization.

*Experimental radio service.* A service in which radio waves are employed for purposes of experimentation in the radio art or for purposes of providing essential communications for research projects that could not be conducted without the benefit of such communications.

*Experimental station.* A station utilizing radio waves in experiments with a view to the development of science or technique.

*Fixed service.* A radiocommunication service between specified fixed points.

*Fixed station.* A station in the fixed service.

*Harmful interference.* Any radiation or induction that endangers the functioning of a radionavigation or safety service, or obstructs or repeatedly interrupts a radio service operating in accordance with the Table of Frequency Allocations and other provisions of part 2 of this chapter.

*Landing area.* As defined by 49 U.S.C. 40102(a)(28) of the Civil Aeronautics Act of 1938, as amended, any locality, either of land or water, including airdromes and intermediate landing fields, that is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

*Land station.* A station in the mobile service not intended for operation while in motion.

*Mobile service.* A radiocommunication service between mobile and land stations, or between mobile stations.

*Mobile station.* A station in a mobile service intended to be used while in motion or during halts at unspecified points.

*Person.* An individual, partnership, association, joint stock company, trust, or corporation.

*Public correspondence.* Any telecommunication that offices and stations, by reason of their being at the disposal of the public, must accept for transmission.

*Radio service.* An administrative subdivision of the field of radiocommunication. In an engineering sense, the subdivisions may be made according to the method of operation, as, for example, mobile service and fixed service. In a regulatory sense, the subdivisions may be descriptive of particular groups of licensees, as, for example, the groups of persons licensed under this part.

*Station authorization.* Any license or special temporary authorization issued by the Commission.

## Subpart B—Applications and Licenses

### § 5.51 Eligibility of license.

(a) Authorizations for stations in the Experimental Radio Service will be issued only to persons qualified to conduct experimentation utilizing radio waves for scientific or technical operation data directly related to a use of radio not provided by existing rules; or for communications in connection with research projects when existing communications facilities are inadequate.

(b) Applicants eligible for authorizations in an established service, and seeking to develop operational data or techniques directed toward the improvement or extension of that service shall file applications and conduct such projects under the developmental rules of the established service.

(c) A station license shall not be granted to or held by a foreign government or a representative thereof.

### § 5.53 Station authorization required.

(a) No radio transmitter shall be operated in the Experimental Radio Service except under and in accordance with a proper station authorization granted by the Commission. However, construction of proposed experimental satellite facilities may begin prior to Commission grant of an authorization. Such construction will be entirely at the applicant's risk and will not entitle the applicant to any assurances that its proposed experiment will be subsequently approved or regular services subsequently authorized. Additionally, the applicant must notify the Commission's Office of Engineering and Technology in writing that it plans to begin construction at its own risk.

(b) Persons desiring to install and operate radio transmitting equipment under this part should first submit an

application for a radio station license in accordance with §5.59 of this part.

(c) If installation and/or operation of the equipment may significantly impact the environment, see §1.1307 of this chapter, an environmental assessment as defined in §1.1311 of this chapter must be submitted with the application.

**§5.55 Filing of applications.**

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to the Experimental Radio Service are discussed in §5.59 and may be accessed electronically at the Office of Engineering and Technology Web site *https://gullfoss2.fcc.gov/prod/oet/cf/els/index.cfm*. If no standard form is applicable, the informal application procedure outlined in §5.59(f) should be followed.

(b) Any application for radio station authorization shall be submitted electronically through the Office of Engineering and Technology Web site *https://gullfoss2.fcc.gov/prod/oet/cf/els/index.cfm* effective January 1, 2004. Any correspondence relating thereto that cannot be submitted electronically shall instead be submitted to the Commission's Office of Engineering and Technology, Washington, DC 20554. (Applications requiring fees as set forth in part 1, subpart G of this chapter must be filed in accordance with §0.401(b) of this chapter.)

(c) Each application for station authorization shall be specific and complete with regard to station location, proposed equipment, power, antenna height, and operating frequency; and other information required by the application form and this part.

(d) Applications involving temporary operation: When an experimental program is expected to last no more than six months, its operation shall be considered temporary and the special temporary authorization procedure outlined in §5.61 of this part shall apply.

[63 FR 64202, Nov. 19, 1998, as amended at 68 FR 59336, Oct. 15, 2003]

**§5.57 Who may sign applications.**

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his/her absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his/her knowledge), he/she shall separately set forth reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be submitted under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, title 18, Sec. 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to sec. 312(a)(1) of the Communications Act of 1934, as amended.

(e) ''Signed,'' as used in this section, means an original handwritten signature; however, the Office of Engineering and Technology may allow signature by any symbol executed or adopted by the applicant with the intent

that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

### § 5.59 Forms to be used.

(a) *Application for experimental radio license.* Entities requesting an experimental authorization must submit FCC Form 442 (application). A single FCC Form 442 may be used for several radio components of an experimental program, however, unrelated experimental programs should be filed on separate applications.

(b) *Application for modification of experimental license.* An application for modification of experimental authorization shall be submitted on FCC Form 442. A blanket application may be submitted for modification of a group of authorizations of the same class as long as the scope of the modifications are specified in the application. The individual authorizations covered by such an application shall be clearly identified therein. However, application for modification to change location of an experimental authorization shall be filed as a separate application.

(c) *Application for renewal of experimental authorization.* Application for renewal of station license shall be submitted on FCC Form 405. A blanket application may be submitted for renewal of a group of station licenses in the same class in those cases in which the renewal requested is in exact accordance with the terms of the existing authorizations. The individual stations covered by such applications shall be clearly identified thereon. Unless otherwise directed by the Commission, each application for renewal of license shall be filed at least 60 days prior to the expiration date of the license to be renewed.

(d) *Application for consent to assign an experimental authorization.* Application on FCC Form 702 shall be submitted when the legal right to control the use and operation of a station is to be transferred as a result of a voluntary act (contract or other agreement) or an involuntary act (death or legal disability) of the grantee of a station authorization or by involuntary assignment of the physical property constituting the station under a court decree in bankruptcy proceedings, or other court order, or by operation of law in any other manner. Such application must be accompanied by the FCC Form 442 of which only the certification need be signed by the proposed assignee. No other information is required to be submitted on this form.

(e) *Application for consent to transfer control of Corporation holding experimental authorization.* Application for consent to transfer control shall be submitted on FCC Form 703 whenever it is proposed to change the control of a corporation holding a station authorization.

[63 FR 64202, Nov. 19, 1998; 64 FR 43095, Aug. 9, 1999]

### § 5.61 Procedure for obtaining a special temporary authorization.

(a) The Commission may issue a special temporary authorization under this part in cases in which a need is shown for operation of a station for six months or less, provided such operation is not in conflict with the Commission's rules in this part. In cases in which an applicant sets forth compelling reasons why a special temporary authorization must be granted expeditiously, preference will be given to processing the application.

(b) Extensions of a special temporary authorization will be granted provided that an application for a regular experimental license has been filed at least 15 days prior to the expiration of the licensee's temporary authority. When such an application is timely filed, operations may continue in accordance with the other terms and conditions of the temporary authority pending disposition of the application, unless the applicant is notified otherwise by the Commission.

(c) An application for special temporary authorization shall be filed electronically through the Office of Engineering and Technology Web site *https://gullfoss2.fcc.gov/prod/oet/cf/els/index.cfm* effective January 1, 2004 and shall contain the following information:

(1) Name, address, phone number (also e-mail address and facsimile number, if available) of the applicant.

(2) Description of why an STA is needed.

(3) Description of the operation to be conducted and its purpose.

(4) Time and dates of proposed operation.

(5) Class(es) of station (fixed, mobile, fixed and mobile) and call sign of station (if applicable).

(6) Description of the location(s) and, if applicable, geographical coordinates of the proposed operation.

(7) Equipment to be used, including name of manufacturer, model and number of units.

(8) Frequency(ies) desired.

(9) Maximum effective radiated power (ERP) or equivalent isotrophically radiated power (EIRP).

(10) Emission designator (see §2.201 of this chapter) or describe emission (bandwidth, modulation, etc.)

(11) Overall height of antenna structure above the ground (if greater than 6 meters above the ground or an existing structure, see part 17 of this Chapter concerning notification to the FAA).

[63 FR 64202, Nov. 19, 1998; 64 FR 43095, Aug. 9, 1999, as amended at 68 FR 59336, Oct. 15, 2003]

### §5.63 Supplementary statements required.

(a) Each applicant for an authorization in the Experimental Radio Service must enclose with the application a narrative statement describing in detail the program of research and experimentation proposed, the specific objectives sought to be accomplished; and how the program of experimentation has a reasonable promise of contribution to the development, extension, or expansion, or utilization of the radio art, or is along lines not already investigated. An applicant may request non-disclosure of proprietary information submitted under this part. These requests should follow the procedures for submission set forth in §0.459 of this chapter.

(b) If the authorization is to be used for the purpose of fulfilling the requirements of a contract with an agency of the United States Government, the applicant shall submit a narrative statement describing the project, the name of the contracting agency, and the contract number.

(c) If the authorization is to be used for the sole purpose of developing equipment for exportation to be employed by stations under the jurisdiction of a foreign government, the applicant shall submit a narrative statement describing the project, any associated contract number, and the name of the foreign government concerned.

(d) The provisions of paragraph (a) of this section shall not be applicable to applications for an authorization in the Experimental Radio Service to be used for communications essential to a research project in which other means of communications are inadequate or not available. In such cases, applicants shall include as part of the application for an authorization the following:

(1) A description of the nature of the research project being conducted.

(2) A showing that communications facilities are necessary for the research project involved.

(3) A showing that existing communications facilities are inadequate or unavailable.

(e) Except where the satellite system has already been authorized by the FCC, applicants for an experimental authorization involving a satellite system must submit a description of the design and operational strategies the satellite system will use to mitigate orbital debris, including the following information:

(1) A statement that the space station operator has assessed and limited the amount of debris released in a planned manner during normal operations, and has assessed and limited the probability of the space station becoming a source of debris by collisions with small debris or meteoroids that could cause loss of control and prevent post-mission disposal;

(2) A statement that the space station operator has assessed and limited the probability of accidental explosions during and after completion of mission operations. This statement must include a demonstration that debris generation will not result from the conversion of energy sources on board the spacecraft into energy that fragments the spacecraft. Energy sources include chemical, pressure, and kinetic energy. This demonstration should address whether stored energy will be removed

at the spacecraft's end of life, by depleting residual fuel and leaving all fuel line valves open, venting any pressurized system, leaving all batteries in a permanent discharge state, and removing any remaining source of stored energy, or through other equivalent procedures specifically disclosed in the application;

(3) A statement that the space station operator has assessed and limited the probability of the space station becoming a source of debris by collisions with large debris or other operational space stations. Where a space station will be launched into a low-Earth orbit that is identical, or very similar, to an orbit used by other space stations, the statement must include an analysis of the potential risk of collision and a description of what measures the space station operator plans to take to avoid in-orbit collisions. If the space station operator is relying on coordination with another system, the statement must indicate what steps have been taken to contact, and ascertain the likelihood of successful coordination of physical operations with, the other system. The statement must disclose the accuracy—if any—with which orbital parameters of non-geostationary satellite orbit space stations will be maintained, including apogee, perigee, inclination, and the right ascension of the ascending node(s). In the event that a system is not able to maintain orbital tolerances, *i.e.*, it lacks a propulsion system for orbital maintenance, that fact should be included in the debris mitigation disclosure. Such systems must also indicate the anticipated evolution over time of the orbit of the proposed satellite or satellites. Where a space station requests the assignment of a geostationary-Earth orbit location, it must assess whether there are any known satellites located at, or reasonably expected to be located at, the requested orbital location, or assigned in the vicinity of that location, such that the station keeping volumes of the respective satellites might overlap. If so, the statement must include a statement as to the identities of those parties and the measures that will be taken to prevent collisions;

(4) A statement detailing the post-mission disposal plans for the space station at end of life, including the quantity of fuel—if any—that will be reserved for post-mission disposal maneuvers. For geostationary-Earth orbit space stations, the statement must disclose the altitude selected for a post-mission disposal orbit and the calculations that are used in deriving the disposal altitude. The statement must also include a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the space station. In general, an assessment should include an estimate as to whether portions of the spacecraft will survive re-entry and reach the surface of the Earth, as well as an estimate of the resulting probability of human casualty.

[63 FR 64202, Nov. 19, 1998, as amended at 69 FR 54586, Sept. 9, 2004]

### § 5.65 Defective applications.

(a) Applications that are defective with respect to completeness of answers to required questions, execution or other matters of a purely formal character may not be received for filing by the Commission, and may be returned to the applicant with a brief statement as to the omissions.

(b) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(c) Applications that are not in accordance with the Commission's rules, regulations, or other requirements will be considered defective unless accompanied either by:

(1) a petition to amend any rule, regulation, or requirement with which the application is in conflict; or

(2) a request of the applicant for waiver of, or an exception to, any rule, regulation, or requirement with which the application is in conflict. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof.

**§5.67 Amendment or dismissal of applications.**

(a) Any application may be amended or dismissed without prejudice upon request of the applicant prior to the time the application is granted. Each amendment to, or request for dismissal of an application shall be signed, authenticated, and submitted in the same manner and with the same number of copies as required for the original application. All subsequent correspondence or other material that the applicant desires to have incorporated as a part of an application already filed shall be submitted in the form of an amendment to the application.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice.

**§5.69 Partial grants.**

In cases in which the Commission grants an application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to a station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will coordinate with the applicant in an attempt to resolve problems arising from the grant.

**§5.71 License period.**

(a) The regular license period for stations in the Experimental Radio Service is either 2 or 5 years. An applicant desiring to apply for a 5-year license must provide justification for its need for a license of that duration. A license may be renewed upon an adequate showing of need.

(b) A license will not be granted for a period longer than that which is required for completion of the experimental project. If such period is estimated to be less than 2 years, or between 2–5 years, a statement to that effect by the applicant may facilitate grant of the application. See also §5.69 of this part.

**§5.73 Experimental report.**

(a) Unless specifically stated as a condition of the authorization, licensees are not required to file a report on the results of the experimental program carried on under this subpart.

(b) The Commission may, as a condition of authorization, request the licensee to forward periodic reports in order to evaluate the progress of the experimental program.

(c) An applicant may request that the Commission withhold from the public certain reports and associated material and the Commission will do so unless the public interest requires otherwise. These requests should follow the procedures for submission set forth in §0.459 of this chapter.

**§5.75 Number of licenses required.**

An application for a station embracing widely divergent and unrelated experimentations will normally require a separate license for each experiment. However, if the experiments are related or conducted by the same manufacturer, an applicant may apply for a blanket license encompassing the entire experimental program. If a blanket license is granted, licensees will be required to notify the Commission of the specific details of each individual experiment, including location, number of base and mobile units, power, emission designator, and any other pertinent technical information not specified by the blanket license.

**§5.77 Change in equipment and emission characteristics.**

(a) A change may be made in a licensed transmitter without specific authorization from the Commission provided that the change does not result in operations inconsistent with any term of the outstanding authorization for the station involved.

(b) Discrete changes in emission characteristics may be made without specific authorization from the Commission provided that the Commission is given written notification demonstrating that such changes will not

exceed the maximum emissions envelope established in the existing authorization. Changes made pursuant to such notification that become a permanent part of the licensee's experimental program must be listed in the licensee's next application for renewal.

(c) Prior authorization from the Commission is required before the following antenna changes may be made at a station at a fixed location:

(1) Any change that will either increase the height of a structure supporting the radiating portion of the antenna or decrease the height of a lighted antenna structure.

(2) Any change in the location of an antenna when such relocation involves a change in the geographic coordinates of latitude or longitude by as much as one second, or when such relocation involves a change in street address.

### § 5.79 Transfer and assignment of station authorization.

A station authorization, the frequencies authorized to be used by the grantee of such authorization, and the rights therein granted by such authorization shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, unless the Commission shall, after securing full information, decide that such a transfer is in the public interest and give its consent in writing. Requests for authority to transfer or assign a station authorization shall be submitted on the forms prescribed by § 5.59 of this part.

### § 5.81 Discontinuance of station operation.

In case of permanent discontinuance of operation of a fixed or land station in the Experimental Radio Service, or in case of permanent discontinuance of operation of all transmitter units listed in the license for a mobile station in the Experimental Radio Service, the licensee shall forward the station license to the Commission's Office of Engineering and Technology for cancellation.

### § 5.83 Cancellation provisions.

The applicant for a station in the Experimental Radio Services accepts the license with the express understanding:

(a) that the authority to use the frequency or frequencies assigned is granted upon an experimental basis only and does not confer any right to conduct an activity of a continuing nature; and

(b) that said grant is subject to change or cancellation by the Commission at any time without hearing if in its discretion the need for such action arises. However, a petition for reconsideration or application for review may be filed to such Commission action.

### § 5.85 Frequencies and policy governing their assignment.

(a) Stations operating in the Experimental Radio Service may be authorized to use any government or non-government frequency designated in the Table of Frequency Allocations set forth in part 2 of this chapter, provided that the need for the frequency requested is fully justified by the applicant.

(b) Each frequency or band of frequencies available for assignment to stations in the Experimental Radio Service is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant, and such use may also be restricted to one or more specified geographical areas. Not more than one frequency in a band of frequencies will normally be assigned for the use of a single applicant unless a showing is made demonstrating that need for the assignment of additional frequencies is essential to the proposed program of experimentation.

(c) Frequency assignments will be made only on the condition that harmful interference will not be caused to any station operating in accordance with the Table of Frequency Allocation of part 2 of this chapter.

(d) *Use of Public Safety Frequencies.* Applicants in the Experimental Radio Service must avoid use of public safety frequencies except when a compelling showing can be made that use of such frequencies is in the public interest. Public safety frequencies are identified in subpart B (Public Safety Radio Services) and subpart C (Special Emergency Radio Service) of part 90 of this Chapter. In addition, subpart S of part 90 of

this chapter contains rules for the assignment of frequencies that may be used by Public Safety Radio Services in the 806–824 MHz and 851–869 MHz bands. If an experimental license to use public safety radio frequencies is granted, the authorization will be conditioned to require coordination between the experimental licensee and the appropriate frequency coordinator and/or all of the public safety licensees in its intended area of operation.

(e) The Commission may, at its discretion, condition any experimental license or STA on the requirement that before commencing operation, the new licensee coordinate its proposed facility with other licensees that may receive interference as a result of the new licensee's operations.

(f) *Protection of FCC monitoring stations.* (1) Applicants are advised to give consideration, prior to filing applications, to the need to protect FCC monitoring stations from harmful interference. Geographical coordinates of such stations are listed in §0.121(b) of this chapter. Applications for stations (except mobile stations) that will produce on any frequency a direct wave fundamental field strength of greater than 10 mV/m in the authorized bandwidth of service (–65.8 dBW/m$^2$ power flux density assuming a free space characteristic impedance of 120π ohms) at the referenced coordinates, may be examined to determine the extent of possible interference. Depending on the theoretical field strength value or other ambient radio field signal levels at the indicated coordinates, a clause protecting the monitoring station may be added to the station authorization.

(2) In the event that calculated value of expected field strength exceeds 10 mV/m (–65.8 dBW/m$^2$) at the reference coordinates, or if there is any question whether field strength levels might exceed the threshold value, advance consultation with the FCC to discuss any protection necessary should be considered. Prospective applicants may communicate with the Technology Division, Compliance and Information Bureau, telephone (202) 418–1210, Federal Communications Commission, Washington, DC 20554.

(3) Advance consultation is suggested particularly for those applicants who have no reliable data that indicates whether the field strength or power flux density figure indicated would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether an applicant should coordinate:

(i) All stations within 2.4 kilometers (1.5 statute miles);

(ii) Stations within 4.8 kilometers (3 statute miles) with 50 watts or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(iii) Stations within 16 kilometers (10 statute miles) with 1 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(iv) Stations within 80 kilometers (50 statute miles) with 25 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station.

(4) Advance coordination for stations operating above 1000 MHz is recommended only where the proposed station is in the vicinity of a monitoring station designated as a satellite monitoring facility in §0.121(c) of this Chapter and also meets the criteria outlined in paragraphs (d) (2) and (3) of this section.

(5) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Commission.

### §5.87 Frequencies for field strength surveys or equipment demonstrations.

(a) Authorizations issued under §§5.3 (e) and (f) of this part will normally not have specific frequencies designated in a station license. Prior to the commencement of a survey or demonstration, the licensee will request a specific frequency assignment and submit the following information:

(1) Time, date and duration of survey.

(2) Frequency to be used.

(3) Location of transmitter and geographical area to be covered.

(4) Purpose of survey.

(5) Method and equipment to be used.

(6) Names and addresses of persons for whom the survey is conducted.

(b) [Reserved]

### § 5.89 School and student authorizations.

The Commission may issue an authorization to schools or students for the purpose of presenting experiments or technical demonstrations for school or school approved projects that require the use of radio for a limited period of time. Such authorizations may be granted at the discretion of the Commission.

(a) An application for a school or student authorization may be filed in letter form and must comply with the provisions of § 5.63, of this part except where specified below. The application must be accompanied by a signed statement from a member of faculty of the school, on appropriate letterhead, indicating the person under whose general supervision the project will be conducted. In the case of student authorizations, the letter must state that the project has the approval of the school.

(b) Frequencies in the following bands are available for assignment in authorizations issued under this section:

27.23–27.28 MHz.
460–461 MHz.
462.525–467.475 MHz.
2402–2483.5 MHz.
10.00–10.50 GHz.

(c) Operations under this section are limited to 4 watts equivalent isotropically radiated power (EIRP). The Commission may authorize a greater power if a satisfactory showing is made that such greater power is necessary and that appropriate measures will be taken to prevent interference.

(d) The frequency of operation must be measured or checked prior to each time of operation.

(e) Subject to the provisions of (b), (c) and (d), the provisions in subpart C of this part are waived insofar as such provisions require a station authorized under this section to observe the technical and operating restrictions set forth therein.

(f) The licensee holding an authorization issued under this section shall maintain a record of operation containing the following information:

(1) A brief description of the experimentation being conducted.

(2) The date and time of each period of operation.

(3) The frequency of operation as measured or checked at the beginning of each period of operation.

(g) The record of operation shall be retained for one month after the termination of the authorization.

[63 FR 64202, Nov. 19, 1998; 64 FR 43095, Aug. 9, 1999]

### § 5.91 Notification of the National Radio Astronomy Observatory.

In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, temporary fixed, Personal Radio, Civil Air Patrol, or Amateur seeking a station license for a new station, or a construction permit to construct a new station or to modify an existing station license in a manner that would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39 deg. 15′ N on the north, 78 deg. 30′ W on the east, 37 deg. 30′ N on the south and 80 deg. 30′ W on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, P.O. Box NZ2, Green Bank, West Virginia, 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, frequency, type of emission, and power. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation

is received during the twenty-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

### §5.93 Limited market studies.

Unless otherwise stated in the instrument of authorization, licenses granted for the purpose of limited market studies pursuant to §5.3(j) of this part are subject to the following conditions:

(a) All transmitting and/or receiving equipment used in the study shall be owned by the licensee.

(b) The licensee is responsible for informing anyone participating in the experiment that the service or device is granted under an experimental authorization and is strictly temporary.

(c) The size and scope of the experiment are subject to limitations as the Commission shall establish on a case-by-case basis. If the Commission subsequently determines that a market study is not so limited, the study shall be immediately terminated.

### §5.95 Informal objections.

A person or entity desiring to object to or to oppose an Experimental Radio application for a station license or authorization may file an informal objection against that application. The informal objection and any responsive pleadings shall comply with the requirements set forth in §§1.41 through 1.52 of this chapter.

[68 FR 59336, Oct. 15, 2003]

## Subpart C—Technical Standards and Operating Requirements

### §5.101 Frequency stability.

An applicant must propose to use a frequency tolerance that would confine emissions within the band of operation, unless permission is granted to use a greater frequency tolerance. Equipment is presumed to operate over the temperature range −20 to +50 degrees celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

### §5.103 Types of emission.

Stations in the Experimental Radio Service may be authorized to use any of the classifications of emissions covered in part 2 of this chapter.

### §5.105 Authorized bandwidth.

Each authorization issued to a station operating in this service will show, as the prefix to the emission classification, a figure specifying the maximum necessary bandwidth for the emission used. The authorized bandwidth is considered to be the occupied or necessary bandwidth, whichever is greater. This bandwidth should be determined in accordance with §2.202 of this chapter.

[63 FR 64202, Nov. 19, 1998; 64 FR 43095, Aug. 9, 1999]

### §5.107 Transmitter control requirements.

Each licensee shall be responsible for maintaining control of the transmitter authorized under its station authorization. This includes both ensuring that transmissions are in conformance with the operating characteristics prescribed in the station authorization and that the station is operated only by persons duly authorized by the licensee.

### §5.109 Antenna and tower requirements.

(a) Applicants with fixed stations that use antennas that exceed 6 meters in height above the ground level or more than 6 meters in height above an existing building must comply with the requirements of part 17 of this chapter.

(b) The licensee of any radio station that has an antenna structure required to be painted and illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and part 17 of this chapter, shall perform the inspections and maintain the tower marking and lighting, and associated control equipment, in accordance with the requirements of part 17, subpart C, of this chapter.

[63 FR 64202, Nov. 19, 1998; 64 FR 43095, Aug. 9, 1999]

### § 5.111 General limitations on use.

(a) The following transmission limitations are applicable to all classes of stations in the Experimental Radio Service:

(1) Stations may make only such transmissions as are necessary and directly related to the conduct of the licensee's stated program of experimentation as specified in the application for license and the related station instrument of authorization, and as governed by the provisions of the rules and regulations contained in this part. All transmissions shall be limited to the minimum practical transmission time.

(2) When transmitting, the licensee must use every precaution to ensure that the radio frequency energy emitted will not cause harmful interference to the services carried on by stations operating in accordance with the Table of Frequency Allocations of part 2 of this chapter and, further, that the power radiated is reduced to the lowest practical value consistent with the program of experimentation for which the station authorization is granted. If harmful interference to an established radio service develops, the licensee shall cease transmissions and such transmissions shall not be resumed until it is certain that harmful interference will not be caused.

(b) If experimental stations are to be used to retransmit signals of any other station or to render any communications service to third parties, a full disclosure of this must be made in the application for license.

### § 5.113 Adherence to program of research.

(a) The program of experimentation as stated by an applicant in its application for license or in the station instrument of authorization, shall be substantially adhered to unless the licensee is authorized to do otherwise by the Commission.

(b) Where some phases of the experimental program are not covered by the general rules of the Commission or by the rules of this part, the Commission may specify supplemental or additional requirements or conditions in each case as deemed necessary in the public interest, convenience, or necessity.

### § 5.115 Station identification.

Each class of station in the experimental services shall, unless specifically exempted by the terms of the station authorization, transmit its assigned call sign at the end of each complete transmission: Provided, however, that the transmission of the call sign at the end of each transmission is not required for projects requiring continuous, frequent, or extended use of the transmitting apparatus, if, during such periods and in connection with such use, the call sign is transmitted at least once every thirty minutes. The station identification shall be transmitted in clear voice or Morse code. All digital encoding and digital modulation shall be disabled during station identification.

### § 5.117 Suspension of transmission required.

The radiations of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the station authorization until such deviation is corrected, except for transmissions concerning the immediate safety of life or property, in which case the transmissions shall be suspended as soon as the emergency is terminated.

### § 5.119 Posting station licenses.

The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

### § 5.121 Retention of station records.

Records required to be kept by this part shall be retained for a period of at least one year.

### § 5.123 Inspection of stations.

All stations and records of stations in the Experimental Radio Service shall be made available for inspection at any time while the station is in operation or shall be made available for inspection upon reasonable request of an authorized representative of the Commission.

**§5.125 Authorized points of communication.**

Generally, stations in the Experimental Radio Service may communicate only with other stations licensed in the Experimental Radio Service. Nevertheless, upon a satisfactory showing that the proposed communications are essential to the conduct of the research project, authority may be granted to communicate with stations in other services and U.S. Government stations.

# PART 6—ACCESS TO TELECOMMUNICATIONS SERVICE, TELECOMMUNICATIONS EQUIPMENT AND CUSTOMER PREMISES EQUIPMENT BY PERSONS WITH DISABILITIES

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### Subpart C—Obligations—What Must Covered Entities Do?

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6.21 Formal complaints, applicability of §§1.720 through 1.736 of this chapter.
6.22 Formal complaints based on unsatisfied informal complaints.
6.23 Actions by the Commission on its own motion.

AUTHORITY: 47 U.S.C. 151–154, 251, 255, and 303(r).

SOURCE: 64 FR 63251, Nov. 19, 1999, unless otherwise noted.

## Subpart A—Scope—Who Must Comply With These Rules?

**§6.1 Applicability.**

The rules in this part apply to:

(a) Any provider of telecommunications service;

(b) Any manufacturer of telecommunications equipment or customer premises equipment;

(c) Any telecommunications carrier;

(d) Any provider of interconnected Voice over Internet Protocol (VoIP) service, as that term is defined in §9.3 of this chapter; and

(e) Any manufacturer of equipment or customer premises equipment that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43558, Aug. 6, 2007]

## Subpart B—Definitions

**§6.3 Definitions.**

(a) The term *accessible* shall mean that:

(1) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) Operable without vision. Provide at least one mode that does not require user vision.

(ii) Operable with low vision and limited or no hearing. Provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) Operable with little or no color perception. Provide at least one mode that does not require user color perception.

(iv) Operable without hearing. Provide at least one mode that does not require user auditory perception.

(v) Operable with limited manual dexterity. Provide at least one mode that does not require user fine motor control or simultaneous actions.

(vi) Operable with limited reach and strength. Provide at least one mode that is operable with user limited reach and strength.

(vii) Operable with a Prosthetic Device. Controls shall be operable without requiring body contact or close body proximity.

(viii) Operable without time-dependent controls. Provide at least one mode that does not require a response time or allows response time to be by-passed or adjusted by the user over a wide range.

(ix) Operable without speech. Provide at least one mode that does not require user speech.

(x) Operable with limited cognitive skills. Provide at least one mode that minimizes the cognitive, memory, language, and learning skills required of the user.

(2) All information necessary to operate and use the product, including but not limited to, text, static or dynamic images, icons, labels, sounds, or incidental operating cues, comply with each of the following, assessed independently:

(i) Availability of visual information. Provide visual information through at least one mode in auditory form.

(ii) Availability of visual information for low vision users. Provide visual information through at least one mode to users with visual acuity between 20/70 and 20/200 without relying on audio.

(iii) Access to moving text. Provide moving text in at least one static presentation mode at the option of the user.

(iv) Availability of auditory information. Provide auditory information through at least one mode in visual form and, where appropriate, in tactile form.

(v) Availability of auditory information for people who are hard of hearing. Provide audio or acoustic information, including any auditory feedback tones that are important for the use of the product, through at least one mode in enhanced auditory fashion (*i.e.*, increased amplification, increased signal-to-noise ratio, or combination).

(vi) Prevention of visually-induced seizures. Visual displays and indicators shall minimize visual flicker that might induce seizures in people with photosensitive epilepsy.

(vii) Availability of audio cutoff. Where a product delivers audio output through an external speaker, provide an industry standard connector for headphones or personal listening devices (e.g., phone-like handset or earcup) which cuts off the speaker(s) when used.

(viii) Non-interference with hearing technologies. Reduce interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) to the lowest possible level that allows a user to utilize the product.

(ix) Hearing aid coupling. Where a product delivers output by an audio transducer which is normally held up to the ear, provide a means for effective wireless coupling to hearing aids.

(b) The term *compatibility* shall mean compatible with peripheral devices and specialized customer premises equipment commonly used by individuals with disabilities to achieve accessibility to telecommunications services, and in compliance with the following provisions, as applicable:

(1) External electronic access to all information and control mechanisms. Information needed for the operation of products (including output, alerts, icons, on-line help, and documentation) shall be available in a standard electronic text format on a cross-industry standard port and all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format. The cross-industry standard port shall not require manipulation of a connector by the user.

(2) Connection point for external audio processing devices. Products providing auditory output shall provide the auditory signal at a standard signal level through an industry standard connector.

(3) TTY connectability. Products which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on and off to allow the user to intermix speech with TTY use.

(4) TTY signal compatibility. Products, including those providing voice communication functionality, shall

support use of all cross-manufacturer non-proprietary standard signals used by TTYs.

(c) *The term customer premises equipment* shall mean equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications. For purposes of this part, the term customer premises equipment shall include equipment employed on the premises of a person (other than a carrier) that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service.

(d) The term *disability* shall mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.

(e) *The term interconnected VoIP service* shall have the same meaning as in §9.3 of this chapter.

(f) The term *manufacturer* shall mean an entity that makes or produces a product.

(g) The term *peripheral devices* shall mean devices employed in connection with equipment covered by this part to translate, enhance, or otherwise transform telecommunications into a form accessible to individuals with disabilities.

(h) The term *readily achievable* shall mean, in general, easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(1) The nature and cost of the action needed;

(2) The overall financial resources of the manufacturer or service provider involved in the action (the covered entity); the number of persons employed by such manufacturer or service provider; the effect on expenses and resources, or the impact otherwise of such action upon the operations of the manufacturer or service provider;

(3) If applicable, the overall financial resources of the parent of the entity; the overall size of the business of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(4) If applicable, the type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity; and the geographic separateness, administrative or fiscal relationship of the covered entity in question to the parent entity.

(i) The term *specialized customer premises equipment* shall mean customer premise equipment which is commonly used by individuals with disabilities to achieve access.

(j) *The term telecommunications equipment* shall mean equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades). For purposes of this part, the term telecommunications equipment shall include equipment that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service as that term is defined in §9.3 of this chapter.

(k) *The term telecommunications service* shall mean the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. For purposes of this part, the term telecommunications service shall include ''interconnected VoIP service'' as that term is defined in §9.3 of this chapter.

(l) The term *usable* shall mean that individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation, bills and technical support which is provided to individuals without disabilities.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43558, Aug. 6, 2007]

## Subpart C—Obligations—What Must Covered Entities Do?

### §6.5 General obligations.

(a) *Obligation of Manufacturers.* (1) A manufacturer of telecommunications

equipment or customer premises equipment shall ensure that the equipment is designed, developed and fabricated so that the telecommunications functions of the equipment are accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (a)(1) of this section are not readily achievable, the manufacturer shall ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

(b) *Obligation of Service Providers.* (1) A provider of a telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (b)(1) of this section are not readily achievable, the service provider shall ensure that the service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

(c) *Obligation of Telecommunications Carriers.* Each telecommunications carrier must not install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to this part or part 7 of this chapter.

### § 6.7 Product design, development, and evaluation.

(a) Manufacturers and service providers shall evaluate the accessibility, usability, and compatibility of equipment and services covered by this part and shall incorporate such evaluation throughout product design, development, and fabrication, as early and consistently as possible. Manufacturers and service providers shall identify barriers to accessibility and usability as part of such a product design and development process.

(b) In developing such a process, manufacturers and service providers shall consider the following factors, as the manufacturer deems appropriate:

(1) Where market research is undertaken, including individuals with disabilities in target populations of such research;

(2) Where product design, testing, pilot demonstrations, and product trials are conducted, including individuals with disabilities in such activities;

(3) Working cooperatively with appropriate disability-related organizations; and

(4) Making reasonable efforts to validate any unproven access solutions through testing with individuals with disabilities or with appropriate disability-related organizations that have established expertise with individuals with disabilities.

### § 6.9 Information pass through.

Telecommunications equipment and customer premises equipment shall pass through cross-manufacturer, nonproprietary, industry-standard codes, translation protocols, formats or other information necessary to provide telecommunications in an accessible format, if readily achievable. In particular, signal compression technologies shall not remove information needed for access or shall restore it upon decompression.

### § 6.11 Information, documentation, and training.

(a) Manufacturers and service providers shall ensure access to information and documentation it provides to its customers, if readily achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers shall take such other readily achievable steps as necessary including:

(1) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(2) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(3) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(b) Manufacturers and service providers shall include in general product information the contact method for obtaining the information required by paragraph (a) of this section.

(c) In developing, or incorporating existing training programs, manufacturers and service providers, shall consider the following topics:

(1) Accessibility requirements of individuals with disabilities;

(2) Means of communicating with individuals with disabilities;

(3) Commonly used adaptive technology used with the manufacturer's products;

(4) Designing for accessibility; and

(5) Solutions for accessibility and compatibility.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43558, Aug. 6, 2007; 73 FR 21252, Apr. 21, 2008]

## Subpart D—Enforcement

### §6.15 Generally.

(a) All manufacturers of telecommunications equipment or customer premise equipment (CPE) and all providers of telecommunications services, as defined under this subpart, are subject to the enforcement provisions specified in the Act and the Commission's rules.

(b) For purposes of §§6.15 through 6.23, the term ''manufacturers'' shall denote manufacturers of telecommunications equipment or CPE and the term ''providers'' shall denote providers of telecommunications services.

### §6.16 Informal or formal complaints.

Complaints against manufacturers or providers, as defined under this subpart, for alleged violations of this subpart may be either informal or formal.

### §6.17 Informal complaints; form and content.

(a) An informal complaint alleging a violation of section 255 of the Act or this subpart may be transmitted to the Commission by any reasonable means, e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, and braille.

(b) An informal complaint shall include:

(1) The name and address of the complainant;

(2) The name and address of the manufacturer or provider against whom the complaint is made;

(3) A full description of the telecommunications equipment or CPE and/or the telecommunications service about which the complaint is made;

(4) The date or dates on which the complainant either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made;

(5) A complete statement of the facts, including documentation where available, supporting the complainant's allegation that: such telecommunications service, or such telecommunications equipment or CPE, is not accessible to, or usable by, a person with a particular disability or persons with disabilities within the meaning of this subpart and section 255 of the Act; or that the defendant has otherwise failed to comply with the requirements of this subpart;

(6) The specific relief or satisfaction sought by the complainant, and

(7) The complainant's preferred format or method of response to the complaint by the Commission and defendant (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, braille; or some other method that will best accommodate the complainant's disability)

### §6.18 Procedure; designation of agents for service.

(a) The Commission shall promptly forward any informal complaint meeting the requirements of §6.17 to each manufacturer and provider named in or determined by the staff to be implicated by the complaint. Such manufacturer(s) or provider(s) shall be called on to satisfy or answer the complaint within the time specified by the Commission.

(b) To ensure prompt and effective service of informal and formal complaints filed under this subpart, every manufacturer and provider subject to the requirements of section 255 of the Act and this subpart, shall designate

an agent, and may designate additional agents if it so chooses, upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. Such designation shall include, for both the manufacturer or the provider, a name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and Internet e-mail address.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43559, Aug. 6, 2007; 73 FR 21252, Apr. 21, 2008]

### § 6.19 Answers to informal complaints.

Any manufacturer or provider to whom an informal complaint is directed by the Commission under this subpart shall file an answer within the time specified by the Commission. The answer shall:

(a) Be prepared or formatted in the manner requested by the complainant pursuant to § 6.17, unless otherwise permitted by the Commission for good cause shown;

(b) Describe any actions that the defendant has taken or proposes to take to satisfy the complaint;

(c) Advise the complainant and the Commission of the nature of the defense(s) claimed by the defendant;

(d) Respond specifically to all material allegations of the complaint; and

(e) Provide any other information or materials specified by the Commission as relevant to its consideration of the complaint.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43559, Aug. 6, 2007; 73 FR 21252, Apr. 21, 2008]

### § 6.20 Review and disposition of informal complaints.

(a) Where it appears from the defendant's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the informal complaint closed, without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information, the nature of which is specified in paragraphs (b) through (d) of this section, shall be transmitted to the complainant and defendant in the manner requested by the complainant, (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, or braille).

(b) In the event the Commission determines, based on a review of the information provided in the informal complaint and the defendant's answer thereto, that no further action is required by the Commission with respect to the allegations contained in the informal complaint, the informal complaint shall be closed and the complainant and defendant shall be duly informed of the reasons therefor. A complainant unsatisfied with the defendant's response to the informal complaint and the staff decision to terminate action on the informal complaint may file a formal complaint with the Commission, as specified in § 6.22.

(c) In the event the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that a material and substantial question remains as to the defendant's compliance with the requirements of this subpart, the Commission may conduct such further investigation or such further proceedings as may be necessary to determine the defendant's compliance with the requirements of this subpart and to determine what, if any, remedial actions and/or sanctions are warranted.

(d) In the event that the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that the defendant has failed to comply with or is presently not in compliance with the requirements of this subpart, the Commission may order or prescribe such remedial actions and/or sanctions as are authorized under the Act and the Commission's rules and which are deemed by the Commission to be appropriate under the facts and circumstances of the case.

### § 6.21 Formal complaints, applicability of §§ 1.720 through 1.736 of this chapter.

Formal complaints against a manufacturer or provider, as defined under this subpart, may be filed in the form and in the manner prescribed under §§ 1.720 through 1.736 of this chapter. Commission staff may grant waivers of, or exceptions to, particular requirements under §§ 1.720 through 1.736 of this chapter for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under §§ 1.720 and 1.728 of this chapter to allege facts which, if true, are sufficient to constitute a violation or violations of section 255 of the Act or this subpart.

### § 6.22 Formal complaints based on unsatisfied informal complaints.

A formal complaint filing based on an unsatisfied informal complaint filed pursuant to § 4.16 of this chapter shall be deemed to relate back to the filing date of the informal complaint if it is filed within ninety days from the date that the Commission notifies the complainant of its disposition of the informal complaint and based on the same operative facts as those alleged in the informal complaint.

### § 6.23 Actions by the Commission on its own motion.

The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart and section 255 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

# PART 7—ACCESS TO VOICEMAIL AND INTERACTIVE MENU SERVICES AND EQUIPMENT BY PEOPLE WITH DISABILITIES

## Subpart A—Scope—Who Must Comply With These Rules?

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7.1 Who must comply with these rules?

## Subpart B—Definitions

7.3 Definitions.

## Subpart C—Obligations—What must Covered Entities do?

7.5 General obligations.
7.7 Product design, development and evaluation.
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7.15 Generally.
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7.17 Informal complaints; form and content.
7.18 Procedure; designation of agents for service.
7.19 Answers to informal complaints.
7.20 Review and disposition of informal complaints.
7.21 Formal complaints, applicability of §§ 1.720 through 1.736 of this chapter.
7.22 Formal complaints based on unsatisfied informal complaints.
7.23 Actions by the Commission on its own motion.

AUTHORITY: 47 U.S.C. 1, 154(i), 154(j) 208, and 255.

SOURCE: 64 FR 63255, Nov. 19, 1999, unless otherwise noted.

## Subpart A—Scope—Who Must Comply With These Rules?

### § 7.1 Who must comply with these rules?

The rules in this part apply to:

(a) Any provider of voicemail or interactive menu service;

(b) Any manufacturer of telecommunications equipment or customer premises equipment which performs a voicemail or interactive menu function.

## Subpart B—Definitions

### § 7.3 Definitions.

(a) The term *accessible* shall mean that:

(1) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) Operable without vision. Provide at least one mode that does not require user vision.

(ii) Operable with low vision and limited or no hearing. Provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) Operable with little or no color perception. Provide at least one mode that does not require user color perception.

(iv) Operable without hearing. Provide at least one mode that does not require user auditory perception.

(v) Operable with limited manual dexterity. Provide at least one mode that does not require user fine motor control or simultaneous actions.

(vi) Operable with limited reach and strength. Provide at least one mode that is operable with user limited reach and strength.

(vii) Operable with a Prosthetic Device. Controls shall be operable without requiring body contact or close body proximity.

(viii) Operable without time-dependent controls. Provide at least one mode that does not require a response time or allows a response to be by-passed or adjusted by the user over a wide range.

(ix) Operable without speech. Provide at least one mode that does not require user speech.

(x) Operable with limited cognitive skills. Provide at least one mode that minimizes the cognitive, memory, language, and learning skills required of the user.

(2) All information necessary to operate and use the product, including but not limited to, text, static or dynamic images, icons, labels, sounds, or incidental operating cues, comply with each of the following, assessed independently:

(i) Availability of visual information. Provide visual information through at least one mode in auditory form.

(ii) Availability of visual information for low vision users. Provide visual information through at least one mode to users with visual acuity between 20/70 and 20/200 without relying on audio.

(iii) Access to moving text. Provide moving text in at least one static presentation mode at the option of the user.

(iv) Availability of auditory information. Provide auditory information through at least one mode in visual form and, where appropriate, in tactile form.

(v) Availability of auditory information for people who are hard of hearing. Provide audio or acoustic information, including any auditory feedback tones that are important for the use of the product, through at least one mode in enhanced auditory fashion (*i.e.*, increased amplification, increased signal-to-noise ratio, or combination).

(vi) Prevention of visually-induced seizures. Visual displays and indicators shall minimize visual flicker that might induce seizures in people with photosensitive epilepsy.

(vii) Availability of audio cutoff. Where a product delivers audio output through an external speaker, provide an industry standard connector for headphones or personal listening devices (e.g., phone-like handset or earcup) which cuts off the speaker(s) when used.

(viii) Non-interference with hearing technologies. Reduce interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) to the lowest possible level that allows a user to utilize the product.

(ix) Hearing aid coupling. Where a product delivers output by an audio transducer which is normally held up to the ear, provide a means for effective wireless coupling to hearing aids.

(b) The term *compatibility* shall mean compatible with peripheral devices and specialized customer premises equipment commonly used by individuals with disabilities to achieve accessibility to voicemail and interactive menus, and in compliance with the following provisions, as applicable:

(1) External electronic access to all information and control mechanisms. Information needed for the operation of products (including output, alerts, icons, on-line help, and documentation) shall be available in a standard electronic text format on a cross-industry standard port and all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format. The cross-industry standard port shall not require manipulation of a connector by the user.

(2) Connection point for external audio processing devices. Products providing auditory output shall provide the auditory signal at a standard signal level through an industry standard connector.

(3) TTY connectability. Products which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on and off to allow the user to intermix speech with TTY use.

(4) TTY signal compatibility. Products, including those providing voice communication functionality, shall support use of all cross-manufacturer non-proprietary standard signals used by TTYs.

(c) The term *customer premises equipment* shall mean equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

(d) The term *disability* shall mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.

(e) The term *interactive menu* shall mean a feature that allows a service provider or operator of CPE to transmit information to a caller in visual and/or audible format for the purpose of management, control, or operations of a telecommunications system or service; and/or to request information from the caller in visual and/or audible format for the purpose of management, control, or operations of a telecommunications system or service; and/or to receive information from the caller in visual and/or audible format in response to a request, for the purpose of management, control, or operations of a telecommunications system or service. This feature, however, does not include the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications for any purpose other than management, control, or operations of a telecommunications system or service.

(f) The term *manufacturer* shall mean an entity that makes or produces a product.

(g) The term *peripheral devices* shall mean devices employed in connection with equipment covered by this part to translate, enhance, or otherwise transform telecommunications into a form accessible to individuals with disabilities.

(h) The term *readily achievable* shall mean, in general, easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(1) The nature and cost of the action needed;

(2) The overall financial resources of the manufacturer or service provider involved in the action (the covered entity); the number of persons employed by such manufacturer or service provider; the effect on expenses and resources, or the impact otherwise of such action upon the operations of the manufacturer or service provider;

(3) If applicable, the overall financial resources of the parent of the covered entity; the overall size of the business of the parent of the covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(4) If applicable, the type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity; and the geographic separateness, administrative or fiscal relationship of covered entity in question to the parent entity.

(i) The term *specialized customer premises equipment* shall mean customer premise equipment which is commonly used by individuals with disabilities to achieve access.

(j) The term *telecommunications equipment* shall mean equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

(k) The term *telecommunications service* shall mean the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(l) The term *usable* shall mean that individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation, bills and technical support which is provided to individuals without disabilities.

(m) The term *Voicemail* shall mean the capability of answering calls and recording incoming messages when a line is busy or does not answer within a pre-specified amount of time or number of rings; receiving those messages at a later time; and may also include the ability to determine the sender and time of transmission without hearing the entire message; the ability to forward the message to another voice massaging customer, with and/or without an appended new message; the ability for the sender to confirm receipt of a message; the ability to send, receive, and/or store facsimile messages; and possibly other features.

## Subpart C—Obligations—What Must Covered Entities Do?

### § 7.5 General Obligations.

(a) Obligation of Manufacturers. (1) A manufacturer of telecommunications equipment or customer premises equipment covered by this part shall ensure that the equipment is designed, developed and fabricated so that the voicemail and interactive menu functions are accessible to and usable by individuals with disabilities, if readily achievable;

(2) Whenever the requirements of paragraph (a)(1) of this section are not readily achievable, the manufacturer shall ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

(b) Obligation of Service Providers. (1) A provider of voicemail or interactive menu shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (a)(1) of this section are not readily achievable, the service provider shall ensure that the service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

### § 7.7 Product design, development, and evaluation.

(a) Manufacturers and service providers shall evaluate the accessibility, usability, and compatibility of equipment and services covered by this part and shall incorporate such evaluation throughout product design, development, and fabrication, as early and consistently as possible. Manufacturers and service providers shall identify barriers to accessibility and usability as part of such a product design and development process.

(b) In developing such a process, manufacturers and service providers shall consider the following factors, as the manufacturer deems appropriate:

(1) Where market research is undertaken, including individuals with disabilities in target populations of such research;

(2) Where product design, testing, pilot demonstrations, and product trials are conducted, including individuals with disabilities in such activities;

(3) Working cooperatively with appropriate disability-related organizations; and

(4) Making reasonable efforts to validate any unproven access solutions through testing with individuals with

disabilities or with appropriate disability-related organizations that have established expertise with individuals with disabilities.

### § 7.9 Information pass through.

Telecommunications equipment and customer premises equipment shall pass through cross-manufacturer, nonproprietary, industry-standard codes, translation protocols, formats or other information necessary to provide telecommunications in an accessible format, if readily achievable. In particular, signal compression technologies shall not remove information needed for access or shall restore it upon decompression.

### § 7.11 Information, documentation, and training.

(a) Manufacturers and service providers shall ensure access to information and documentation it provides to its customers, if readily achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers shall take such other readily achievable steps as necessary including:

(1) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(2) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(3) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(b) Manufacturers and service providers shall include in general product information the contact method for obtaining the information required by paragraph (a) of this section.

(c) In developing, or incorporating existing training programs, manufacturers and service providers shall consider the following topics:

(1) Accessibility requirements of individuals with disabilities;

(2) Means of communicating with individuals with disabilities;

(3) Commonly used adaptive technology used with the manufacturer's products;

(4) Designing for accessibility; and

(5) Solutions for accessibility and compatibility.

## Subpart D—Enforcement

### § 7.15 Generally.

(a) For purposes of §§ 7.15–7.23 of this subpart, the term ''manufacturers'' shall denote any manufacturer of telecommunications equipment or customer premises equipment which performs a voicemail or interactive menu function.

(b) All manufacturers of telecommunications equipment or customer premise equipment (CPE) and all providers of voicemail and interactive menu services, as defined under this subpart, are subject to the enforcement provisions specified in the Act and the Commission's rules.

(c) The term ''providers'' shall denote any provider of voicemail or interactive menu service.

### § 7.16 Informal or formal complaints.

Complaints against manufacturers or providers, as defined under this subpart, for alleged violations of this subpart may be either informal or formal.

### § 7.17 Informal complaints; form and content.

(a) An informal complaint alleging a violation of section 255 of the Act or this subpart may be transmitted to the Commission by any reasonable means, *e.g.*, letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, Internet e-mail, audio-cassette recording, and braille.

(b) An informal complaint shall include:

(1) The name and address of the complainant;

(2) The name and address of the manufacturer or provider against whom the complaint is made;

(3) A full description of the telecommunications equipment or CPE and/or the telecommunications service about which the complaint is made;

(4) The date or dates on which the complainant either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made;

(5) A complete statement of the facts, including documentation where available, supporting the complainant's allegation that: such telecommunications service, or such telecommunications equipment or CPE, is not accessible to, or usable by, a person with a particular disability or persons with disabilities within the meaning of this subpart and section 255 of the Act; or that the defendant has otherwise failed to comply with the requirements of this subpart.

(6) The specific relief or satisfaction sought by the complainant, and

(7) The complainant's preferred format or method of response to the complaint by the Commission and defendant (*e.g.*, letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, braille; or some other method that will best accommodate the complainant's disability).

### § 7.18 Procedure; designation of agents for service.

(a) The Commission shall promptly forward any informal complaint meeting the requirements of § 7.17 to each manufacturer and provider named in or determined by the staff to be implicated by the complaint. Such manufacturer(s) or provider(s) shall be called on to satisfy or answer the complaint within the time specified by the Commission.

(b) To ensure prompt and effective service of informal and formal complaints filed under this subpart, every manufacturer and provider subject to the requirements of section 255 of the Act and this subpart, shall designate an agent, and may designate additional agents if it so chooses, upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. Such designation shall include, for both the manufacturer or the provider, a name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and Internet e-mail address.

### § 7.19 Answers to informal complaints.

Any manufacturer or provider to whom an informal complaint is directed by the Commission under this subpart shall file an answer within the time specified by the Commission. The answer shall:

(a) Be prepared or formatted in the manner requested by the complainant pursuant to § 7.17, unless otherwise permitted by the Commission for good cause shown;

(b) Describe any actions that the defendant has taken or proposes to take to satisfy the complaint;

(c) Advise the complainant and the Commission of the nature of the defense(s) claimed by the defendant;

(d) Respond specifically to all material allegations of the complaint; and

(e) Provide any other information or materials specified by the Commission as relevant to its consideration of the complaint.

### § 7.20 Review and disposition of informal complaints.

(a) Where it appears from the defendant's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the informal complaint closed, without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information, the nature of which is specified in paragraphs (b) through (d) of this section, shall be transmitted to the complainant and defendant in the manner requested by the complainant, (*e.g.*, letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, or braille).

(b) In the event the Commission determines, based on a review of the information provided in the informal complaint and the defendant's answer thereto, that no further action is required by the Commission with respect

to the allegations contained in the informal complaint, the informal complaint shall be closed and the complainant and defendant shall be duly informed of the reasons therefor. A complainant unsatisfied with the defendant's response to the informal complaint and the staff decision to terminate action on the informal complaint may file a formal complaint with the Commission, as specified in § 7.22 of this subpart.

(c) In the event the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that a material and substantial question remains as to the defendant's compliance with the requirements of this subpart, the Commission may conduct such further investigation or such further proceedings as may be necessary to determine the defendant's compliance with the requirements of this subpart and to determine what, if any, remedial actions and/or sanctions are warranted.

(d) In the event that the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that the defendant has failed to comply with or is presently not in compliance with the requirements of this subpart, the Commission may order or prescribe such remedial actions and/or sanctions as are authorized under the Act and the Commission's rules and which are deemed by the Commission to be appropriate under the facts and circumstances of the case.

### § 7.21 Formal complaints, applicability of §§ 1.720 through 1.736 of this chapter.

Formal complaints against a manufacturer or provider, as defined under this subpart, may be filed in the form and in the manner prescribed under §§ 1.720 through 1.736 of this chapter. Commission staff may grant waivers of, or exceptions to, particular requirements under §§ 1.720 through 1.736 for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under §§ 1.720 and 1.728 of this chapter to allege facts which, if true, are sufficient to constitute a violation or violations of section 255 of the Act or this chapter.

### § 7.22 Formal complaints based on unsatisfied informal complaints.

A formal complaint filing based on an unsatisfied informal complaint filed pursuant to § 4.16 of this chapter shall be deemed to relate back to the filing date of the informal complaint if it is filed within ninety days from the date that the Commission notifies the complainant of its disposition of the informal complaint and based on the same operative facts as those alleged in the informal complaint.

### § 7.23 Actions by the Commission on its own motion.

The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this part and Section 255 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

## PART 8—PRESERVING THE OPEN INTERNET

Sec.
8.1 Purpose.
8.3 Transparency.
8.5 No Blocking.
8.7 No unreasonable discrimination.
8.9 Other Laws and Considerations.
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8.12 Formal complaints.
8.13 General pleading requirements.
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8.15 Status conference.
8.16 Confidentiality of proprietary information.
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AUTHORITY: 47 U.S.C. secs. 151, 152, 153, 154, 201, 218, 230, 251, 254, 256, 257, 301, 303, 304, 307, 309, 316, 332, 403, 503, 522, 536, 548, 1302.

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EFFECTIVE DATE NOTE: At 76 FR 59232, Sept. 23, 2011, Part 8 was added, effective Nov. 20, 2011.

### § 8.1 Purpose.

The purpose of this part is to preserve the Internet as an open platform enabling consumer choice, freedom of expression, end-user control, competition, and the freedom to innovate without permission.

### § 8.3 Transparency.

A person engaged in the provision of broadband Internet access service shall publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.

### § 8.5 No Blocking.

(a) A person engaged in the provision of fixed broadband Internet access service, insofar as such person is so engaged, shall not block lawful content, applications, services, or non-harmful devices, subject to reasonable network management.

(b) A person engaged in the provision of mobile broadband Internet access service, insofar as such person is so engaged, shall not block consumers from accessing lawful Web sites, subject to reasonable network management; nor shall such person block applications that compete with the provider's voice or video telephony services, subject to reasonable network management.

### § 8.7 No Unreasonable Discrimination.

A person engaged in the provision of fixed broadband Internet access service, insofar as such person is so engaged, shall not unreasonably discriminate in transmitting lawful network traffic over a consumer's broadband Internet access service. Reasonable network management shall not constitute unreasonable discrimination.

### § 8.9 Other Laws and Considerations.

(a) Nothing in this part supersedes any obligation or authorization a provider of broadband Internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider's ability to do so.

(b) Nothing in this part prohibits reasonable efforts by a provider of broadband Internet access service to address copyright infringement or other unlawful activity.

### § 8.11 Definitions.

(a) *Broadband Internet access service.* A mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this part.

(b) *Fixed broadband Internet access service.* A broadband Internet access service that serves end users primarily at fixed endpoints using stationary equipment. Fixed broadband Internet access service includes fixed wireless services (including fixed unlicensed wireless services), and fixed satellite services.

(c) *Mobile broadband Internet access service.* A broadband Internet access service that serves end users primarily using mobile stations.

(d) *Reasonable network management.* A network management practice is reasonable if it is appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

### § 8.12 Formal Complaints.

Any person may file a formal complaint alleging a violation of the rules in this part.

### § 8.13 General pleading requirements.

(a) *General pleading requirements.* All written submissions, both substantive and procedural, must conform to the following standards:

(1) A pleading must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy should be pleaded fully and with specificity.

(2) Pleadings must contain facts that, if true, are sufficient to warrant a grant of the relief requested.

(3) Facts must be supported by relevant documentation or affidavit.

(4) The original of all pleadings and submissions by any party shall be signed by that party, or by the party's attorney. Complaints must be signed by the complainant. The signing party shall state his or her address and telephone number and the date on which the document was signed. Copies should be conformed to the original. Each submission must contain a written verification that the signatory has read the submission and to the best of his or her knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and that it is not interposed for any improper purpose. If any pleading or other submission is signed in violation of this provision, the Commission shall upon motion or upon its own initiative impose appropriate sanctions.

(5) Legal arguments must be supported by appropriate judicial, Commission, or statutory authority. Opposing authorities must be distinguished. Copies must be provided of all non-Commission authorities relied upon which are not routinely available in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies.

(6) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner at any time before a decision is rendered on the merits of the complaint.

(7) Parties seeking expedited resolution of their complaint may request acceptance on the Enforcement Bureau's Accelerated Docket pursuant to the procedures at § 1.730 of this chapter.

(b) *Copies to be Filed.* The complainant shall file an original copy of the complaint, accompanied by the correct fee, in accordance with part 1, subpart G (*see* § 1.1106 of this chapter) and, on the same day:

(1) File three copies of the complaint with the Office of the Commission Secretary;

(2) Serve two copies on the Market Disputes Resolution Division, Enforcement Bureau;

(3) Serve the complaint by hand delivery on either the named defendant or one of the named defendant's registered agents for service of process, if available, on the same date that the complaint is filed with the Commission.

(c) *Prefiling notice required.* Any person intending to file a complaint under this section must first notify the potential defendant in writing that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in this part. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

(d) *Frivolous pleadings.* It shall be unlawful for any party to file a frivolous pleading with the Commission. Any violation of this paragraph shall constitute an abuse of process subject to appropriate sanctions.

### § 8.14 General formal complaint procedures.

(a) *Complaints.* In addition to the general pleading requirements, complaints must adhere to the following requirements:

(1) *Certificate of service.* Complaints shall be accompanied by a certificate of service on any defendant.

(2) *Statement of relief requested*—(i) *The complaint shall state the relief requested.* It shall state fully and precisely all pertinent facts and considerations relied on to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest.

(ii) The complaint shall set forth all steps taken by the parties to resolve the problem.

(iii) A complaint may, on request of the filing party, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the petition or complaint. A request for the return of an initiating document will be regarded as a request for dismissal.

(3) Failure to prosecute. Failure to prosecute a complaint, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice if it occurs prior to the adoption date of any final action taken by the Commission with respect to the initiating pleading.

(b) *Answers to complaints.* Unless otherwise directed by the Commission, any party who is served with a complaint shall file an answer in accordance with the following requirements:

(1) The answer shall be filed within 20 days of service of the complaint.

(2) The answer shall advise the parties and the Commission fully and completely of the nature of any and all defenses, and shall respond specifically to all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Any party against whom a complaint is filed failing to file and serve an answer within the time and in the manner prescribed by these rules may be deemed in default and an order may be entered against defendant in accordance with the allegations contained in the complaint.

(3) Facts must be supported by relevant documentation or affidavit.

(4) The answer shall admit or deny the averments on which the adverse party relies. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the answer shall specify so much of it as is true and shall deny only the remainder, and state in detail the basis of that denial.

(5) Averments in a complaint are deemed to be admitted when not denied in the answer.

(c) *Reply.* In addition to the general pleading requirements, replies must adhere to the following requirements:

(1) The complainant may file a reply to a responsive pleading that shall be served on the defendant and shall also contain a detailed full showing, supported by affidavit, of any additional facts or considerations relied on. Unless expressly permitted by the Commission, replies shall not contain new matters.

(2) Failure to reply will not be deemed an admission of any allegations contained in the responsive pleading, except with respect to any affirmative defense set forth therein.

(3) Unless otherwise directed by the Commission, replies must be filed within ten (10) days after submission of the responsive pleading.

(d) *Motions.* Except as provided in this section, or upon a showing of extraordinary circumstances, additional motions or pleadings by any party will not be accepted.

(e) *Additional procedures and written submissions.* (1) The Commission may specify other procedures, such as oral argument or evidentiary hearing directed to particular aspects, as it deems appropriate. In the event that an evidentiary hearing is required, the Commission will determine, on the basis of the pleadings and such other procedures as it may specify, whether temporary relief should be afforded any party pending the hearing and the nature of any such temporary relief.

(2) The Commission may require the parties to submit any additional information it deems appropriate for a full, fair, and expeditious resolution of the proceeding, including copies of all contracts and documents reflecting arrangements and understandings alleged to violate the requirements set forth in the Communications Act and in this part, as well as affidavits and exhibits.

(3) The Commission may, in its discretion, require the parties to file briefs summarizing the facts and issues presented in the pleadings and other record evidence.

(i) These briefs shall contain the findings of fact and conclusions of law

which that party is urging the Commission to adopt, with specific citations to the record, and supported by relevant authority and analysis.

(ii) The schedule for filing any briefs shall be at the discretion of the Commission. Unless ordered otherwise by the Commission, such briefs shall not exceed fifty (50) pages.

(iii) Reply briefs may be submitted at the discretion of the Commission. Unless ordered otherwise by the Commission, reply briefs shall not exceed thirty (30) pages.

(f) *Discovery*. (1) The Commission may in its discretion order discovery limited to the issues specified by the Commission. Such discovery may include answers to written interrogatories, depositions, document production, or requests for admissions.

(2) The Commission may in its discretion direct the parties to submit discovery proposals, together with a memorandum in support of the discovery requested. Such discovery requests may include answers to written interrogatories, admissions, document production, or depositions. The Commission may hold a status conference with the parties, pursuant to §8.15, to determine the scope of discovery, or direct the parties regarding the scope of discovery. If the Commission determines that extensive discovery is required or that depositions are warranted, the Commission may advise the parties that the proceeding will be referred to an administrative law judge in accordance with paragraph (g) of this section.

(g) *Referral to administrative law judge*. (1) After reviewing the pleadings, and at any stage of the proceeding thereafter, the Commission may, in its discretion, designate any proceeding or discrete issues arising out of any proceeding for an adjudicatory hearing before an administrative law judge.

(2) Before designation for hearing, the Commission shall notify, either orally or in writing, the parties to the proceeding of its intent to so designate, and the parties shall be given a period of ten (10) days to elect to resolve the dispute through alternative dispute resolution procedures, or to proceed with an adjudicatory hearing. Such election shall be submitted in writing to the Commission.

(3) Unless otherwise directed by the Commission, or upon motion by the Enforcement Bureau Chief, the Enforcement Bureau Chief shall not be deemed to be a party to a proceeding designated for a hearing before an administrative law judge pursuant to this paragraph (g).

(h) *Commission ruling*. The Commission (or the Enforcement Bureau on delegated authority), after consideration of the pleadings, shall issue an order ruling on the complaint.

**§8.15 Status conference.**

(a) In any proceeding subject to the part 8 rules, the Commission may in its discretion direct the attorneys and/or the parties to appear for a conference to consider:

(1) Simplification or narrowing of the issues;

(2) The necessity for or desirability of amendments to the pleadings, additional pleadings, or other evidentiary submissions;

(3) Obtaining admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

(4) Settlement of the matters in controversy by agreement of the parties;

(5) The necessity for and extent of discovery, including objections to interrogatories or requests for written documents;

(6) The need and schedule for filing briefs, and the date for any further conferences; and

(7) Such other matters that may aid in the disposition of the proceeding.

(b) Any party may request that a conference be held at any time after an initiating document has been filed.

(c) Conferences will be scheduled by the Commission at such time and place as it may designate, to be conducted in person or by telephone conference call.

(d) The failure of any attorney or party, following advance notice with an opportunity to be present, to appear at a scheduled conference will be deemed a waiver and will not preclude the Commission from conferring with those parties or counsel present.

(e) During a status conference, the Commission may issue oral rulings pertaining to a variety of matters relevant to the conduct of the proceeding including, inter alia, procedural matters, discovery, and the submission of briefs or other evidentiary materials. These rulings will be promptly memorialized in writing and served on the parties. When such rulings require a party to take affirmative action, such action will be required within ten (10) days from the date of the written memorialization unless otherwise directed by the Commission.

**§ 8.16 Confidentiality of proprietary information.**

(a) Any materials filed in the course of a proceeding under this part may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality will have the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in FOIA.

(b) Submissions containing information claimed to be proprietary under this section shall be submitted to the Commission in confidence pursuant to the requirements of § 0.459 of this chapter and clearly marked ''Not for Public Inspection.'' An edited version removing all proprietary data shall be filed with the Commission for inclusion in the public file within five (5) days from the date the unedited reply is submitted, and shall be served on the opposing parties.

(c) Except as provided in paragraph (d) of this section, materials marked as proprietary may be disclosed solely to the following persons, only for use in the proceeding, and only to the extent necessary to assist in the prosecution or defense of the case:

(1) Counsel of record representing the parties in the proceeding and any support personnel employed by such attorneys;

(2) Officers or employees of the parties in the proceeding who are named by another party as being directly involved in the proceeding;

(3) Consultants or expert witnesses retained by the parties;

(4) The Commission and its staff; and

(5) Court reporters and stenographers in accordance with the terms and conditions of this section.

(d) The Commission will entertain, subject to a proper showing, a party's request to further restrict access to proprietary information as specified by the party. The other parties will have an opportunity to respond to such requests.

(e) The persons designated in paragraphs (c) and (d) of this section shall not disclose information designated as proprietary to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense of the case before the Commission. Each individual who is provided access to the information by the opposing party shall sign a notarized statement affirmatively stating, or shall certify under penalty of perjury, that the individual has personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(f) No copies of materials marked proprietary may be made except copies to be used by persons designated in paragraphs (c) and (d) of this section. Each party shall maintain a log recording the number of copies made of all proprietary material and the persons to whom the copies have been provided.

(g) Upon termination of the complaint proceeding, including all appeals and petitions, all originals and reproductions of any proprietary materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the proceeding, any notes or other work product derived in whole or in part from the proprietary materials of an opposing or third party shall be destroyed.

### §8.17 Review.

(a) *Interlocutory review.* (1) Except as provided below, no party may seek review of interlocutory rulings until a decision on the merits has been issued by the Commission's staff, including an administrative law judge.

(2) Rulings listed in this paragraph are reviewable as a matter of right. An application for review of such ruling may not be deferred and raised as an exception to a decision on the merits.

(i) If the staff's ruling denies or terminates the right of any person to participate as a party to the proceeding, such person, as a matter of right, may file an application for review of that ruling.

(ii) If the staff's ruling requires production of documents or other written evidence, over objection based on a claim of privilege, the ruling on the claim of privilege is reviewable as a matter of right.

(iii) If the staff's ruling denies a motion to disqualify a staff person from participating in the proceeding, the ruling is reviewable as a matter of right.

(b) *Petitions for reconsideration.* Petitions for reconsideration of interlocutory actions by the Commission's staff or by an administrative law judge will not be entertained. Petitions for reconsideration of a decision on the merits made by the Commission's staff should be filed in accordance with §§1.104 through 1.106 of this chapter.

(c) *Application for review.* (1) Any party to a part 8 proceeding aggrieved by any decision on the merits issued by the staff pursuant to delegated authority may file an application for review by the Commission in accordance with §1.115 of this chapter.

(2) Any party to a part 8 proceeding aggrieved by any decision on the merits by an administrative law judge may file an appeal of the decision directly with the Commission, in accordance with §§1.276(a) and 1.277(a) through (c) of this chapter.

## PART 9—INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICES

Sec.
9.1 Purposes.
9.3 Definitions.
9.5 E911 service.
9.7 Access to 911 and E911 service capabilities.

AUTHORITY: 47 U.S.C. 151, 154(i)-(j), 251(e), 303(r), and 615a-1 unless otherwise noted.

SOURCE: 70 FR 37286, June 29, 2005, unless otherwise noted.

### §9.1 Purposes.

The purposes of this part are to set forth the 911 and E911 service requirements and conditions applicable to interconnected Voice over Internet Protocol service providers, and to ensure that those providers have access to any and all 911 and E911 capabilities they need to comply with those 911 and E911 service requirements and conditions.

[74 FR 31874, July 6, 2009]

### §9.3 Definitions.

*ANI.* Automatic Number Identification, as such term is defined in §20.3 of this chapter.

*Appropriate local emergency authority.* An emergency answering point that has not been officially designated as a Public Safety Answering Point (PSAP), but has the capability of receiving 911 calls and either dispatching emergency services personnel or, if necessary, relaying the call to another emergency service provider. An appropriate local emergency authority may include, but is not limited to, an existing local law enforcement authority, such as the police, county sheriff, local emergency medical services provider, or fire department.

*Automatic Location Information (ALI).* Information transmitted while providing E911 service that permits emergency service providers to identify the geographic location of the calling party.

*CMRS.* Commercial Mobile Radio Service, as defined in §20.9 of this chapter.

*Interconnected VoIP service*. An interconnected Voice over Internet protocol (VoIP) service is a service that:

(1) Enables real-time, two-way voice communications;

(2) Requires a broadband connection from the user's location;

(3) Requires Internet protocol-compatible customer premises equipment (CPE); and

(4) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

*PSAP*. Public Safety Answering Point, as such term is defined in § 20.3 of this chapter.

*Pseudo Automatic Number Identification (Pseudo-ANI)*. A number, consisting of the same number of digits as ANI, that is not a North American Numbering Plan telephone directory number and may be used in place of an ANI to convey special meaning. The special meaning assigned to the pseudo-ANI is determined by agreements, as necessary, between the system originating the call, intermediate systems handling and routing the call, and the destination system.

*Registered Location*. The most recent information obtained by an interconnected VoIP service provider that identifies the physical location of an end user.

*Statewide default answering point*. An emergency answering point designated by the State to receive 911 calls for either the entire State or those portions of the State not otherwise served by a local PSAP.

*Wireline E911 Network*. A dedicated wireline network that:

(1) Is interconnected with but largely separate from the public switched telephone network;

(2) Includes a selective router; and

(3) Is utilized to route emergency calls and related information to PSAPs, designated statewide default answering points, appropriate local emergency authorities or other emergency answering points.

[70 FR 37286, June 29, 2005, as amended at 74 FR 31874, July 9, 2009]

## § 9.5 E911 Service.

(a) *Scope of Section*. The following requirements are only applicable to providers of interconnected VoIP services. Further, the following requirements apply only to 911 calls placed by users whose Registered Location is in a geographic area served by a Wireline E911 Network (which, as defined in § 9.3, includes a selective router).

(b) *E911 Service*. As of November 28, 2005:

(1) Interconnected VoIP service providers must, as a condition of providing service to a consumer, provide that consumer with E911 service as described in this section;

(2) Interconnected VoIP service providers must transmit all 911 calls, as well as ANI and the caller's Registered Location for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to § 64.3001 of this chapter, provided that ''all 911 calls'' is defined as ''any voice communication initiated by an interconnected VoIP user dialing 911;''

(3) All 911 calls must be routed through the use of ANI and, if necessary, pseudo-ANI, via the dedicated Wireline E911 Network; and

(4) The Registered Location must be available to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.

(c) *Service Level Obligation*. Notwithstanding the provisions in paragraph (b) of this section, if a PSAP, designated statewide default answering point, or appropriate local emergency authority is not capable of receiving and processing either ANI or location information, an interconnected VoIP service provider need not provide such ANI or location information; however, nothing in this paragraph affects the obligation under paragraph (b) of this section of an interconnected VoIP service provider to transmit via the Wireline E911 Network all 911 calls to the PSAP, designated statewide default answering point, or appropriate local

emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter.

(d) *Registered Location Requirement.* As of November 28, 2005, interconnected VoIP service providers must:

(1) Obtain from each customer, prior to the initiation of service, the physical location at which the service will first be utilized; and

(2) Provide their end users one or more methods of updating their Registered Location, including at least one option that requires use only of the CPE necessary to access the interconnected VoIP service. Any method utilized must allow an end user to update the Registered Location at will and in a timely manner.

(e) *Customer Notification.* Each interconnected VoIP service provider shall:

(1) Specifically advise every subscriber, both new and existing, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service. Such circumstances include, but are not limited to, relocation of the end user's IP-compatible CPE, use by the end user of a non-native telephone number, broadband connection failure, loss of electrical power, and delays that may occur in making a Registered Location available in or through the ALI database;

(2) Obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood the advisory described in paragraph (e)(1) of this section; and

(3) Distribute to its existing subscribers warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the equipment used in conjunction with the interconnected VoIP service. Each interconnected VoIP provider shall distribute such warning stickers or other appropriate labels to each new subscriber prior to the initiation of that subscriber's service.

(f) *Compliance Letter.* All interconnected VoIP providers must submit a letter to the Commission detailing their compliance with this section no later than November 28, 2005.

### §9.7 Access to 911 and E911 service capabilities.

(a) *Access.* Subject to the other requirements of this part, an owner or controller of a capability that can be used for 911 or E911 service shall make that capability available to a requesting interconnected VoIP provider as set forth in paragraphs (a)(1) and (a)(2) of this section.

(1) If the owner or controller makes the requested capability available to a CMRS provider, the owner or controller must make that capability available to the interconnected VoIP provider. An owner or controller makes a capability available to a CMRS provider if the owner or controller offers that capability to any CMRS provider.

(2) If the owner or controller does not make the requested capability available to a CMRS provider within the meaning of paragraph (a)(1) of this section, the owner or controller must make that capability available to a requesting interconnected VoIP provider only if that capability is necessary to enable the interconnected VoIP provider to provide 911 or E911 service in compliance with the Commission's rules.

(b) *Rates, terms, and conditions.* The rates, terms, and conditions on which a capability is provided to an interconnected VoIP provider under paragraph (a) of this section shall be reasonable. For purposes of this paragraph, it is evidence that rates, terms, and conditions are reasonable if they are:

(1) The same as the rates, terms, and conditions that are made available to CMRS providers, or

(2) In the event such capability is not made available to CMRS providers, the same rates, terms, and conditions that are made available to any telecommunications carrier or other entity for the provision of 911 or E911 service.

(c) *Permissible use.* An interconnected VoIP provider that obtains access to a capability pursuant to this section may use that capability only for the

purpose of providing 911 or E911 service in accordance with the Commission's rules.

[74 FR 31874, July 6, 2009]

EFFECTIVE DATE NOTE: At 74 FR 31874, July 6, 2009, §9.7(a) was added. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

# PART 10—COMMERCIAL MOBILE ALERT SYSTEM

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### Subpart B—Election to Participate in Commercial Mobile Alert System [Reserved]

### Subpart B—Election to Participate in Commercial Mobile Alert System

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AUTHORITY: 47 U.S.C. 151, 154(i) and (o), 201, 303(r), 403, and 606; sections 602(a), (b), (c), (f), 603, 604 and 606 of Pub. L. 109–347, 120 Stat. 1884.

SOURCE: 73 FR 43117, July 24, 2008, unless otherwise noted.

## Subpart A—General Information

### §10.1 Basis.

The rules in this part are issued pursuant to the authority contained in the Warning, Alert, and Response Network Act, Title VI of the Security and Accountability for Every Port Act of 2006, Public Law 109–347, Titles I through III of the Communications Act of 1934, as amended, and Executive Order 13407 of June 26, 2006, Public Alert and Warning System, 71 FR 36975, June 26, 2006.

### §10.2 Purpose.

The rules in this part establish the requirements for participation in the voluntary Commercial Mobile Alert System.

### §10.10 Definitions.

(a) *Alert Message*. An Alert Message is a message that is intended to provide the recipient information regarding an emergency, and that meets the requirements for transmission by a Participating Commercial Mobile Service Provider under this part.

(b) *Common Alerting Protocol*. The Common Alerting Protocol (CAP) refers to Organization for the Advancement of Structured Information Standards (OASIS) Standard CAP–V1.1, October 2005 (available at *http://www.oasis-open.org/specs/index.php#capv1.1*), or any subsequent version of CAP adopted by OASIS and implemented by the CMAS.

(c) *Commercial Mobile Alert System*. The Commercial Mobile Alert System (CMAS) refers to the voluntary emergency alerting system established by this part, whereby Commercial Mobile Service Providers may elect to transmit Alert Messages to the public.

(d) *Commercial Mobile Service Provider*. A Commercial Mobile Service Provider (or CMS Provider) is an FCC licensee providing commercial mobile service as defined in section 332(d)(1) of the Communications Act of 1934 (47 U.S.C. 332(d)(1)). Section 332(d)(1) defines the term commercial mobile service as any mobile service (as defined in 47 U.S.C. 153) that is provided for profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission.

(e) *County and County Equivalent*. The terms County and County Equivalent as used in this part are defined by Federal Information Processing Standards (FIPS) 6–4, which provides the names and codes that represent the counties and other entities treated as equivalent legal and/or statistical subdivisions of the 50 States, the District of Columbia, and the possessions and freely associated areas of the United States. Counties are considered to be the ''first-order subdivisions'' of each State and statistically equivalent entity, regardless of their local designations (county, parish, borough, *etc.*). Thus, the following entities are considered to be equivalent to counties for legal and/or statistical purposes: The parishes of Louisiana; the boroughs and census areas of Alaska; the District of Columbia; the independent cities of Maryland, Missouri, Nevada, and Virginia; that part of Yellowstone National Park in Montana; and various entities in the possessions and associated areas. The FIPS codes and FIPS code documentation are available online at *http://www.itl.nist.gov/fipspubs/index.htm*.

(f) *Participating Commercial Mobile Service Provider*. A Participating Commercial Mobile Service Provider (or a Participating CMS Provider) is a Commercial Mobile Service Provider that has voluntarily elected to transmit Alert Messages under subpart B of this part.

(g) *''C'' Interface*. The interface between the Alert Gateway and CMS provider Gateway.

(h) *CMS provider Gateway*. The mechanism(s) that supports the ''C'' interface and associated protocols between the Alert Gateway and the CMS provider Gateway, and which performs the various functions associated with the authentication, management and dissemination of CMAS Alert Messages received from the Alert Gateway.

(i) *CMS provider infrastructure*. The mechanism(s) that distribute received CMAS Alert Messages throughout the CMS provider's network, including cell site/paging transceivers and perform functions associated with authentication of interactions with the Mobile Device.

(j) *Mobile Devices*. The subscriber equipment generally offered by CMS providers that supports the distribution of CMAS Alert Messages.

[73 FR 43117, July 24, 2008, as amended at 73 FR 54525, Sept. 22, 2008]

### § 10.11 CMAS implementation timeline.

Notwithstanding anything in this part to the contrary, a participating CMS provider shall begin an 18 month period of development, testing and deployment of the CMAS in a manner consistent with the rules in this part no later than 10 months from the date that the Federal Alert Aggregator and Alert Gateway makes the Government Interface Design specifications available.

[73 FR 54525, Sept. 22, 2008]

## Subpart B—Election to Participate in Commercial Mobile Alert System

SOURCE: 73 FR 54525, Sept. 22, 2008, unless otherwise noted.

### § 10.210 CMAS participation election procedures.

(a) A CMS provider that elects to transmit CMAS Alert Messages, in part or in whole, shall electronically file with the Commission a letter attesting that the Provider:

(1) Agrees to transmit such alerts in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission; and

(2) Commits to support the development and deployment of technology for the ''C'' interface, the CMS provider

Gateway, the CMS provider infrastructure, and mobile devices with CMAS functionality and support of the CMS provider selected technology.

(b) A CMS provider that elects not to transmit CMAS Alert Messages shall file electronically with the Commission a letter attesting to that fact.

(c) CMS providers shall file their election electronically to the docket.

### § 10.220 Withdrawal of election to participate in CMAS.

A CMS provider that elects to transmit CMAS Alert Messages, in part or in whole, may withdraw its election without regulatory penalty or forfeiture if it notifies all affected subscribers as well as the Federal Communications Commission at least sixty (60) days prior to the withdrawal of its election. In the event that a carrier withdraws from its election to transmit CMAS Alert Messages, the carrier must notify each affected subscriber individually in clear and conspicuous language citing the statute. Such notice must promptly inform the customer that he or she no longer could expect to receive alerts and of his or her right to terminate service as a result, without penalty or early termination fee. Such notice must facilitate the ability of a customer to automatically respond and immediately discontinue service.

### § 10.230 New CMS providers participation in CMAS.

CMS providers who initiate service at a date after the election procedure provided for in § 10.210(d) and who elect to provide CMAS Alert Messages, in part or in whole, shall file electronically their election to transmit in the manner and with the attestations described in § 10.210(a).

### § 10.240 Notification to new subscribers of non-participation in CMAS.

(a) A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall provide clear and conspicuous notice, which takes into account the needs of persons with disabilities, to new subscribers of its non-election or partial election to provide Alert messages at the point-of-sale.

(b) The point-of-sale includes stores, kiosks, third party reseller locations, web sites (proprietary or third party), and any other venue through which the CMS provider's devices and services are marketed or sold.

(c) CMS providers electing to transmit alerts ''in part'' shall use the following notification:

NOTICE REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[CMS provider]] has chosen to offer wireless emergency alerts within portions of its service area, as defined by the terms and conditions of its service agreement, on wireless emergency alert capable devices. There is no additional charge for these wireless emergency alerts.

Wireless emergency alerts may not be available on all devices or in the entire service area, or if a subscriber is outside of the [[CMS provider]] service area. For details on the availability of this service and wireless emergency alert capable devices, please ask a sales representative, or go to [[CMS provider's URL]].

Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service).

(d) CMS providers electing in whole not to transmit alerts shall use the following notification language:

NOTICE TO NEW AND EXISTING SUBSCRIBERS REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[CMS provider]] presently does not transmit wireless emergency alerts. Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service).

### § 10.250 Notification to existing subscribers of non-participation in CMAS.

(a) A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall provide clear and conspicuous notice, which takes into account the needs of persons with disabilities, to existing subscribers of its non-election or partial election to provide Alert messages by means of an announcement amending the existing subscriber's service agreement.

(b) For purposes of this section, a CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall use the notification language set forth in § 10.240 (c) or (d) respectively, except that the last line of the notice shall reference FCC Rule 47

CFR 10.250, rather than FCC Rule 47 CFR 10.240.

(c) In the case of prepaid customers, if a mailing address is available, the CMS provider shall provide the required notification via U.S. mail. If no mailing address is available, the CMS provider shall use any reasonable method at its disposal to alert the customer to a change in the terms and conditions of service and directing the subscriber to voice-based notification or to a Web site providing the required notification.

### § 10.260 Timing of subscriber notification.

A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, must comply with §§ 10.240 and 10.250 no later than 60 days following an announcement by the Commission that the Alert Aggregator/Gateway system is operational and capable of delivering emergency alerts to participating CMS providers.

### § 10.270 Subscribers' right to terminate subscription.

If a CMS provider that has elected to provide CMAS Alert Messages in whole or in part thereafter chooses to cease providing such alerts, either in whole or in part, its subscribers may terminate their subscription without penalty or early termination fee.

### § 10.280 Subscribers' right to opt out of CMAS notifications.

(a) CMS providers may provide their subscribers with the option to opt out of both, or either, the ''Child Abduction Emergency/AMBER Alert'' and ''Imminent Threat Alert'' classes of Alert Messages.

(b) CMS providers shall provide their subscribers with a clear indication of what each option means, and provide examples of the types of messages the customer may not receive as a result of opting out.

## Subpart C—System Architecture

### § 10.300 Alert aggregator. [Reserved]

### § 10.310 Federal alert gateway. [Reserved]

### § 10.320 Provider alert gateway requirements.

This section specifies the functions that each Participating Commercial Mobile Service provider is required to support and perform at its CMS provider gateways.

(a) *General*. The CMS provider gateway must provide secure, redundant, and reliable connections to receive Alert Messages from the Federal alert gateway. Each CMS provider gateway must be identified by a unique IP address or domain name.

(b) *Authentication and validation*. The CMS provider gateway must authenticate interactions with the Federal alert gateway, and validate Alert Message integrity and parameters. The CMS provider gateway must provide an error message immediately to the Federal alert gateway if a validation fails.

(c) *Security*. The CMS provider gateway must support standardized IP-based security mechanisms such as a firewall, and support the defined CMAS ''C'' interface and associated protocols between the Federal alert gateway and the CMS provider gateway.

(d) *Geographic targeting*. The CMS provider gateway must determine whether the provider has elected to transmit an Alert Message within a specified alert area and, if so, map the Alert Message to an associated set of transmission sites.

(e) *Message management*—(1) *Formatting*. The CMS provider gateway is not required to perform any formatting, reformatting, or translation of an Alert Message, except for transcoding a text, audio, video, or multimedia file into the format supported by mobile devices.

(2) Reception. The CMS provider gateway must support a mechanism to stop and start Alert Message deliveries from the Federal alert gateway to the CMS provider gateway.

(3) Prioritization. The CMS provider gateway must process an Alert Message on a first in-first out basis except for Presidential Alerts, which must be

processed before all non-Presidential alerts.

(4) Distribution. A Participating CMS provider must deploy one or more CMS provider gateways to support distribution of Alert Messages and to manage Alert Message traffic.

(5) Retransmission. The CMS provider gateway must manage and execute Alert Message retransmission, and support a mechanism to manage congestion within the CMS provider's infrastructure.

(f) *CMS provider profile*. The CMS provider gateway will provide profile information on the CMS provider for the Federal alert gateway to maintain at the Federal alert gateway. This profile information must be provided by an authorized CMS provider representative to the Federal alert gateway administrator. The profile information must include the data listed in Table 10.320(f) and must comply with the following procedures:

(1) The information must be provided 30 days in advance of the date when the CMS provider begins to transmit CMAS alerts.

(2) Updates of any CMS provider profiles must be provided in writing at least 30 days in advance of the effective change date.

TABLE 10.320(f)—CMSP PROFILE ON FEDERAL ALERT GATEWAY

| Profile parameter | Parameter election | Description |
|---|---|---|
| CMSP Name | | Unique identification of CMSP. |
| CMSP gateway Address | IP address or Domain Name. | |
| | Alternate IP address | Optional and subject to implementation. |
| Geo-Location Filtering | <yes/no> | If "yes" the only CMAM issued in the listed states will be sent to the CMSP gateway. |
| | | If "no", all CMAM will be sent to the CMSP gateway. |
| If yes, list of states | CMAC Geocode for state | List can be state name or abbreviated state name. |

## § 10.330 Provider infrastructure requirements.

This section specifies the general functions that a Participating CMS Provider is required to perform within their infrastructure. Infrastructure functions are dependent upon the capabilities of the delivery technologies implemented by a Participating CMS Provider.

(a) Distribution of Alert Messages to mobile devices.

(b) Authentication of interactions with mobile devices.

(c) Reference Points D & E. Reference Point D is the interface between a CMS Provider gateway and its infrastructure. Reference Point E is the interface between a provider's infrastructure and mobile devices including air interfaces. Reference Points D and E protocols are defined and controlled by each Participating CMS Provider.

## § 10.340 Digital television transmission towers retransmission capability.

Licensees and permittees of noncommercial educational broadcast television stations (NCE) or public broadcast television stations (to the extent such stations fall within the scope of those terms as defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6))) are required to install on, or as part of, any broadcast television digital signal transmitter, equipment to enable the distribution of geographically targeted alerts by commercial mobile service providers that have elected to transmit CMAS alerts. Such equipment and technologies must have the capability of allowing licensees and permittees of NCE and public broadcast television stations to receive CMAS alerts from the Alert Gateway over an alternate, secure interface and then to transmit such CMAS alerts to CMS Provider Gateways of participating CMS providers. This equipment must be installed no later than eighteen months from the date of receipt of funding permitted under section 606(b) of the WARN Act or 18 months from the effective date of these rules, whichever is later.

[73 FR 47558, Aug. 14, 2008]

## § 10.350 CMAS Testing requirements.

This section specifies the testing that will be required, no later than the

date of deployment of the CMAS, of CMAS components.

(a) *Required monthly tests*. Testing of the CMAS from the Federal Alert Gateway to each Participating CMS Provider's infrastructure shall be conducted monthly.

(1) A Participating CMS Provider's Gateway shall support the ability to receive a required monthly test (RMT) message initiated by the Federal Alert Gateway Administrator.

(2) Participating CMS Providers shall schedule the distribution of the RMT to their CMAS coverage area over a 24 hour period commencing upon receipt of the RMT at the CMS Provider Gateway. Participating CMS Providers shall determine the method to distribute the RMTs, and may schedule over the 24 hour period the delivery of RMTs over geographic subsets of their coverage area to manage traffic loads and to accommodate maintenance windows.

(3) A Participating CMS Provider may forego an RMT if the RMT is preempted by actual alert traffic or if an unforeseen condition in the CMS Provider infrastructure precludes distribution of the RMT. A Participating CMS Provider Gateway shall indicate such an unforeseen condition by a response code to the Federal Alert Gateway.

(4) The RMT shall be initiated only by the Federal Alert Gateway Administrator using a defined test message. Real event codes or alert messages shall not be used for the CMAS RMT message.

(5) A Participating CMS Provider shall distribute an RMT within its CMAS coverage area within 24 hours of receipt by the CMS Provider Gateway unless pre-empted by actual alert traffic or unable due to an unforeseen condition.

(6) A Participating CMS Provider may provide mobile devices with the capability of receiving RMT messages.

(7) A Participating CMS Provider must retain an automated log of RMT messages received by the CMS Provider Gateway from the Federal Alert Gateway.

(b) *Periodic C interface testing*. In addition to the required monthly tests, a Participating CMS Provider must participate in periodic testing of the interface between the Federal Alert Gateway and its CMS Provider Gateway. This periodic interface testing is not intended to test the CMS Provider's infrastructure nor the mobile devices but rather is required to ensure the availability/viability of both gateway functions. Each CMS Provider Gateway shall send an acknowledgement to the Federal Alert Gateway upon receipt of such an interface test message. Real event codes or alert messages shall not be used for this periodic interface testing.

[73 FR 47558, Aug. 14, 2008]

EFFECTIVE DATE NOTE: At 73 FR 47558, Aug. 14, 2008, § 10.350 was added. Paragraphs (a)(7) and (b) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

## Subpart D—Alert Message Requirements

### § 10.400 Classification.

A Participating CMS Provider is required to receive and transmit three classes of Alert Messages: Presidential Alert; Imminent Threat Alert; and Child Abduction Emergency/AMBER Alert.

(a) *Presidential Alert*. A Presidential Alert is an alert issued by the President of the United States or the President's authorized designee.

(b) *Imminent Threat Alert*. An Imminent Threat Alert is an alert that meets a minimum value for each of three CAP elements: Urgency, Severity, and Certainty.

(1) *Urgency*. The CAP Urgency element must be either Immediate (*i.e.*, responsive action should be taken immediately) or Expected (*i.e.*, responsive action should be taken soon, within the next hour).

(2) *Severity*. The CAP Severity element must be either Extreme (*i.e.*, an extraordinary threat to life or property) or Severe (*i.e.*, a significant threat to life or property).

(3) *Certainty*. The CAP Certainty element must be either Observed (*i.e.*, determined to have occurred or to be ongoing) or Likely (*i.e.*, has a probability of greater than 50 percent).

(c) *Child Abduction Emergency/AMBER Alert*. (1) An AMBER Alert is an alert

initiated by a local government official based on the U.S. Department of Justice's five criteria that should be met before an alert is activated:

(i) Law enforcement confirms a child has been abducted;

(ii) The child is 17 years or younger;

(iii) Law enforcement believes the child is in imminent danger of serious bodily harm or death;

(iv) There is enough descriptive information about the victim and the abduction to believe an immediate broadcast alert will help; and

(v) The child's name and other data have been entered into the National Crime Information Center.

(2) There are four types of AMBER Alerts: Family Abduction; Non-family Abduction; Lost, Injured or Otherwise Missing; and Endangered Runaway.

(i) *Family Abduction*. A Family Abduction (FA) alert involves an abductor who is a family member of the abducted child such as a parent, aunt, grandfather, or stepfather.

(ii) *Nonfamily Abduction*. A Nonfamily Abduction (NFA) alert involves an abductor unrelated to the abducted child, either someone unknown to the child and/or the child's family or an acquaintance/friend of the child and/or the child's family.

(iii) *Lost, Injured, or Otherwise Missing*. A Lost, Injured, or Otherwise Missing (LIM) alert involves a case where the circumstances of the child's disappearance are unknown.

(iv) *Endangered Runaway*. An Endangered Runaway (ERU) alert involves a missing child who is believed to have run away and in imminent danger.

**§ 10.410 Prioritization.**

A Participating CMS Provider is required to transmit Presidential Alerts upon receipt. Presidential Alerts preempt all other Alert Messages. A Participating CMS Provider is required to transmit Imminent Threat Alerts and AMBER Alerts on a first in-first out (FIFO) basis.

**§ 10.420 Message elements.**

A CMAS Alert Message processed by a Participating CMS Provider shall include five mandatory CAP elements—Event Type; Area Affected; Recommended Action; Expiration Time (with time zone); and Sending Agency. This requirement does not apply to Presidential Alerts.

**§ 10.430 Character limit.**

A CMAS Alert Message processed by a Participating CMS Provider must not exceed 90 characters of alphanumeric text.

**§ 10.440 Embedded reference prohibition.**

A CMAS Alert Message processed by a Participating CMS Provider must not include an embedded Uniform Resource Locator (URL), which is a reference (an address) to a resource on the Internet, or an embedded telephone number. This prohibition does not apply to Presidential Alerts.

**§ 10.450 Geographic targeting.**

This section establishes minimum requirements for the geographic targeting of Alert Messages. A Participating CMS Provider will determine which of its network facilities, elements, and locations will be used to geographically target Alert Messages. A Participating CMS Provider must transmit any Alert Message that is specified by a geocode, circle, or polygon to an area not larger than the provider's approximation of coverage for the Counties or County Equivalents with which that geocode, circle, or polygon intersects. If, however, the propagation area of a provider's transmission site exceeds a single County or County Equivalent, a Participating CMS Provider may transmit an Alert Message to an area not exceeding the propagation area.

**§ 10.460 Retransmission frequency. [Reserved]**

**§ 10.470 Roaming.**

When, pursuant to a roaming agreement (*see* § 20.12 of this chapter), a subscriber receives services from a roamed-upon network of a Participating CMS Provider, the Participating CMS Provider must support CMAS alerts to the roaming subscriber to the extent the subscriber's mobile device is configured for and technically capable of receiving CMAS alerts.

## Subpart E—Equipment Requirements

### § 10.500 General requirements.

CMAS mobile device functionality is dependent on the capabilities of a Participating CMS Provider's delivery technologies. Mobile devices are required to perform the following functions:

(a) Authentication of interactions with CMS Provider infrastructure.

(b) Monitoring for Alert Messages.

(c) Maintaining subscriber alert opt-out selections, if any.

(d) Maintaining subscriber alert language preferences, if any.

(e) Extraction of alert content in English or the subscriber's preferred language, if applicable.

(f) Presentation of alert content to the device, consistent with subscriber opt-out selections. Presidential Alerts must always be presented.

(g) Detection and suppression of presentation of duplicate alerts.

### § 10.510 Call preemption prohibition.

Devices marketed for public use under part 10 must not enable an Alert Message to preempt an active voice or data session.

### § 10.520 Common audio attention signal.

A Participating CMS Provider and equipment manufacturers may only market devices for public use under part 10 that include an audio attention signal that meets the requirements of this section.

(a) The audio attention signal must have a temporal pattern of one long tone of two (2) seconds, followed by two short tones of one (1) second each, with a half (0.5) second interval between each tone. The entire sequence must be repeated twice with a half (0.5) second interval between each repetition.

(b) For devices that have polyphonic capabilities, the audio attention signal must consist of the fundamental frequencies of 853 Hz and 960 Hz transmitted simultaneously.

(c) For devices with only a monophonic capability, the audio attention signal must be 960 Hz.

(d) The audio attention signal must be restricted to use for Alert Messages under part 10.

(e) A device may include the capability to mute the audio attention signal.

### § 10.530 Common vibration cadence.

A Participating CMS Provider and equipment manufacturers may only market devices for public use under part 10 that include a vibration cadence capability that meets the requirements of this section.

(a) The vibration cadence must have a temporal pattern of one long vibration of two (2) seconds, followed by two short vibrations of one (1) second each, with a half (0.5) second interval between each vibration. The entire sequence must be repeated twice with a half (0.5) second interval between each repetition.

(b) The vibration cadence must be restricted to use for Alert Messages under part 10.

(c) A device may include the capability to mute the vibration cadence.

### § 10.540 Attestation requirement. [Reserved]

# PART 11—EMERGENCY ALERT SYSTEM (EAS)

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AUTHORITY: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

SOURCE: 59 FR 67092, Dec. 28, 1994, unless otherwise noted.

## Subpart A—General

### § 11.1 Purpose.

This part contains rules and regulations providing for an Emergency Alert System (EAS). The EAS provides the President with the capability to provide immediate communications and information to the general public at the National, State and Local Area levels during periods of national emergency. The rules in this part describe the required technical standards and operational procedures of the EAS for analog AM, FM, and TV broadcast stations, digital broadcast stations, analog cable systems, digital cable systems, wireline video systems, wireless cable systems, Direct Broadcast Satellite (DBS) services, Satellite Digital Audio Radio Service (SDARS), and other participating entities. The EAS may be used to provide the heads of State and local government, or their designated representatives, with a means of emergency communication with the public in their State or Local Area.

[72 FR 62132, Nov. 2, 2007]

### § 11.2 Definitions.

The definitions of terms used in part 11 are:

(a) *Primary Entry Point (PEP) System.* The PEP system is a nationwide network of broadcast stations and other entities connected with government activation points. It is used to distribute the EAN, EAT, and EAS national test messages and other EAS messages. FEMA has designated 34 of the nation's largest radio broadcast stations as PEPs. The PEPs are designated to receive the Presidential alert from FEMA and distribute it to local stations.

(b) *Local Primary One (LP–1).* The LP–1 is a radio station that acts as a key EAS monitoring source. Each LP–1 station must monitor its regional PEP station and a back-up source for Presidential messages.

(c) *EAS Participants.* Entities required under the Commission's rules to comply with EAS rules, *e.g.*, analog radio and television stations, and wired and wireless cable television systems, DBS, DTV, SDARS, digital cable and DAB, and wireline video systems.

(d) *Wireline Video System.* The system of a wireline common carrier used to provide video programming service.

(e) *Participating National (PN).* PN stations are broadcast stations that transmit EAS National, state, or local EAS messages to the public.

(f) *National Primary (NP).* Stations that are the primary entry point for Presidential messages delivered by FEMA. These stations are responsible for broadcasting a Presidential alert to the public and to State Primary stations within their broadcast range.

(g) *State Primary (SP).* Stations that are the entry point for State messages, which can originate from the Governor or a designated representative.

[72 FR 62132, Nov. 2, 2007]

### § 11.11 The Emergency Alert System (EAS).

(a) The EAS is composed of analog radio broadcast stations including AM,

FM, and Low-power FM (LPFM) stations; digital audio broadcasting (DAB) stations, including digital AM, FM, and Low-power FM stations; analog television broadcast stations including Class A television (CA) and Low-power TV (LPTV) stations; digital television (DTV) broadcast stations, including digital CA and digital LPTV stations; analog cable systems; digital cable systems which are defined for purposes of this part only as the portion of a cable system that delivers channels in digital format to subscribers at the input of a Unidirectional Digital Cable Product or other navigation device; wireline video systems; wireless cable systems which may consist of Broadband Radio Service (BRS), or Educational Broadband Service (EBS) stations; DBS services, as defined in 47 CFR 25.701(a) (including certain Ku-band Fixed-Satellite Service Direct to Home providers); SDARS, as defined in 47 CFR 25.201; participating broadcast networks, cable networks and program suppliers; and other entities and industries operating on an organized basis during emergencies at the National, State and local levels. These entities are referred to collectively as EAS Participants in this part, and are subject to this part, except as otherwise provided herein. At a minimum EAS Participants must use a common EAS protocol, as defined in § 11.31, to send and receive emergency alerts in accordance with the effective dates listed above and in the following tables:

ANALOG AND DIGITAL BROADCAST STATIONS

| EAS equipment requirement | AM & FM class A TV [4] | Digital AM & FM | TV | DTV | FM class D [1] | | LPTV [2] | LPFM [3] |
|---|---|---|---|---|---|---|---|---|
| Two-tone encoder [5] | Y [6] | Y 12/31/06 | Y | Y 12/31/06 | N | N | N | Y |
| EAS decoder | Y 1/1/97 | Y 12/31/06 | Y 1/1/97 | Y 12/31/06 | Y 1/1/97 | Y 1/1/97 | Y | Y |
| EAS encoder | Y 1/1/97 | Y 12/31/06 | Y 1/1/97 | Y 12/31/06 | N | N | N | Y |
| Audio message | Y 1/1/97 | Y 12/31/06 | Y 1/1/97 | Y 12/31/06 | Y 1/1/97 | Y 1/1/97 | Y | Y |
| Video message | N/A | N/A | Y 1/1/97 | Y 12/31/06 | N/A | Y 1/1/97 | N/A | Y |

[1] Effective December 31, 2006, digital FM Class D stations have the same requirements.
[2] LPTV stations that operate as television broadcast translator stations are exempt from the requirement to have EAS equipment. Effective December 31, 2006, digital LPTV stations have the same requirements.
[3] LPFM stations must install a decoder within one year after the FCC publishes in the FEDERAL REGISTER a public notice indicating that at least one decoder has been certified by the FCC. Effective December 31, 2006, digital LPFM stations have the same requirements.
[4] Effective December 31, 2006, digital Class A TV stations have the same requirements.
[5] Effective July 1, 1995, the two-tone signal must be 8–25 seconds.
[6] Effective January 1, 1998, the two-tone signal may only be used to provide audio alerts to audiences before EAS emergency messages and the required monthly tests.

ANALOG CABLE SYSTEMS

[A. Analog cable systems serving fewer than 5,000 subscribers from a headend must either provide the National level EAS message on all programmed channels including the required testing by October 1, 2002, or comply with the following EAS requirements. All other analog cable systems must comply with B.]

SYSTEM SIZE AND EFFECTIVE DATES

| B. EAS equipment requirement | ≥5,000 but < 10,000 subscribers | ≥10,000 subscribers | <5,000 subscribers |
|---|---|---|---|
| Two-tone signal from storage device [1] | Y 12/31/98 | Y 10/1/02 | Y 10/1/02 |
| EAS decoder [3] | Y 12/31/98 | Y 10/1/02 | Y 10/1/02 |
| EAS encoder [2] | Y 12/31/98 | Y 10/1/02 | Y 10/1/02 |
| Audio and Video EAS Message on all channels | Y 12/31/98 | Y 10/1/02 | N |
| Video interrupt and audio alert message on all channels, [3] Audio and Video EAS message on at least one channel. | N | N | Y 10/1/02 |

[1] Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8–25 seconds in duration.
[2] Analog cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.
Note: Programmed channels do not include channels used for the transmission of data such as interactive games.

WIRELESS CABLE SYSTEMS (BRS/EBS STATIONS)

[A. Wireless cable systems serving fewer than 5,000 subscribers from a single transmission site must either provide the National level EAS message on all programmed channels including the required testing by October 1, 2002, or comply with the following EAS requirements. All other wireless cable systems must comply with B.]

SYSTEM SIZE AND EFFECTIVE DATES

| B. EAS equipment requirement | ≥5,000 subscribers | <5,000 subscribers |
|---|---|---|
| EAS decoder | Y 10/1/02 | Y 10/1/02 |
| EAS encoder [1,2] | Y 10/1/02 | Y 10/1/02 |
| Audio and Video EAS Message on all channels [3] | Y 10/1/02 | N |
| Video interrupt and audio alert message on all channels; [4] Audio and Video EAS message on at least one channel. | N | Y 10/1/02 |

[1] The two-tone signal is used only to provide an audio alert to an audience prior to an EAS emergency message or to the Required Monthly Test (RMT) under § 11.61(a)(1). The two-tone signal must be 8–25 seconds in duration.
[2] Wireless cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] All wireless cable systems may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages.
[4] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.
Note: Programmed channels do not include channels used for the transmission of data services such as Internet.

DIGITAL CABLE SYSTEMS AND WIRELINE VIDEO SYSTEMS

[A. Digital cable systems and Wireline Video Systems serving fewer than 5,000 subscribers from a headend must either provide the National level EAS message on all programmed channels including the required testing by December 31, 2006, or comply with the following EAS requirements. All other digital cable systems and Wireline Video Systems must comply with B.]

SYSTEM SIZE AND EFFECTIVE DATES

| B. EAS equipment requirement | ≥5,000 subscribers | <5,000 subscribers |
|---|---|---|
| Two-tone signal from storage device [1] | Y 12/31/06 | Y 12/31/06 |
| EAS decoder [3] | Y 12/31/06 | Y 12/31/06 |
| EAS encoder [2] | Y 12/31/06 | Y 12/31/06 |
| Audio and Video EAS Message on all channels [4] | Y 12/31/06 | N |
| Video interrupt and audio alert message on all channels [3] Audio and Video EAS message on at least one channel. | N | Y 12/31/06 |

[1] Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8–25 seconds in duration.

[2] Digital cable systems and Wireline Video Systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.

[3] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.

[4] All digital cable systems and/Wireline Video Systems may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages.

Note: Programmed channels do not include channels used for the transmission of data such as interactive games or the transmission of data services such as Internet.

SDARS AND DBS

| EAS equipment requirement | SDARS | DBS |
|---|---|---|
| Two-tone signal [1] | Y 12/31/06 | Y 5/31/07 |
| EAS decoder | Y 12/31/06 | Y 5/31/07 |
| EAS encoder | Y 12/31/06 | Y 5/31/07 |
| Audio message on all channels [2] | Y 12/31/06 | Y 5/31/07 |
| Video message on all channels [2] | N/A | Y 5/31/07 |

[1] Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8–25 seconds in duration.

[2] All SDARS and DBS providers may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages or by any other method that ensures that viewers of all channels receive the EAS message.

(b) Analog class D non-commercial educational FM stations as defined in § 73.506 of this chapter, digital class D non-commercial educational FM stations, analog LPFM stations as defined in §§ 73.811 and 73.853 of this chapter, digital LPFM stations, analog LPTV stations as defined in § 74.701(f), and digital LPTV stations as defined in § 74.701(k) of this chapter are not required to comply with § 11.32. Analog and digital LPTV stations that operate as television broadcast translator stations, as defined in § 74.701(b) of this chapter, are not required to comply with the requirements of this part. FM broadcast booster stations as defined in § 74.1201(f) of this chapter and FM translator stations as defined in § 74.1201(a) of this chapter which entirely rebroadcast the programming of other local FM broadcast stations are not required to comply with the requirements of this part. International broadcast stations as defined in § 73.701 of this chapter are not required to comply with the requirements of this part. Analog and digital broadcast stations that operate as satellites or repeaters of a hub station (or common studio or control point if there is no hub station) and rebroadcast 100 percent of the programming of the hub station (or common studio or control point) may satisfy the requirements of this part through the use of a single set of EAS equipment at the hub station (or common studio or control point) which complies with §§ 11.32 and 11.33.

(c) For purposes of the EAS, Broadband Radio Service (BRS) and Educational Broadband Service (EBS) stations operated as part of wireless cable systems in accordance with subpart M of part 27 of this chapter are defined as follows:

(1) A ''wireless cable system'' is a collection of channels in the BRS or EBS used to provide video programming services to subscribers. The channels may be licensed to or leased by the wireless cable system operator.

(2) A ''wireless cable operator'' is the entity that has acquired the right to use the channels of a wireless cable system for transmission of programming to subscribers.

(d) Local franchise authorities and cable television system operators may enter into mutual agreements that require the installation of EAS equipment before the required dates listed in the tables in paragraph (a). Additionally, local franchise authorities may use any EAS codes authorized by the FCC in any agreements.

(e) Other technologies and public service providers, such as low earth orbiting satellites, that wish to participate in the EAS may contact the FCC's Public Safety and Homeland Security Bureau or their State Emergency Communications Committee for information and guidance.

[63 FR 29662, June 1, 1998, as amended at 65 FR 7639, Feb. 15, 2000; 65 FR 21657, Apr. 24, 2000; 65 FR 30001, May 10, 2000; 65 FR 34406, May 30, 2000; 67 FR 18506, Apr. 16, 2002; 69 FR 72031, Dec. 10, 2004; 70 FR 19315, Apr. 13, 2005; 70 FR 71031, Nov. 25, 2005; 71 FR 76220, Dec. 20, 2006; 72 FR 62132, Nov. 2, 2007]

### § 11.12 Two-tone Attention Signal encoder and decoder.

Existing two-tone Attention Signal encoder and decoder equipment type accepted for use as Emergency Broadcast System equipment under part 73 of this chapter may be used by broadcast stations until January 1, 1998, provided that such equipment meets the requirements of § 11.32(a)(9) and 11.33(b). Effective January 1, 1998, the two-tone Attention Signal decoder will no longer be required and the two-tone Attention Signal will be used to provide an audio alert.

[60 FR 55999, Nov. 6, 1995]

### § 11.13 Emergency Action Notification (EAN) and Emergency Action Termination (EAT).

(a) The Emergency Action Notification (EAN) is the notice to all EAS Participants and to the general public that the EAS has been activated for a national emergency.

(b) The Emergency Action Termination (EAT) is the notice to all EAS Participants and to the general public that the EAN has terminated.

[70 FR 71033, Nov. 25, 2005]

### § 11.14 Primary Entry Point (PEP) System.

The PEP system is a nationwide network of broadcast stations and other entities connected with government activation points. It is used to distribute the EAN, EAT and EAS national test messages, and other EAS messages.

[67 FR 18507, Apr. 16, 2002]

### § 11.15 EAS Operating Handbook.

The EAS Operating Handbook states in summary form the actions to be taken by personnel at EAS Participant facilities upon receipt of an EAN, an EAT, tests, or State and Local Area alerts. It is issued by the FCC and contains instructions for the above situations. A copy of the Handbook must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions.

[70 FR 71033, Nov. 25, 2005]

### § 11.16 National Control Point Procedures.

The National Control Point Procedures are written instructions issued by the FCC to national level EAS control points. The procedures are divided into sections as follows:

(a) *National Level EAS Activation*. This section contains the activation and termination instructions for Presidential messages.

(b) *EAS Test Transmissions*. This section contains the instructions for testing the EAS at the National level.

(c) *National Information Center (NIC)*. This section contains instructions for distributing United States Government official information messages after completion of the National Level EAS activation and termination actions.

[59 FR 67092, Dec. 28, 1994, as amended at 67 FR 18508, Apr. 16, 2002]

### § 11.18 EAS Designations.

(a) National Primary (NP) is a source of EAS Presidential messages.

(b) Local Primary (LP) is a source of EAS Local Area messages. An LP source is responsible for coordinating

the carriage of common emergency messages from sources such as the National Weather Service or local emergency management offices as specified in its EAS Local Area Plan. If it is unable to carry out this function, other LP sources in the Local Area may be assigned the responsibility as indicated in State and Local Area Plans. LP sources are assigned numbers (LP–1, 2, 3, etc.) in the sequence they are to be monitored by other broadcast stations in the Local Area.

(c) State Primary (SP) is a source of EAS State messages. These messages can originate from the Governor or a designated representative in the State Emergency Operating Center (EOC) or State Capital. Messages are sent via the State Relay Network.

(d) State Relay (SR) is a source of EAS State messages. It is part of the State Relay Network and relays National and State common emergency messages into Local Areas.

(e) Participating National (PN) sources transmit EAS National, State or Local Area messages. The EAS transmissions of PN sources are intended for direct public reception.

(f) Non-participating National (NN) sources have elected not to participate in the National level EAS and hold an authorization letter to that effect. Upon activation of the national level EAS, NN sources are required to broadcast the EAS codes, Attention Signal, the sign-off announcement in the EAS Operating Handbook and then stop operating. All NN sources are required to comply with §11.51, 11.52 and 11.61. They may transmit EAS State or Local Area messages at any time without prior notice.

### § 11.19 EAS Non-participating National Authorization Letter.

This authorization letter is issued by the FCC to EAS Participants that have elected not to participate in the national level EAS. It states that the EAS Participant has agreed to go off the air or discontinue programming on all channels during a national level EAS message. For licensees this authorization will remain in effect through the period of the initial license and subsequent renewals from the time of issuance unless returned by the holder or suspended, modified, or withdrawn by the Commission.

[70 FR 71033, Nov. 25, 2005]

### § 11.20 State Relay Network.

This network is composed of State Relay (SR) sources, leased common carrier communications facilities or any other available communication facilities. The network distributes State EAS messages originated by the Governor or designated official. In addition to EAS monitoring, satellites, microwave, FM subcarrier or any other communications technology may be used to distribute State emergency messages.

### § 11.21 State and Local Area plans and FCC Mapbook.

EAS plans contain guidelines which must be followed by EAS Participants' personnel, emergency officials, and National Weather Service (NWS) personnel to activate the EAS. The plans include the EAS header codes and messages that will be transmitted by key EAS sources (NP, LP, SP and SR). State and local plans contain unique methods of EAS message distribution such as the use of the Radio Broadcast Data System (RBDS). The plans must be reviewed and approved by the Chief, Public Safety and Homeland Security Bureau, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

(a) The State plan contains procedures for State emergency management and other State officials, the NWS, and EAS Participants' personnel to transmit emergency information to the public during a State emergency using the EAS, including mandatory messages initiated by a state governor or his/her designee. The State plan must specify how state-level and geographically targeted EAS messages initiated by a state governor or his/her designee will be transmitted to all EAS Participants who provide services in the state, and must include specific and detailed information describing how such messages will be aggregated, designated as mandatory, and delivered to EAS Participants. State EAS plans should include a data table, in computer readable form, clearly showing

monitoring assignments and the specific primary and backup path for the emergency action notification (''EAN'') from the PEP to each station in the plan.

(b) The Local Area plan contains procedures for local officials or the NWS to transmit emergency information to the public during a local emergency using the EAS. Local plans may be a part of the State plan. A Local Area is a geographical area of contiguous communities or counties that may include more than one state.

(c) The FCC Mapbook is based on the above plans. It organizes all broadcast stations and cable systems according to their State, EAS Local Area, and EAS designation.

[72 FR 62134, Nov. 2, 2007]

## Subpart B—Equipment Requirements

### § 11.31 EAS protocol.

(a) The EAS uses a four part message for an emergency activation of the EAS. The four parts are: Preamble and EAS Header Codes; audio Attention Signal; message; and, Preamble and EAS End Of Message (EOM) Codes.

(1) The Preamble and EAS Codes must use Audio Frequency Shift Keying at a rate of 520.83 bits per second to transmit the codes. Mark frequency is 2083.3 Hz and space frequency is 1562.5 Hz. Mark and space time must be 1.92 milliseconds. Characters are ASCII seven bit characters as defined in ANSI X3.4–1977 ending with an eighth null bit (either 0 or 1) to constitute a full eight-bit byte.

(2) The Attention Signal must be made up of the fundamental frequencies of 853 and 960 Hz. The two tones must be transmitted simultaneously. The Attention Signal must be transmitted after the EAS header codes.

(3) The message may be audio, video or text.

(b) The ASCII dash and plus symbols are required and may not be used for any other purpose. Unused characters must be ASCII space characters. FM or TV call signs must use a slash ASCII character number 47 (/) in lieu of a dash.

(c) The EAS protocol, including any codes, must not be amended, extended or abridged without FCC authorization. The EAS protocol and message format are specified in the following representation.

Examples are provided in FCC Public Notices.

[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-(one second pause)
[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-(one second pause)
[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-(at least a one second pause)
(transmission of 8 to 25 seconds of Attention Signal)
(transmission of audio, video or text messages)
(at least a one second pause)
[PREAMBLE]NNNN (one second pause)
[PREAMBLE]NNNN (one second pause)
[PREAMBLE]NNNN (at least one second pause)

[PREAMBLE] This is a consecutive string of bits (sixteen bytes of AB hexadecimal [8 bit byte 10101011]) sent to clear the system, set AGC and set asynchronous decoder clocking cycles. The preamble must be transmitted before each header and End Of Message code.

ZCZC—This is the identifier, sent as ASCII characters ZCZC to indicate the start of ASCII code.

ORG—This is the Originator code and indicates who originally initiated the activation of the EAS. These codes are specified in paragraph (d) of this section.

EEE—This is the Event code and indicates the nature of the EAS activation. The codes are specified in paragraph (e) of this section. The Event codes must be compatible with the codes used by the NWS Weather Radio Specific Area Message Encoder (WRSAME).

PSSCCC—This the Location code and indicates the geographic area affected by the EAS alert. There may be 31 Location codes in an EAS alert. The Location code uses the Federal Information Processing Standard (FIPS) numbers as described by the U.S. Department of Commerce in National Institute of Standards and Technology publication FIPS PUB 6–4. Each state is assigned an SS number as specified in paragraph (f) of this section. Each county and some cities are assigned a CCC number. A CCC number of 000 refers to an entire State or Territory. P defines county subdivisions as follows: 0 = all or an unspecified portion of a county, 1 = Northwest, 2 = North, 3 = Northeast, 4 = West, 5 = Central, 6 = East, 7 = Southwest, 8 = South, 9 = Southeast. Other numbers may be designated later for special applications.

The use of county subdivisions will probably be rare and generally for oddly shaped or unusually large counties. Any subdivisions must be defined and agreed to by the local officials prior to use.

+TTTT—This indicates the valid time period of a message in 15 minute segments up to one hour and then in 30 minute segments beyond one hour; i.e., +0015, +0030, +0045, +0100, +0430 and +0600.

JJJHHMM—This is the day in Julian Calendar days (JJJ) of the year and the time in hours and minutes (HHMM) when the message was initially released by the originator using 24 hour Universal Coordinated Time (UTC).

LLLLLLLL—This is the identification of the EAS Participant, NWS office, etc., transmitting or retransmitting the message. These codes will be automatically affixed to all outgoing messages by the EAS encoder.

NNNN—This is the End of Message (EOM) code sent as a string of four ASCII N characters.

(d) The only originator codes are:

| Originator | ORG code |
|---|---|
| EAS Participant | EAS |
| Civil authorities | CIV |
| National Weather Service | WXR |
| Primary Entry Point System | PEP |

(e) The following Event (EEE) codes are presently authorized:

| Nature of Activation | Event Codes |
|---|---|
| National Codes (Required): | |
| Emergency Action Notification (National only) | EAN |
| Emergency Action Termination (National only) | EAT |
| National Information Center | NIC |
| National Periodic Test | NPT |
| Required Monthly Test | RMT |
| Required Weekly Test | RWT |
| State and Local Codes (Optional): | |
| Administrative Message | ADR |
| Avalanche Warning | AVW [1] |
| Avalanche Watch | AVA [1] |
| Blizzard Warning | BZW |
| Child Abduction Emergency | CAE [1] |
| Civil Danger Warning | CDW [1] |
| Civil Emergency Message | CEM |
| Coastal Flood Warning | CFW [1] |
| Coastal Flood Watch | CFA [1] |
| Dust Storm Warning | DSW [1] |
| Earthquake Warning | EQW [1] |
| Evacuation Immediate | EVI |
| Fire Warning | FRW [1] |
| Flash Flood Warning | FFW |
| Flash Flood Watch | FFA |
| Flash Flood Statement | FFS |
| Flood Warning | FLW |
| Flood Watch | FLA |
| Flood Statement | FLS |
| Hazardous Materials Warning | HMW [1] |
| High Wind Warning | HWW |
| High Wind Watch | HWA |
| Hurricane Warning | HUW |
| Hurricane Watch | HUA |
| Hurricane Statement | HLS |
| Law Enforcement Warning | LEW [1] |
| Local Area Emergency | LAE [1] |
| Network Message Notification | NMN [1] |
| 911 Telephone Outage Emergency | TOE [1] |
| Nuclear Power Plant Warning | NUW [1] |
| Practice/Demo Warning | DMO |
| Radiological Hazard Warning | RHW [1] |
| Severe Thunderstorm Warning | SVR |
| Severe Thunderstorm Watch | SVA |
| Severe Weather Statement | SVS |
| Shelter in Place Warning | SPW [1] |
| Special Marine Warning | SMW [1] |
| Special Weather Statement | SPS |
| Tornado Warning | TOR |
| Tornado Watch | TOA |
| Tropical Storm Warning | TRW [1] |
| Tropical Storm Watch | TRA [1] |
| Tsunami Warning | TSW |
| Tsunami Watch | TSA |
| Volcano Warning | VOW [1] |
| Winter Storm Warning | WSW |
| Winter Storm Watch | WSA |

[1] Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these event codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003 must be capable of receiving and transmitting these event codes. EAS Participants that install or replace their EAS equipment after February 1, 2004 must install equipment that is capable of receiving and transmitting these event codes.

(f) The State, Territory and Offshore (Marine Area) FIPS number codes (SS) are as follows. County FIPS numbers (CCC) are contained in the State EAS Mapbook.

| | FIPS# |
|---|---|
| State: | |
| AL | 01 |
| AK | 02 |
| AZ | 04 |
| AR | 05 |
| CA | 06 |
| CO | 08 |
| CT | 09 |
| DE | 10 |
| DC | 11 |
| FL | 12 |
| GA | 13 |
| HI | 15 |
| ID | 16 |
| IL | 17 |
| IN | 18 |
| IA | 19 |
| KS | 20 |
| KY | 21 |
| LA | 22 |
| ME | 23 |
| MD | 24 |
| MA | 25 |
| MI | 26 |
| MN | 27 |
| MS | 28 |
| MO | 29 |
| MT | 30 |
| NE | 31 |
| NV | 32 |
| NH | 33 |
| NJ | 34 |

| | FIPS# |
|---|---|
| NM | 35 |
| NY | 36 |
| NC | 37 |
| ND | 38 |
| OH | 39 |
| OK | 40 |
| OR | 41 |
| PA | 42 |
| RI | 44 |
| SC | 45 |
| SD | 46 |
| TN | 47 |
| TX | 48 |
| UT | 49 |
| VT | 50 |
| VA | 51 |
| WA | 53 |
| WV | 54 |
| WI | 55 |
| WY | 56 |
| Terr.: | |
| AS | 60 |
| FM | 64 |
| GU | 66 |
| MH | 68 |
| MH | 68 |
| PR | 72 |
| PW | 70 |
| UM | 74 |
| VI | 78 |
| Offshore (Marine Areas) [1]: | |
| Eastern North Pacific Ocean, and along U.S. West Coast from Canadian border to Mexican border | 57 |
| North Pacific Ocean near Alaska, and along Alaska coastline, including the Bering Sea and the Gulf of Alaska | 58 |
| Central Pacific Ocean, including Hawaiian waters | 59 |
| South Central Pacific Ocean, including American Samoa waters | 61 |
| Western Pacific Ocean, including Mariana Island waters | 65 |
| Western North Atlantic Ocean, and along U.S. East Coast, from Canadian border south to Currituck Beach Light, N.C | 73 |
| Western North Atlantic Ocean, and along U.S. East Coast, south of Currituck Beach Light, N.C., following the coastline into Gulf of Mexico to Bonita Beach, FL., including the Caribbean | 75 |
| Gulf of Mexico, and along the U.S. Gulf Coast from the Mexican border to Bonita Beach, FL | 77 |
| Lake Superior | 91 |
| Lake Michigan | 92 |
| Lake Huron | 93 |
| Lake St. Clair | 94 |
| Lake Erie | 96 |
| Lake Ontario | 97 |
| St. Lawrence River above St. Regis | 98 |

[1] Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these marine area location codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003, must be capable of receiving and transmitting these marine area location codes. EAS Participants that install or replace their EAS equipment after February 1, 2004, must install equipment that is capable of receiving and transmitting these location codes.

[59 FR 67092, Dec. 28, 1994, as amended at 60 FR 55999, Nov. 6, 1995; 61 FR 54952, Oct. 23, 1996; 63 FR 29663, June 1, 1998; 67 FR 18508, Apr. 16, 2002; 67 FR 77174, Dec. 17, 2002; 69 FR 72031, Dec. 10, 2004; 70 FR 71033, Nov. 25, 2005]

## § 11.32 EAS Encoder.

(a) EAS Encoders must at a minimum be capable of encoding the EAS protocol described in §11.31 and providing the EAS code transmission requirements described in §11.51. EAS encoders must additionally provide the following minimum specifications:

(1) *Encoder programming*. Access to encoder programming shall be protected by a lock or other security measures and be configured so that authorized personnel can readily select and program the EAS Encoder with Originator, Event and Location codes for either manual or automatic operation.

(2) *Inputs*. The encoder shall have two inputs, one for audio messages and one for data messages (RS–232C with standard protocol and 1200 baud rate).

(3) *Outputs*. The encoder shall have two outputs, one audio port and one data port (RS–232C with standard protocol and 1200 baud rate).

(4) *Calibration*. EAS Encoders must provide a means to comply with the modulation levels required in §11.51(f).

(5) Day-Hour-Minute and Identification Stamps. The encoder shall affix the JJJHHMM and LLLLLLLL codes automatically to all initial messages.

(6) *Program Data Retention*. Program data and codes shall be retained even with the power removed.

(7) *Indicator*. An aural or visible means that it activated when the Preamble is sent and deactivated at the End of Message code.

(8) *Spurious Response*. All frequency components outside 200 to 4000 Hz shall be attenuated by 40 dB or more with respect to the output levels of the mark or space frequencies.

(9) *Attention Signal generator*. The encoder must provide an attention signal that complies with the following:

(i) *Tone Frequencies*. The audio tones shall have fundamental frequencies of 853 and 960 Hz and not vary over ±0.5 Hz.

(ii) *Harmonic Distortion*. The total harmonic distortion of each of the audio tones may not exceed 5% at the encoder output terminals.

(iii) *Minimum Level of Output*. The encoder shall have an output level capability of at least +8 dBm into a 600 Ohm load impedance at each audio

tone. A means shall be provided to permit individual activation of the two tones for calibration of associated systems.

(iv) *Time Period for Transmission of Tones*. The encoder shall have timing circuitry that automatically generates the two tones simultaneously for a time period of not less than 8 nor longer than 25 seconds. NOTE: Prior to July 1, 1995, the Attention Signal must be at least 20 and not more than 25 seconds.

(v) *Inadvertent activation*. The switch used for initiating the automatic generation of the simultaneous tones shall be protected to prevent accidental operation.

(vi) *Indicator Display*. The encoder shall be provided with a visual and/or aural indicator which clearly shows that the Attention Signal is activated.

(b) *Operating Temperature and Humidity*. Encoders shall have the ability to operate with the above specifications within an ambient temperature range of 0 to +50 degrees C and a range of relative humidity of up to 95%.

(c) *Primary Supply Voltage Variation*. Encoders shall be capable of complying with the requirements of this section during a variation in primary supply voltage of 85 percent to 115 percent of its rated value.

(d) *Testing Encoder Units*. Encoders not covered by § 11.34(e) of this part shall be tested in a 10 V/m minimum RF field at an AM broadcast frequency and a 0.5 V/m minimum RF field at an FM or TV broadcast frequency to simulate actual working conditions.

### § 11.33 EAS Decoder.

(a) An EAS Decoder must at a minimum be capable of decoding the EAS protocol described in § 11.31, provide the EAS monitoring functions described in § 11.52, and the following minimum specifications:

(1) *Inputs*. Decoders must have the capability to receive at least 2 audio inputs from EAS monitoring assignments, and one data input (RS–232C with standard protocol and 1200 baud rate). The data input may be used to monitor other communications modes such as Radio Broadcast Data System (RBDS), NWR, satellite, public switched telephone network, or any other source that uses the EAS protocol.

(2) *Valid codes*. There must be a means to determine if valid EAS header codes are received and to determine if preselected header codes are received.

(3) *Storage*. Decoders must provide the means to:

(i) Record and store, either internally or externally, at least two minutes of audio or text messages. A decoder manufactured without an internal means to record and store audio or text must be equipped with a means (such as an audio or digital jack connection) to couple to an external recording and storing device.

(ii) Store at least ten preselected event and originator header codes, in addition to the seven mandatory event/originator codes for tests and national activations, and store any preselected location codes for comparison with incoming header codes. A non-preselected header code that is manually transmitted must be stored for comparison with later incoming header codes. The header codes of the last ten received valid messages which still have valid time periods must be stored for comparison with the incoming valid header codes for later messages. These last received header codes will be deleted from storage as their valid time periods expire.

(4) *Display and logging*. A visual message shall be developed from any valid header codes for tests and national activations and any preselected header codes received. The message shall include the Originator, Event, Location, the valid time period of the message and the local time the message was transmitted. The message shall be in the primary language of the EAS Participant and be fully displayed on the decoder and readable in normal light and darkness. All existing and new models of EAS decoders manufactured after August 1, 2003 must provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events. Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their decoders on an optional basis to

include a selective display and logging capability for EAS messages containing header codes for state and local events. EAS Participants that install or replace their decoders after February 1, 2004 must install decoders that provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events.

(5) *Indicators*. EAS decoders must have a distinct and separate aural or visible means to indicate when any of the following conditions occurs:

(i) Any valid EAS header codes are received as specified in § 11.33(a)(10).

(ii) Preprogrammed header codes, such as those selected in accordance with § 11.52(d)(2) are received.

(iii) A signal is present at each audio input that is specified in § 11.33(a)(1).

(6) *Program Data Retention*. The program data must be retained even with power removed.

(7) *Outputs*. Decoders shall have the following outputs: a data port or ports (RS–232C with standard protocol and 1200 baud rate) where received valid EAS header codes and received preselected header codes are available; one audio port that is capable of monitoring each decoder audio input; and, an internal speaker to enable personnel to hear audio from each input.

(8) *Decoder Programming*. Access to decoder programming shall be protected by a lock or other security measures and be configured so that authorized personnel can readily select and program the EAS Decoder with preselected Originator, Event and Location codes for either manual or automatic operation.

(9) *Reset*. There shall be a method to automatically or manually reset the decoder to the normal monitoring condition. Operators shall be able to select a time interval, not less than two minutes, in which the decoder would automatically reset if it received an EAS header code but not an end-of-message (EOM) code. Messages received with the EAN Event codes shall disable the reset function so that lengthy audio messages can be handled. The last message received with valid header codes shall be displayed as required by paragraph (a)(4) of this section before the decoder is reset.

(10) *Message Validity*. An EAS Decoder must provide error detection and validation of the header codes of each message to ascertain if the message is valid. Header code comparisons may be accomplished through the use of a bit-by-bit compare or any other error detection and validation protocol. A header code must only be considered valid when two of the three headers match exactly. Duplicate messages must not be relayed automatically.

(11) A header code with the EAN Event code specified in § 11.31(c) that is received through any of the audio inputs must override all other messages.

(b) *Attention Signal*. EAS Decoders shall have detection and activation circuitry that will demute a receiver upon detection of the two audio tones of 853 Hz and 960 Hz. To prevent false responses, decoders designed to use the two tones for receiver demuting shall comply with the following:

(1) *Time Delay*. A minimum time delay of 8 but not more than 16 seconds of tone reception shall be incorporated into the demuting or activation process to insure that the tones will be audible for a period of at least 4 seconds. After July 1, 1995, the time delay shall be 3–4 seconds.

(2) *Operation Bandwidth*. The decoder circuitry shall not respond to tones which vary more than ±5 Hz from each of the frequencies, 853 Hz and 960 Hz.

(3) *Reset Ability*. The decoder shall have a means to manually or automatically reset the associated broadcast receiver to a muted state.

(c) Decoders shall be capable of operation within the tolerances specified in this section as well as those in § 11.32 (b), (c) and (d).

[59 FR 67092, Dec. 28, 1994, as amended at 60 FR 55999, Nov. 6, 1995; 67 FR 18510, Apr. 16, 2002; 70 FR 71033, Nov. 25, 2005]

### § 11.34 Acceptability of the equipment.

(a) An EAS Encoder used for generating the EAS codes and the Attention Signal must be Certified in accordance with the procedures in part 2, subpart J, of this chapter. The data and information submitted must show the capability of the equipment to meet the requirements of this part as well as the requirements contained in part 15 of this chapter for digital devices.

(b) Decoders used for the detection of the EAS codes and receiving the Attention Signal must be Certified in accordance with the procedures in part 2, subpart J, of this chapter. The data and information submitted must show the capability of the equipment to meet the requirements of this part as well as the requirements contained in part 15 of this chapter for digital devices.

(c) The functions of the EAS decoder, Attention Signal generator and receiver, and the EAS encoder specified in §§ 11.31, 11.32 and 11.33 may be combined and Certified as a single unit provided that the unit complies with all specifications in this rule section.

(d) Manufacturers must include instructions and information on how to install, operate and program an EAS Encoder, EAS Decoder, or combined unit and a list of all State and county FIPS numbers with each unit sold or marketed in the U.S.

(e) Waiver requests of the Certification requirements for EAS Encoders or EAS Decoders which are constructed for use by an EAS Participant, but are not offered for sale will be considered on an individual basis in accordance with part 1, subpart G, of this chapter.

(f) Modifications to existing authorized EAS decoders, encoders or combined units necessary to implement the new EAS codes specified in § 11.31 and to implement the selective displaying and logging feature specified in § 11.33(a)(4) will be considered Class I permissive changes that do not require a new application for and grant of equipment certification under part 2, subpart J of this chapter.

(g) All existing and new models of EAS encoders, decoders and combined units manufactured after August 1, 2003 must be capable of generating and detecting the new EAS codes specified in § 11.31 in order to be certified under part 2, subpart J of this chapter. All existing and new models of EAS decoders and combined units manufactured after August 1, 2003 must have the selective displaying and logging capability specified in § 11.33(a)(4) in order to be certified under part 2, subpart J of this chapter.

[59 FR 67092, Dec. 28, 1994, as amended at 60 FR 56000, Nov. 6, 1995; 67 FR 18510, Apr. 16, 2002; 70 FR 71034, Nov. 25, 2005]

**§ 11.35 Equipment operational readiness.**

(a) EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in § 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§ 73.1820 and 73.1840 of this chapter for all broadcast streams and cable system records as specified in §§ 76.1700, 76.1708, and 76.1711 of this chapter. All other EAS Participants must also keep records indicating reasons why any tests were not received and these records must be retained for two years, maintained at the EAS Participant's headquarters, and made available for public inspection upon reasonable request.

(b) If the EAS Encoder or EAS Decoder becomes defective, the EAS Participant may operate without the defective equipment pending its repair or replacement for 60 days without further FCC authority. Entries shall be made in the broadcast station log, cable system records, and records of other EAS Participants, as specified in paragraph (a) of this rule, showing the date and time the equipment was removed and restored to service. For personnel training purposes, the required monthly test script must still be transmitted even though the equipment for generating the EAS message codes, Attention Signal and EOM code is not functioning.

(c) If repair or replacement of defective equipment is not completed within 60 days, an informal request shall be submitted to the District Director of the FCC field office serving the area in which the EAS Participant is located, or in the case of DBS and SDARS providers to the District Director of the FCC field office serving the area where their headquarters is located, for additional time to repair the defective equipment. This request must explain

what steps have been taken to repair or replace the defective equipment, the alternative procedures being used while the defective equipment is out of service, and when the defective equipment will be repaired or replaced.

[70 FR 71034, Nov. 25, 2005]

## Subpart C—Organization

### § 11.41 Participation in EAS.

(a) All EAS Participants specified in § 11.11 are categorized as Participating National (PN) sources unless authorized by the FCC to be Non-Participating (NN) sources.

(b) An EAS Participant may submit a written request to the FCC asking to be an NN source. The FCC may then issue a Non-participating National Authorization letter. NN sources must go off the air during a national EAS activation after transmitting specified information.

(1) An EAS Participant that is an NN source under § 11.18(f) that wants to become a PN source in the national level EAS must submit a written request to the FCC.

(2) NN sources may voluntarily participate in the State and Local Area EAS. Participation is at the discretion of EAS Participant management and should comply with State and Local Area EAS Plans.

(c) All sources, including NN, must have immediate access to an EAS Operating Handbook.

[70 FR 71034, Nov. 25, 2005]

### § 11.42 Participation by communications common carriers.

(a) During activation of the National level EAS, communications common carriers which have facilities available in place may, without charge, connect:

(1) An originating source from the nearest service area to a selected Test Center and then to the EAS Participant for the duration of the emergency, provided an Emergency Action Notification is issued by the White House and the originating source has a local channel from the originating point to the nearest service area.

(2) An independent broadcast station to the radio and television broadcast networks and any other EAS Participant provided the station has in service a local channel from the station's studio or transmitter directly to the broadcast source.

(b) Upon receipt of the Emergency Action Termination, the common carriers shall disconnect the originating source and the participating independent stations and restore the networks and other EAS Participants to their original configurations.

(c) During a National level EAS Test, common carriers which have facilities in place may, without charge, connect an originating source from the nearest exchange to a selected Test Center and then to any EAS Participant. Independent stations will not be connected during the test unless authorized by the FCC. Upon test termination, EAS Participants shall be restored to their original configurations.

(d) A common carrier rendering free service shall file with the FCC, on or before July 31st and January 31st of each year, reports covering the six months ending on June 30th and December 31st respectively. These reports shall state what free service was rendered under this rule and the charges in dollars which would have accrued to the carrier for this service if charges had been collected at the published tariff rates if such carriers are required to file tariffs.

[59 FR 67092, Dec. 28, 1994, as amended at 67 FR 18510, Apr. 16, 2002; 70 FR 71034, Nov. 25, 2005]

### § 11.43 National level participation.

Entities that wish to voluntarily participate in the national level EAS may submit a written request to the Chief, Public Safety and Homeland Security Bureau.

[71 FR 69038, Nov. 29, 2006]

### § 11.44 EAS message priorities.

(a) A national activation of the EAS for a Presidential message with the Event code EAN as specified in § 11.31 must take priority over any other message and preempt it if it is in progress.

(b) EAS participants should transmit other EAS messages in the following

order: first, Local Area Messages; second, State Messages; and third, National Information Center (NIC) Messages.

(c) Key EAS sources (NP, LP, SP and SR) and Participating National (PN) sources that remain on the air during a National emergency must carry Presidential Messages ''live'' at the time of transmission or immediately upon receipt. Activation of the National level EAS must preempt State and Local Area EAS operation.

(d) During a national emergency, the facilities of all EAS Participants must be reserved exclusively for distribution of Presidential Messages. NIC messages received from national networks which are not broadcast at the time of original transmission must be recorded locally by LP sources for transmission at the earliest opportunity consistent with the message priorities in paragraph (b) of this section.

[59 FR 67092, Dec. 28, 1994, as amended by 70 FR 71034, Nov. 25, 2005]

### § 11.45 Prohibition of false or deceptive EAS transmissions.

No person may transmit or cause to transmit the EAS codes or Attention Signal, or a recording or simulation thereof, in any circumstance other than in an actual National, State or Local Area emergency or authorized test of the EAS. Broadcast station licensees should also refer to § 73.1217 of this chapter.

### § 11.46 EAS public service announcements.

EAS Participants may use Public Service Announcements or obtain commercial sponsors for announcements, infomercials, or programs explaining the EAS to the public. Such announcements and programs may not be a part of alerts or tests, and may not simulate or attempt to copy alert tones or codes.

[70 FR 71034, Nov. 25, 2005]

### § 11.47 Optional use of other communications methods and systems.

(a) Analog and digital broadcast stations may additionally transmit EAS messages through other communications means. For example, on a voluntary basis, FM stations may use subcarriers to transmit the EAS codes including 57 kHz using the RBDS standard produced by the National Radio Systems Committee (NRSC) and television stations may use subsidiary communications services.

(b) Other technologies and public service providers, such as low earth orbiting satellites, that wish to participate in the EAS may contact the FCC's Public Safety and Homeland Security Bureau or their State Emergency Communications Committee for information and guidance.

[70 FR 71034, Nov. 25, 2005, as amended at 71 FR 76220, Dec. 20, 2006; 72 FR 62135, Nov. 2, 2007]

## Subpart D—Emergency Operations

### § 11.51 EAS code and Attention Signal Transmission requirements.

(a) Analog and digital broadcast stations must transmit, either automatically or manually, national level EAS messages and required tests by sending the EAS header codes, Attention Signal, emergency message and End of Message (EOM) codes using the EAS Protocol. The Attention Signal must precede any emergency audio message. After January 1, 1998, the shortened Attention Signal may only be used as an audio alert signal and the EAS codes will become the minimum signaling requirement for National level messages and tests.

(b) When relaying EAS messages, EAS Participants may transmit only the EAS header codes and the EOM code without the Attention Signal and emergency message for State and local emergencies. Pauses in video programming before EAS message transmission should not cause television receivers to mute EAS audio messages. No Attention Signal is required for EAS messages that do not contain audio programming, such as a Required Weekly Test.

(c) By the effective dates provided in § 11.11(a), all analog and digital radio and television stations shall transmit EAS messages in the main audio channel. Effective December 31, 2006, all DAB stations shall also transmit EAS

messages on all audio streams. Effective December 31, 2006, all DTV broadcast stations shall also transmit EAS messages on all program streams.

(d) By the effective dates provided in § 11.11(a), analog and digital television broadcast stations shall transmit a visual message containing the Originator, Event, Location and the valid time period of an EAS message. If the message is a video crawl, it shall be displayed at the top of the television screen or where it will not interfere with other visual messages.

(e) Analog class D non-commercial educational FM stations as defined in § 73.506 of this chapter, digital class D non-commercial educational FM stations, analog Low Power FM (LPFM) stations as defined in §§ 73.811 and 73.853 of this chapter, digital LPFM stations, analog low power TV (LPTV) stations as defined in § 74.701(f) of this chapter, and digital LPTV stations as defined in § 74.701(k) of this chapter are not required to have equipment capable of generating the EAS codes and Attention Signal specified in § 11.31.

(f) Analog and digital broadcast station equipment generating the EAS codes and the Attention Signal shall modulate a broadcast station transmitter so that the signal broadcast to other EAS Participants alerts them that the EAS is being activated or tested at the National, State or Local Area level. The minimum level of modulation for EAS codes, measured at peak modulation levels using the internal calibration output required in § 11.32(a)(4), shall modulate the transmitter at the maximum possible level, but in no case less than 50% of full channel modulation limits. Measured at peak modulation levels, each of the Attention Signal tones shall be calibrated separately to modulate the transmitter at no less than 40%. These two calibrated modulation levels shall have values that are within 1 dB of each other.

(g) Analog cable systems and digital cable systems with fewer than 5,000 subscribers per headend and wireline video systems and wireless cable systems with fewer than 5,000 subscribers shall transmit EAS audio messages in the same order specified in paragraph (a) of this section on at least one channel. The Attention signal may be produced from a storage device. Additionally, these analog cable systems, digital cable systems, and wireless cable systems:

(1) Must install, operate, and maintain equipment capable of generating the EAS codes. The modulation levels for the EAS codes and Attention Signal for analog cable systems shall comply with the aural signal requirements in § 76.605 of this chapter,

(2) Must provide a video interruption and an audio alert message on all channels. The audio alert message must state which channel is carrying the EAS video and audio message,

(3) Shall transmit a visual EAS message on at least one channel. The message shall contain the Originator, Event, Location, and the valid time period of the EAS message. If the visual message is a video crawl, it shall be displayed at the top of the subscriber's television screen or where it will not interfere with other visual messages.

(4) May elect not to interrupt EAS messages from broadcast stations based upon a written agreement between all concerned. Further, analog cable systems, digital cable systems, and wireless cable systems may elect not to interrupt the programming of a broadcast station carrying news or weather related emergency information with state and local EAS messages based on a written agreement between all parties.

(5) Wireless cable systems and digital cable systems with a requirement to carry the audio and video EAS message on at least one channel and a requirement to provide video interrupt and an audio alert message on all other channels stating which channel is carrying the audio and video EAS message, may comply by using a means on all programmed channels that automatically tunes the subscriber's set-top box to a pre-designated channel which carries the required audio and video EAS messages.

(h) Analog cable systems and digital cable systems with 10,000 or more subscribers; analog cable and digital cable systems serving 5,000 or more, but less than 10,000 subscribers per headend; and wireline video systems and wireless cable systems with 5,000 or more

subscribers shall transmit EAS audio messages in the same order specified in paragraph (a) of this section. The Attention signal may be produced from a storage device. Additionally, these analog cable systems, digital cable systems, and wireless cable systems:

(1) Must install, operate, and maintain equipment capable of generating the EAS codes. The modulation levels for the EAS codes and Attention Signal for analog cable systems shall comply with the aural signal requirements in § 76.605 of this chapter. This will provide sufficient signal levels to operate subscriber television and radio receivers equipped with EAS decoders and to audibly alert subscribers. Wireless cable systems and digital cable systems shall also provide sufficient signal levels to operate subscriber television and radio receivers equipped with EAS decoders and to audibly alert subscribers.

(2) Shall transmit the EAS audio message required in paragraph (a) of this section on all downstream channels.

(3) Shall transmit the EAS visual message on all downstream channels. The visual message shall contain the Originator, Event, Location and the valid time period of the EAS message. These are elements of the EAS header code and are described in § 11.31. If the visual message is a video crawl, it shall be displayed at the top of the subscriber's television screen or where it will not interfere with other visual messages.

(4) May elect not to interrupt EAS messages from broadcast stations based upon a written agreement between all concerned. Further, analog cable systems, digital cable systems, and wireless cable systems may elect not to interrupt the programming of a broadcast station carrying news or weather related emergency information with state and local EAS messages based on a written agreement between all parties.

(5) Wireless cable systems and digital cable systems with a requirement to carry the audio and video EAS message on all downstream channels may comply by using a means on all programmed channels that automatically tunes the subscriber's set-top box to a pre-designated channel which carries the required audio and video EAS messages.

(i) Effective December 31, 2006, SDARS licensees shall transmit national audio EAS messages on all channels in the same order specified in paragraph (a) of this section.

(1) SDARS licensees must install, operate, and maintain equipment capable of generating the EAS codes.

(2) SDARS licensees may determine the distribution methods they will use to comply with this requirement.

(j) Effective May 31, 2007, DBS providers shall transmit national audio and visual EAS messages on all channels in the same order specified in paragraph (a) of this section.

(1) DBS providers must install, operate, and maintain equipment capable of generating the EAS codes.

(2) The visual message shall contain the Originator, Event, Location and the valid time period of the EAS message. These are elements of the EAS header code and are described in § 11.31. If the visual message is a video crawl, it shall be displayed at the top of the subscriber's television screen or where it will not interfere with other visual messages.

(3) DBS providers may determine the distribution methods they will use to comply with this requirement. Such methods may include distributing the EAS message on all channels, using a means to automatically tune the subscriber's set-top box to a pre-designated channel which carries the required audio and video EAS messages, and/or passing through the EAS message provided by programmers and/or local channels (where applicable).

(k) If manual interrupt is used as authorized in paragraph (m) of this section, EAS Encoders must be located so that EAS Participant staff, at normal duty locations, can initiate the EAS code and Attention Signal transmission.

(l) EAS Participants that are co-owned and co-located with a combined studio or control facility, (such as an AM and FM licensed to the same entity and at the same location or a cable headend serving more than one system) may provide the EAS transmitting requirements contained in this section

for the combined stations or systems with one EAS Encoder. The requirements of § 11.32 must be met by the combined facility.

(m) EAS Participants are required to transmit all received EAS messages in which the header code contains the Event codes for Emergency Action Notification (EAN), Emergency Action Termination (EAT), and Required Monthly Test (RMT), and when the accompanying location codes include their State or State/county. These EAS messages shall be retransmitted unchanged except for the LLLLLLLL-code which identifies the EAS Participant retransmitting the message. See § 11.31(c). If an EAS source originates an EAS message with the Event codes in this paragraph, it must include the location codes for the State and counties in its service area. When transmitting the required weekly test, EAS Participants shall use the event code RWT. The location codes are the state and county for the broadcast station city of license or system community or city. Other location codes may be included upon approval of station or system management. EAS messages may be transmitted automatically or manually.

(1) Automatic interrupt of programming and transmission of EAS messages are required when facilities are unattended. Automatic transmissions must include a permanent record that contains at a minimum the following information: Originator, Event, Location and valid time period of the message. The decoder performs the functions necessary to determine which EAS messages are automatically transmitted by the encoder.

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code must be transmitted immediately and Monthly EAS test messages within 60 minutes. All actions must be logged and include the minimum information required for EAS video messages.

(n) EAS Participants may employ a minimum delay feature, not to exceed 15 minutes, for automatic interruption of EAS codes. However, this may not be used for the EAN event which must be transmitted immediately. The delay time for an RMT message may not exceed 60 minutes.

(o) Either manual or automatic operation of EAS equipment may be used by EAS Participants that use remote control. If manual operation is used, an EAS decoder must be located at the remote control location and it must directly monitor the signals of the two assigned EAS sources. If direct monitoring of the assigned EAS sources is not possible at the remote location, automatic operation is required. If automatic operation is used, the remote control location may be used to override the transmission of an EAS alert. EAS Participants may change back and forth between automatic and manual operation.

[70 FR 71035, Nov. 25, 2005, as amended at 71 FR 76220, Dec. 20, 2006; 72 FR 62135, Nov. 2, 2007; 71 FR 76220, Dec. 20, 2006; 72 FR 62135, Nov. 2, 2007]

### § 11.52 EAS code and Attention Signal Monitoring requirements.

(a) EAS Participants must be capable of receiving the Attention Signal required by § 11.32(a)(9) and emergency messages of other broadcast stations during their hours of operation. EAS Participants must install and operate during their hours of operation, equipment capable of receiving and decoding, either automatically or manually, the EAS header codes, emergency messages and EOM code. EAS Participants must comply with these requirements by the dates set forth in § 11.11.

NOTE TO PARAGRAPH (A): The two-tone Attention Signal will not be used to actuate two-tone decoders but will be used as an aural alert signal.

(b) If manual interrupt is used as authorized in § 11.51(m)(2), decoders must be located so that operators at their normal duty stations can be alerted immediately when EAS messages are received.

(c) EAS Participants that are co-owned and co-located with a combined studio or control facility (such as an AM and FM licensed to the same entity and at the same location or a cable headend serving more than one system) may comply with the EAS monitoring requirements contained in this section for the combined station or system

with one EAS Decoder. The requirements of § 11.33 must be met by the combined facility.

(d) EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities.

(1) If the required EAS sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the FCC's EAS office. In an emergency, a waiver may be issued over the telephone with a follow up letter to confirm temporary or permanent reassignment.

(2) The management of EAS Participants shall determine which header codes will automatically interrupt their programming for State and Local Area emergency situations affecting their audiences.

(e) EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the Event codes for Emergency Action Notification (EAN), Emergency Action Termination (EAT), and Required Monthly Test (RMT) for their State or State/county location.

(1) *Automatic* interrupt of programming is required when facilities are unattended. Automatic operation must provide a permanent record of the EAS message that contains at a minimum the following information: Originator, Event, Location and valid time period of the message.

(2) *Manual* interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code must be transmitted immediately and Monthly EAS test messages within 60 minutes. All actions must be logged and recorded as specified in §§ 11.35(a) and 11.54(b)(13). Decoders must be programmed for the EAN and EAT Event header codes for National level emergencies and the RMT and RWT Event header codes for required monthly and weekly tests, with the appropriate accompanying State and State/county location codes.

[70 FR 71036, Nov. 25, 2005]

## § 11.53 Dissemination of Emergency Action Notification.

Initiation of the EAN by any one of the following sources is sufficient to begin the emergency actions in § 11.54.

(a) *National Level*. The EAN is issued by the White House. The EAN message is sent from a government origination point to broadcast stations and other entities participating in the PEP system. It is then disseminated via EAS Participants.

(1) Radio and television broadcast stations.

(2) Cable systems and wireless cable systems.

(3) Other entities voluntarily participating in EAS.

(b) *State level and Local Area levels*. EAN dissemination arrangements at these levels originate from State and local governments in accordance with State and Local Area plans.

(c) Analog and digital broadcast stations must, prior to commencing routine operation or originating any emissions under program test, equipment test, experimental, or other authorizations, determine whether the EAS has been activated by monitoring the assigned EAS sources as specified in their State or Local plan.

[59 FR 67092, Dec. 28, 1994, as amended at 63 FR 29666, June 1, 1998; 65 FR 7640, Feb. 15, 2000; 65 FR 30001, May 10, 2000; 67 FR 18510, Apr. 16, 2002; 70 FR 71037, Nov. 25, 2005]

## § 11.54 EAS operation during a National Level emergency.

(a) The EAS Operating Handbook summarizes the procedures to be followed upon receipt of a National level EAN or EAT Message.

(b) Immediately upon receipt of an EAN message, EAS Participants must:

(1) Monitor the two EAS sources assigned in the State or Local Area plan or FCC Mapbook for any further instructions. SDARS licensees and DBS providers may choose their two EAS sources, one of which must be a PEP station.

(2) Discontinue normal programming and follow the transmission procedures in the appropriate section of the EAS Operating Handbook. Announcements may be made in the same language as the primary language of the EAS Participant.

(i) Key EAS sources (National Primary (NP), Local Primary (LP), State Primary (SP), State Relay (SR) and Participating National (PN) sources) follow the transmission procedures and make the announcements in the National Level Instructions of the EAS Operating Handbook.

(ii) Non-participating National (NN) sources follow the transmission procedures and make the sign-off announcement in the EAS Operating Handbook's National Level Instructions section for NN sources. After the sign-off announcement, NN sources are required to remove their carriers or services from the air and monitor for the Emergency Action Termination message. NN sources using automatic interrupt under §11.51(m)(1), must transmit the header codes, Attention Signal, sign-off announcement and EOM code after receiving the appropriate EAS header codes for a national emergency.

(3) After completing the above transmission procedures, key EAS and Participating National sources must transmit a common emergency message until receipt of the Emergency Action Termination Message. Message priorities are specified in §11.44. If LP or SR sources of a Local Area cannot provide an emergency message feed, any source in the Local Area may elect to provide a message feed. This should be done in an organized manner as designated in State and Local Area EAS Plans.

(4) The Standby Script shall be used until emergency messages are available. The text of the Standby Script is in the EAS Operating Handbook's section for Participating sources.

(5) Analog and digital TV broadcast stations shall display an appropriate EAS slide and then transmit all EAS announcements visually and aurally as specified in §§11.51(a) through (e) and 73.1250(h) of this chapter.

(6) Analog cable systems, digital cable systems, and wireless cable systems shall transmit all EAS announcements visually and aurally as specified in §11.51(g) and (h).

(7) DBS providers shall transmit all EAS announcements visually and aurally as specified in §11.51(j).

(8) Announcements may be made in the same language as the primary language of the EAS participant.

(9) Analog and digital broadcast stations may transmit their call letters and analog cable systems, digital cable systems and wireless cable systems may transmit the names of the communities they serve during an EAS activation. State and Local Area identifications must be given as provided in State and Local Area EAS plans.

(10) All analog and digital broadcast stations and analog cable systems, digital cable systems and wireless cable systems operating and identified with a particular EAS Local Area must transmit a common national emergency message until receipt of the Emergency Action Termination.

(11) Analog and digital broadcast stations, except those holding an EAS Non-participating National Authorization letter, are exempt from complying with §§73.62 and 73.1560 of this chapter (operating power maintenance) while operating under this part.

(12) National Primary (NP) sources must operate under the procedures in the National Control Point Procedures.

(13) The time of receipt of the EAN and Emergency Action Termination messages shall be entered by analog and digital broadcast stations in their logs (as specified in §§73.1820 and 73.1840 of this chapter), by analog and digital cable systems in their records (as specified in §76.1711 of this chapter), by subject wireless cable systems in their records (as specified in §21.304 of this chapter), and by all other EAS Participants in their records as specified in §11.35(a).

(c) Upon receipt of an Emergency Action Termination Message, EAS Participants must follow the termination procedures in the EAS Operating Handbook.

(d) EAS Participants originating emergency communications under this section shall be considered to have conferred rebroadcast authority, as required by section 325(a) of the Communications Act of 1934, 47 U.S.C. 325(a), to other EAS Participants.

(e) During a national level EAS emergency, EAS Participants may transmit in lieu of the EAS audio feed an audio feed of the President's voice message from an alternative source,

such as a broadcast network audio feed.

[59 FR 67092, Dec. 28, 1994, as amended at 63 FR 29666, June 1, 1998; 63 FR 39035, July 21, 1998; 65 FR 21658, Apr. 24, 2000; 65 FR 53614, Sept. 5, 2000; 67 FR 18511, Apr. 16, 2002; 70 FR 71037, Nov. 25, 2005]

### § 11.55 EAS operation during a State or Local Area emergency.

(a) All EAS Participants within a state (excepting SDARs and DBS providers) must receive and transmit state-level and geographically targeted EAS messages, as aggregated and delivered by the state governor or his/her designee, or by FEMA on behalf of such state governor, upon approval by the Commission of an applicable state plan providing for delivery of such alerts no sooner than 180 days after adoption of CAP by FEMA. Examples of natural emergencies which may warrant activation are: Tornadoes, floods, hurricanes, earthquakes, heavy snows, icing conditions, widespread fires, etc. Manmade emergencies may include: toxic gas leaks or liquid spills, widespread power failures, industrial explosions, and civil disorders.

(1) DBS providers shall pass through all EAS messages aired on local television broadcast stations carried by DBS providers under the Commission's broadcast signal carriage rules to subscribers receiving those channels.

(2) SDARS licensees and DBS providers may participate in EAS at the state and local level and make their systems capable of receiving and transmitting state and local level EAS messages on all channels. If an SDARS licensee or DBS provider is not capable of receiving and transmitting state and local EAS message on all channels, it must inform its subscribers, on its website and in writing on an annual basis, of which channels are and are not capable of supplying state and local messages.

(b) EAS operations must be conducted as specified in State and Local Area EAS Plans. The plans must list all authorized entities participating in the State or Local Area EAS.

(c) Immediately upon receipt of a State or Local Area EAS message, EAS Participants participating in the State or Local Area EAS must do the following:

(1) State Relay (SR) sources monitor the State Relay Network or follow the State EAS plan for instructions from the State Primary (SP) source.

(2) Local Primary (LP) sources monitor the Local Area SR sources or follow the State EAS plan for instructions.

(3) Participating National (PN) and Non-participating National (NN) sources monitor the Local Area LP sources for instructions.

(4) EAS Participants participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in the State and Local Area plans. Analog and digital television broadcast stations must comply with § 11.54(b)(5); analog cable systems, digital cable systems, and wireless cable systems must comply with § 11.54(b)(6); and DBS providers must comply with § 11.54(b)(7). EAS Participants providing foreign language programming should comply with § 11.54(b)(8).

(5) Upon completion of the State or Local Area EAS transmission procedures, resume normal programming until receipt of the cue from the SR or LP sources in your Local Area. At that time begin transmitting the common emergency message received from the above sources.

(6) Resume normal operations upon conclusion of the message.

(7) The times of the above EAS actions must be entered in the EAS Participants' records as specified in §§ 11.35(a) and 11.54(b)(13).

(8) Use of the EAS codes or Attention Signal automatically grants rebroadcast authority as specified in § 11.54(d).

[59 FR 67092, Dec. 28, 1994, as amended at 63 FR 29666, June 1, 1998; 65 FR 21658, Apr. 24, 2000; 67 FR 18511, Apr. 16, 2002; 70 FR 71037, Nov. 25, 2005; 71 FR 76220, Dec. 20, 2006; 72 FR 62135, Nov. 2, 2007]

### § 11.56 EAS Participants receive CAP-formatted alerts.

Notwithstanding anything herein to the contrary, all EAS Participants must be able to receive CAP-formatted EAS alerts no later than 180 days after

FEMA publishes the technical standards and requirements for such FEMA transmissions.

[72 FR 62135, Nov. 2, 2007]

## Subpart E—Tests

### § 11.61 Tests of EAS procedures.

(a) EAS Participants shall conduct tests at regular intervals, as specified in paragraphs (a)(1) and (a)(2) of this section. Additional tests may be performed anytime. EAS activations and special tests may be performed in lieu of required tests as specified in paragraph (a)(4) of this section. All tests will conform with the procedures in the EAS Operating Handbook.

(1) Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code.

(i) Tests in odd numbered months shall occur between 8:30 a.m. and local sunset. Tests in even numbered months shall occur between local sunset and 8:30 a.m. They will originate from Local or State Primary sources. The time and script content will be developed by State Emergency Communications Committees in cooperation with affected EAS Participants. Script content may be in the primary language of the EAS Participant. These monthly tests must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State. Analog and digital class D non-commercial educational FM and analog and digital LPTV stations are required to transmit only the test script.

(ii) Effective May 31, 2007, DBS providers must comply with this section by monitoring a state or local primary source to participate in testing. Tests should be performed on 10% of all channels monthly (excluding local-into-local channels for which the monthly transmission tests are passed through by the DBS provider), with channels tested varying from month to month, so that over the course of a given year, 100% of all channels are tested.

(2) Required Weekly Tests:

(i) EAS Header Codes and EOM Codes:

(A) Analog and digital AM, FM, and TV broadcast stations must conduct tests of the EAS header and EOM codes at least once a week at random days and times. Effective December 31, 2006, DAB stations must conduct these tests on all audio streams. Effective December 31, 2006, DTV stations must conduct these tests on all program streams.

(B) Analog cable systems and digital cable systems with 5,000 or more subscribers per headend and wireless cable systems with 5,000 or more subscribers must conduct tests of the EAS Header and EOM Codes at least once a week at random days and times on all programmed channels.

(C) Analog cable systems and digital cable systems serving fewer than 5,000 subscribers per headend and wireless cable systems with fewer than 5,000 subscribers must conduct tests of the EAS Header and EOM Codes at least once a week at random days and times on at least one programmed channel.

(D) SDARS providers must conduct tests of the EAS Header and EOM codes at least once a week at random days and times on all channels.

(ii) DBS providers, analog and digital class D non-commercial educational FM stations, and analog and digital LPTV stations are not required to transmit this test but must log receipt, as specified in §§ 11.35(a) and 11.54(b)(13).

(iii) The EAS weekly test is not required during the week that a monthly test is conducted.

(iv) EAS Participants are not required to transmit a video message when transmitting the required weekly test.

(3) *National tests.* (i) All EAS Participants shall participate in national tests as scheduled by the Commission in consultation with the Federal Emergency Management Agency (FEMA). Such tests will consist of the delivery by FEMA to PEP/NP stations of a coded EAS message, including EAS header codes, Attention Signal, Test Script, and EOM code. All other EAS Participants will then be required to relay that EAS message. The coded message shall utilize EAS test codes as designated by the Commission's rules.

(ii) A national test shall replace the required weekly and monthly tests for all EAS Participants, as set forth in paragraphs (a)(1) and (a)(2) of this section, in the week and month in which it occurs.

(iii) Notice shall be provided to EAS Participants by the Commission at least two months prior to the conduct of any such national test.

(iv) Test results as required by the Commission shall be logged by all EAS Participants and shall be provided to the Commission's Public Safety and Homeland Security Bureau within forty five (45) days following the test.

(4) *EAS activations and special tests.* The EAS may be activated for emergencies or special tests at the State or Local Area level by an EAS Participant instead of the monthly or weekly tests required by this section. To substitute for a monthly test, activation must include transmission of the EAS header codes, Attention Signal, emergency message and EOM code and comply with the visual message requirements in §11.51. To substitute for the weekly test of the EAS header codes and EOM codes in paragraph (a)(2)(i) of this section, activation must include transmission of the EAS header and EOM codes. Analog and digital television broadcast stations, analog cable systems, digital cable systems, wireless cable systems, and DBS providers shall comply with the aural and visual message requirements in §11.51. Special EAS tests at the State and Local Area levels may be conducted on daily basis following procedures in State and Local Area EAS plans.

(b) Entries shall be made in EAS Participant records, as specified in §§11.35(a) and 11.54(b)(13).

[70 FR 71038, Nov. 25, 2005, as amended at 76 FR 12604, Mar. 8, 2011]

# PART 12—REDUNDANCY OF COMMUNICATIONS SYSTEMS

Sec.
12.1 Purpose.
12.2 Backup power.
12.3 911 and E911 analyses and reports.

AUTHORITY: Sections 1, 4(i), 4(j), 4(o), 5(c), 218, 219, 301, 303(g), 303(j), 303(r), 332, 403, 621(b)(3), and 621(d) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(o), 155(c), 218, 219, 301, 303(g), 303(j), 303(r), 332, 403, 621(b)(3), and 621(d), unless otherwise noted.

SOURCE: 72 FR 37673, July 11, 2007, unless otherwise noted.

## §12.1 Purpose.

The rules in this part include requirements that will help ensure the resiliency, redundancy and reliability of communications systems, particularly 911 and E911 networks and/or systems.

## §12.2 Backup power.

(a) Except to the extent set forth in §§12.2(b) and 12.2(c)(4) of the Commission's rules, local exchange carriers, including incumbent local exchange carriers and competitive local exchange carriers (collectively, LECs), and commercial mobile radio service (CMRS) providers, as defined in §20.9 of this chapter, must have an emergency backup power source (*e.g.*, batteries, generators, fuel cells) for all assets necessary to maintain communications that are normally powered from local commercial power, including those assets located inside central offices, cell sites, remote switches and digital loop carrier system remote terminals. LECs and CMRS providers must maintain emergency backup power for a minimum of twenty-four hours for assets that are normally powered from local commercial power and located inside central offices, and eight hours for assets that are normally powered from local commercial power and at other locations, including cell sites, remote switches and digital loop carrier system remote terminals. Power sources satisfy this requirement if they were originally designed to provide the minimum backup power capacity level required herein and the provider has implemented reasonable methods and procedures to ensure that the power sources are regularly checked and replaced when they deteriorate. LECs that meet the definition of a Class B company as set forth in §32.11(b)(2) of this chapter and non-nationwide CMRS providers with no more than 500,000 subscribers are exempt from this rule.

(b) LECs and CMRS providers are not required to comply with paragraph (a) of this section for assets as described in paragraph (a) of this section where the LEC or CMRS provider demonstrates, through the reporting requirement as described in paragraph (c) of this section, that such compliance is precluded by:

(1) Federal, state, tribal or local law;

(2) Risk to safety of life or health; or

(3) Private legal obligation or agreement.

(c) Within six months of the effective date of this requirement, LECs and CMRS providers subject to this section must file reports with the Chief of the Public Safety & Homeland Security Bureau.

(1) Each report must list the following:

(i) Each asset that was designed to comply with the applicable backup power requirement as defined in paragraph (a) of this section;

(ii) Each asset where compliance with paragraph (a) of this section is precluded due to risk to safety of life or health;

(iii) Each asset where compliance with paragraph (a) of this section is precluded by a private legal obligation or agreement;

(iv) Each asset where compliance with paragraph (a) of this section is precluded by Federal, state, tribal or local law; and

(v) Each asset that was designed with less than the emergency backup power capacity specified in paragraph (a) of this section and that is not precluded from compliance under paragraph (b) of this section.

(2) Reports listing assets falling within the categories identified in paragraphs (c)(1)(ii) through (iv) of this section must include a description of facts supporting the basis of the LEC's or CMRS provider's claim of preclusion from compliance. For example, claims that a LEC or CMRS provider cannot comply with this section due to a legal constraint must include the citation(s) to the relevant law(s) and, in order to demonstrate that it is precluded from compliance, the provider must show that the legal constraint prohibits the provider from compliance. Claims that a LEC or CMRS provider cannot comply with this section with respect to a particular asset due to a private legal obligation or agreement must include a description of the relevant terms of the obligation or agreement and the dates on which the relevant terms of the agreement became effective and are set to expire. Claims that a LEC or CMRS provider cannot comply with this section with respect to a particular asset due to risk to safety of life or health must include a description of the safety of life or health risk and facts that demonstrate a substantial risk of harm.

(3) For purposes of complying with the reporting requirements set forth in paragraphs (c)(1)(i) through (v) of this section, in cases where more than one asset necessary to maintain communications that are normally powered from local commercial power are located at a single site (*i.e.*, within one central office), the reporting entity may identify all of such assets by the name of the site.

(4) In cases where a LEC or CMRS provider identifies assets pursuant to paragraph (c)(1)(v) of this section, such LEC or CMRS provider must comply with the backup power requirement in paragraph (a) of this section or, within 12 months from the effective date of this rule, file with the Commission a certified emergency backup power compliance plan. That plan must certify that and describe how the LEC or CMRS provider will provide emergency backup power to 100 percent of the area covered by any non-compliant asset in the event of a commercial power failure. For purposes of the plan, a provider may rely on on-site and/or portable backup power sources or other sources, as appropriate, sufficient for service coverage as follows: a minimum of 24 hours of service for assets inside central offices and eight hours for other assets, including cell sites, remote switches, and digital loop carrier system remote terminals. The emergency backup power compliance plans submitted are subject to Commission review.

(5) Reports submitted pursuant to this paragraph must be supported by an affidavit or declaration under penalty of perjury and signed and dated by a duly authorized representative of the LEC or CMRS provider with personal knowledge of the facts contained therein.

(6) Information filed with the Commission pursuant to paragraph (c) of this section shall be automatically afforded confidentiality in accordance with the Commission's rules.

(7) LECs that meet the definition of a Class B company as set forth in § 32.11(b)(2) of this chapter and non-nationwide CMRS providers with no more than 500,000 subscribers are exempt from this reporting requirement.

[72 FR 57887, Oct. 11, 2007]

EFFECTIVE DATE NOTE: At 72 FR 57887, Oct. 11, 2007, § 12.2 was revised. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 12.3 911 and E911 analyses and reports.

The following entities must analyze their 911 and E911 networks and/or systems and provide a detailed report to the Commission on the redundancy, resiliency, and reliability of those networks and/or systems: Local exchange carriers (LECs), including incumbent LECs (ILECS) and competitive LECs (CLECs); commercial mobile radio service providers required to comply with the wireless 911 rules set forth in § 20.18 of this chapter; and interconnected Voice over Internet Protocol (VoIP) service providers. LECs that meet the definition of a Class B company set forth in § 32.11(b)(2) of this chapter, non-nationwide commercial mobile radio service providers with no more than 500,000 subscribers at the end of 2001, and interconnected VoIP service providers with annual revenues below the revenue threshold established pursuant to § 32.11 of this chapter are exempt from this rule.

(a) The Public Safety and Homeland Security Bureau (PSHSB) has the delegated authority to implement and activate a process through which these reports will be submitted, including the authority to establish the specific data that will be required. Where relevant, these reports should include descriptions of the steps the service providers intend to take to ensure diversity and dependability in their 911 and E911 networks and/or systems, including any plans they have to migrate those networks and/or systems to a next generation Internet Protocol-based E911 platform.

(b) These reports are due 120 days from the date that the Commission or its staff announces activation of the 911 network and system reporting process.

(c) Reports filed under this Part will be presumed to be confidential. These reports will be shared with The National Emergency Number Association, The Association of Public Safety Communications Officials, and The National Association of State 9–1–1 Administrators only pursuant to a protective order. PSHSB has the delegated authority to issue such protective orders. All other access to these reports must be sought pursuant to procedures set forth in 47 CFR 0.461. Notice of any requests for inspection of these reports will be provided to the filers of the reports pursuant to 47 CFR 0.461(d)(3).

[72 FR 37673, July 11, 2007]

## PART 13—COMMERCIAL RADIO OPERATORS

GENERAL

Sec.
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13.3 Definitions.
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13.7 Classification of operator licenses and endorsements.
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EXAMINATION SYSTEM

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AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303.

SOURCE: 58 FR 9124, Feb. 19, 1993, unless otherwise noted.

GENERAL

### § 13.1 Basis and purpose.

(a) *Basis*. The basis for the rules contained in this part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party.

(b) *Purpose*. The purpose of the rules in this part is to prescribe the manner and conditions under which commercial radio operators are licensed by the Commission.

### § 13.3 Definitions.

The definitions of terms used in part 13 are:

(a) *COLEM*. Commercial operator license examination manager.

(b) *Commercial radio operator*. A person holding a license or licenses specified in § 13.7(b).

(c) *GMDSS*. Global Maritime Distress and Safety System.

(d) *FCC*. Federal Communications Commission.

(e) *International Morse Code*. A dot-dash code as defined in International Telegraph and Telephone Consultative Committee (CCITT) Recommendation F.1 (1984), Division B, I. Morse code.

(f) *ITU*. International Telecommunication Union.

(g) *PPC*. Proof-of-Passing Certificate.

(h) *Question pool*. All current examination questions for a designated written examination element.

(i) *Question set*. A series of examination questions on a given examination selected from the current question pool.

(j) *Radio Regulations*. The latest ITU *Radio Regulations* to which the United States is a party.

### § 13.5 Licensed commercial radio operator required.

Rules that require FCC station licensees to have certain transmitter operation, maintenance, and repair duties performed by a commercial radio operator are contained in parts 23, 80, and 87 of this chapter.

[63 FR 68942, Dec. 14, 1998]

### § 13.7 Classification of operator licenses and endorsements.

(a) Commercial radio operator licenses issued by the FCC are classified in accordance with the Radio Regulations of the ITU.

(b) There are eleven types of commercial radio operator licenses, certificates and permits (licenses). The license's ITU classification, if different from its name, is given in parentheses.

(1) First Class Radiotelegraph Operator's Certificate.

(2) Second Class Radiotelegraph Operator's Certificate.

(3) Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate).

(4) General Radiotelephone Operator License (radiotelephone operator's general certificate).

(5) Marine Radio Operator Permit (radiotelephone operator's restricted certificate).

(6) Restricted Radiotelephone Operator Permit (radiotelephone operator's restricted certificate).

(7) Restricted Radiotelephone Operator Permit-Limited Use (radiotelephone operator's restricted certificate).

(8) GMDSS Radio Operator's License (general operator's certificate).

(9) Restricted GMDSS Radio Operator's License (restricted operator's certificate).

(10) GMDSS Radio Maintainer's License (technical portion of the first-class radio electronic certificate).

(11) GMDSS Radio Operator/Maintainer License (general operator's certificate/technical portion of the first-class radio electronic certificate).

(c) There are six license endorsements affixed by the FCC to provide special authorizations or restrictions. Endorsements may be affixed to the license(s) indicated in parenthesis.

(1) Ship Radar Endorsement (First and Second Class Radiotelegraph Operator's Certificates, General Radiotelephone Operator License, GMDSS Radio Maintainer's License).

(2) Six Months Service Endorsement (First and Second Class Radiotelegraph Operator's License).

(3) Restrictive endorsements relating to physical handicaps, English language or literacy waivers, or other matters (all licenses).

(4) Marine Radio Operator Permits shall bear the following endorsement:

This permit does not authorize the operation of AM, FM or TV broadcast stations.

(5) General Radiotelephone Operator Licenses issued after December 31, 1985, shall bear the following endorsement: This license confers authority to operate licensed radio stations in the Aviation, Marine and International Fixed Public Radio Services only. This authority is subject to: any endorsement placed upon this license; FCC orders, rules, and regulations; United States statutes; and the provisions of any treaties to which the United States is a party. This license does not confer any authority to operate broadcast stations. It is not assignable or transferable.

(6)(i) If a person is afflicted with an uncorrected physical handicap which would clearly prevent the performance of all or any part of the duties of a radio operator, under the license for which application is made, at a station under emergency conditions involving the safety of life or property, that person still may be issued the license if found qualified. Such a license shall bear a restrictive endorsement as follows:

This license is not valid for the performance of any operating duties, other than installation, service and maintenance duties, at any station licensed by the FCC which is required, directly or indirectly, by any treaty, statute or rule or regulation pursuant to statute, to be provided for safety purposes.

(ii) In the case of a license that does not require an examination in technical radio matters, the endorsement specified in paragraph (c)(6)(i) of this section will be modified by deleting the reference therein to installation, service, and maintenance duties.

(iii) In any case where an applicant who normally would receive or has received a commercial radio operator license bearing the endorsement prescribed by paragraph (c)(6)(i) of this section, indicates a desire to operate a station falling within the prohibited terms of the endorsement, the applicant may request in writing that such endorsement not be placed upon, or be removed from his or her license, and may submit written comments or statements from other parties in support thereof.

(iv) An applicant who shows that he has performed satisfactorily the duties of a radio operator at a station required to be provided for safety purposes during a period when he or she was afflicted by uncorrected physical handicaps of the same kind and to the same degree as the physical handicaps shown by his or her current application shall not be deemed to be within the provisions of paragraph (c)(6)(i) of this section.

(d) A Restricted Radiotelephone Operator Permit-Limited Use issued by the FCC to an aircraft pilot who is not legally eligible for employment in the United States is valid only for operating radio stations on aircraft.

(e) A Restricted Radiotelephone Operator Permit-Limited Use issued by the FCC to a person under the provision of Section 303(1)(2) of the Communications Act of 1934, as amended, is valid only for the operation of radio stations for which that person is the station licensee.

[58 FR 9124, Feb. 19, 1993; 58 FR 12632, Mar. 5, 1993, as amended at 68 FR 46958, Aug. 7, 2003; 73 FR 4479, Jan. 25, 2008]

### § 13.8 Authority conveyed.

Licenses, certificates and permits issued under this part convey authority for the operating privileges of other licenses, certificates, and permits issued under this part as specified below:

(a) First Class Radiotelegraph Operator's Certificate conveys all of the operating authority of the Second Class Radiotelegraph Operator's Certificate, the Third Class Radiotelegraph Operator's Certificate, the Restricted Radiotelophone Operator Permit, and the Marine Radio Operator Permit.

(b) A Second Class Radiotelegraph Operator's Certificate conveys all of the operating authority of the Third Class Radiotelegraph Operator's Certificate, the Restricted Radiotelophone Operator Permit, and the Marine Radio Operator Permit.

(c) A Third Class Radiotelegraph Operator's Certificate conveys all of the operating authority of the Restricted Radiotelophone Operator Permit and the Marine Radio Operator Permit.

(d) A General Radiotelephone Operator License conveys all of the operating authority of the Marine Radio Operator Permit.

(e) A GMDSS Radio Operator's License conveys all of the operating authority of the Marine Radio Operator Permit.

(f) A GMDSS Radio Maintainer's License conveys all of the operating authority of the General Radiotelephone Operator License and the Marine Radio Operator Permit.

[64 FR 53240, Oct. 1, 1999]

### § 13.9 Eligibility and application for new license or endorsement.

(a) If found qualified, the following persons are eligible to apply for commercial radio operator licenses:

(1) Any person legally eligible for employment in the United States.

(2) Any person, for the purpose of operating aircraft radio stations, who holds:

(i) United States pilot certificates; or

(ii) Foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon United States citizens.

(3) Any person who holds a FCC radio station license, for the purpose of operating that station.

(4) Notwithstanding any other provisions of the FCC's rules, no person shall be eligible to be issued a commercial radio operator license when

(i) The person's commercial radio operator license is suspended, or

(ii) The person's commercial radio operator license is the subject of an ongoing suspension proceeding, or

(iii) The person is afflicted with complete deafness or complete muteness or complete inability for any other reason to transmit correctly and to receive correctly by telephone spoken messages in English.

(b)(1) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Ship Radar Endorsement, Six Months Service Endorsement, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License and GMDSS Radio Operator/Maintainer License must be filed on FCC Form 605 in accordance with § 1.913 of this chapter.

(2) Each application for a Restricted Radiotelephone Operator Permit or a Restricted Radiotelephone Operator Permit-Limited Use must be filed on FCC Form 605 in accordance with § 1.913 of this chapter.

(c) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Ship Radar Endorsement, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, or GMDSS Radio Operator/Maintainer License must be accompanied by the required fee, if any, and submitted in accordance with § 1.913 of this chapter. The application must include an original PPC(s) from a COLEM(s) showing that the applicant has passed the necessary examination element(s) within the previous 365 days when the applicant files the application. If a COLEM files the application electronically on behalf of the applicant an original PPC(s) is not required. However, the COLEM must keep the PPC(s) on file for a period of 1 year.

(d) An applicant will be given credit for an examination element as specified below:

(1) An unexpired (or within the grace period) FCC-issued commercial radio operator license: The written examination and telegraphy Element(s) required to obtain the license held; and

(2) An expired or unexpired FCC-issued Amateur Extra Class operator license grant granted before April 15, 2000: Telegraphy Elements 1 and 2.

(e) Provided that a person's commercial radio operator license was not revoked, or suspended, and is not the subject of an ongoing suspension proceeding, a person whose application for a commercial radio operator license has been received by the FCC but

which has not yet been acted upon and who holds a PPC(s) indicating that he or she passed the necessary examination(s) within the previous 365 days, is authorized to exercise the rights and privileges of the operator license for which the application was received. This authority is valid for a period of 90 days from the date the application was received. The FCC, in its discretion, may cancel this temporary conditional operating authority without a hearing.

(f) Each application for a new six months service endorsement must be submitted in accordance with § 1.913 of this chapter. The application must include documentation showing that:

(1) The applicant was employed as a radio operator on board a ship or ships of the United States for a period totaling at least six months;

(2) The ships were equipped with a radio station complying with the provisions of part II of title III of the Communications Act, or the ships were owned and operated by the U.S. Government and equipped with radio stations;

(3) The ships were in service during the applicable six month period and no portion of any single in-port period included in the qualifying six months period exceeded seven days;

(4) The applicant held a FCC-issued First or Second Class Radiotelegraph Operator's Certificate during this entire six month qualifying period; and

(5) The applicant holds a radio officer's license issued by the U.S. Coast Guard at the time the six month endorsement is requested.

(g) No person shall alter, duplicate for fraudulent purposes, or fraudulently obtain or attempt to obtain an operator license. No person shall use a license issued to another or a license that he or she knows to be altered, duplicated for fraudulent purposes, or fraudulently obtained. No person shall obtain or attempt to obtain, or assist another person to obtain or attempt to obtain, an operator license by fraudulent means.

[58 FR 9124, Feb. 19, 1993, as amended at 59 FR 3795, Jan. 27, 1994; 60 FR 27699, May 25, 1995; 63 FR 68942, Dec. 14, 1998; 66 FR 20752, Apr. 25, 2001; 68 FR 46958, Aug. 7, 2003]

### § 13.10 Licensee address.

In accordance with § 1.923 of this chapter all applications must specify an address where the applicant can receive mail delivery by the United States Postal Service except as specified below:

(a) Applicants for a Restricted Radiotelephone Operator Permit;

(b) Applicants for a Restricted Radiotelephone Operator Permit—Limited Use.

[64 FR 53240, Oct. 1, 1999]

### § 13.11 Holding more than one commercial radio operator license.

(a) An eligible person may hold more than one commercial operator license except as follows:

(1) No person may hold two or more unexpired radiotelegraph operator's certificates at the same time;

(2) No person may hold any class of radiotelegraph operator's certificate and a Marine Radio Operator Permit;

(3) No person may hold any class of radiotelegraph operator's certificate and a Restricted Radiotelephone Operator Permit.

(b) Each person who is not legally eligible for employment in the United States, and certain other persons who were issued permits prior to September 13, 1982, may hold two Restricted Radiotelephone Operator Permits simultaneously when each permit authorizes the operation of a particular station or class of stations.

### § 13.13 Application for a renewed or modified license.

(a) Each application to renew a First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or Third Class Radiotelegraph Operator's Certificate must be made on FCC Form 605. The application must be accompanied by the appropriate fee and submitted in accordance with § 1.913 of this chapter.

(b) If a license expires, application for renewal may be made during a grace period of five years after the expiration date without having to retake the required examinations. The application must be accompanied by the required fee and submitted in accordance with § 1.913 of this chapter. During the

grace period, the expired license is not valid. A license renewed during the grace period will be effective as of the date of the renewal. Licensees who fail to renew their license within the grace period must apply for a new license and take the required examination(s).

(c) Each application involving a change in operator class must be filed on FCC Form 605. Each application for a commercial operator license involving a change in operator class must be accompanied by the required fee, if any, and submitted in accordance with §1.913 of this chapter. The application must include an original PPC(s) from a COLEM(s) showing that the applicant has passed the necessary examinations element(s) within the previous 365 days when the applicant files the application. If a COLEM files the application electronically on behalf of the applicant an original PPC(s) is not required. However, the COLEM must keep the PPC(s) on file for a period of 1 year.

(d) Provided that a person's commercial radio operator license was not revoked, or suspended, and is not the subject of an ongoing suspension proceeding, a person holding a General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, or GMDSS Radio Operator/Maintainer license, who has an application for another commercial radio operator license which has not yet been acted upon pending at the FCC and who holds a PPC(s) indicating that he or she passed the necessary examination(s) within the previous 365 days, is authorized to exercise the rights and privileges of the license for which the application is filed. This temporary conditional operating authority is valid for a period of 90 days from the date the application is received. This temporary conditional operating authority does not relieve the licensee of the obligation to comply with the certification requirements of the Standards of Training, Certification and Watchkeeping (STCW) Convention. The FCC, in its discretion, may cancel this temporary conditional operating authority without a hearing.

(e) An applicant will be given credit for an examination element as specified below:

(1) An unexpired (or within the grace period) FCC-issued commercial radio operator license: The written examination and telegraphy Element(s) required to obtain the license held; and

(2) An expired or unexpired FCC-issued Amateur Extra Class operator license document granted before April 15, 2000: Telegraphy Elements 1 and 2.

[58 FR 9124, Feb. 19, 1993, as amended at 60 FR 27699, May 25, 1995; 63 FR 68942, Dec. 14, 1998; 66 FR 20752, Apr. 25, 2001; 68 FR 46959, Aug. 7, 2003; 73 FR 4479, Jan. 25, 2008]

### § 13.15 License term.

(a) First Class Radiotelegraph Operator's Certificates, Second Class Radiotelegraph Operator's Certificates, and Third Class Radiotelegraph Operator's Certificates are normally valid for a term of five years from the date of issuance.

(b) General Radiotelephone Operator Licenses, Restricted Radiotelephone Operator Permits, Restricted Radiotelephone Operator Permits-Limited Use, GMDSS Radio Operator's Licenses, Restricted GMDSS Radio Operator's Licenses, GMDSS Radio Maintainer's Licenses, GMDSS Operator/Maintainer Licenses, and Marine Radio Operator Permits are normally valid for the lifetime of the holder.

[73 FR 4479, Jan. 25, 2008]

### § 13.17 Replacement license.

(a) Each licensee or permittee whose original document is lost, mutilated, or destroyed must request a replacement. The application must be accompanied by the required fee and submitted to the address specified in part 1 of the rules.

(b) Each application for a replacement General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third

Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator License, GMDSS Radio Maintainer's License, or GMDSS Radio Operator/Maintainer license must be made on FCC Form 605 and must include a written explanation as to the circumstances involved in the loss, mutilation, or destruction of the original document.

(c) Each application for a replacement Restricted Radiotelephone Operator Permit must be on FCC Form 605.

(d) Each application for a replacement Restricted Radiotelephone Operator Permit-Limited Use must be on FCC Form 605.

(e) A licensee who has made application for a replacement license may exhibit a copy of the application submitted to the FCC or a photocopy of the license in lieu of the original document.

[58 FR 9124, Feb. 19, 1993, as amended at 63 FR 68942, Dec. 14, 1998; 68 FR 46959, Aug. 7, 2003]

### § 13.19 Operator's responsibility.

(a) The operator responsible for maintenance of a transmitter may permit other persons to adjust that transmitter in the operator's presence for the purpose of carrying out tests or making adjustments requiring specialized knowledge or skill, provided that he or she shall not be relieved thereby from responsibility for the proper operation of the equipment.

(b) In every case where a station operating log or service and maintenance log is required, the operator responsible for the station operation or maintenance shall make the required entries in the station log. If no station log is required, the operator responsible for service or maintenance duties which may affect the proper operation of the station shall sign and date an entry in the station maintenance records giving:

(1) Pertinent details of all service and maintenance work performed by the operator or conducted under his or her supervision;

(2) His or her name and address; and

(3) The class, serial number and expiration date of the license when the FCC has issued the operator a license, or the PPC serial number(s) and date(s) of issue when the operator is awaiting FCC action on an application.

(c) When the operator is on duty and in charge of transmitting systems, or performing service, maintenance or inspection functions, the license or permit document, or a photocopy thereof, or a copy of the application and PPC(s) received by the FCC, must be posted or in the operator's personal possession, and available for inspection upon request by a FCC representative.

(d) The operator on duty and in charge of transmitting systems, or performing service, maintenance or inspection functions, shall not be subject to the requirements of paragraph (b) of this section at a station, or stations of one licensee at a single location, at which the operator is regularly employed and at which his or her license, or a photocopy, is posted.

[58 FR 9124, Feb. 19, 1993, as amended at 60 FR 27700, May 25, 1995]

## EXAMINATION SYSTEM

### § 13.201 Qualifying for a commercial operator license or endorsement.

(a) To be qualified to hold any commercial radio operator license, an applicant must have a satisfactory knowledge of FCC rules and must have the ability to send correctly and receive correctly spoken messages in the English language.

(b) An applicant must pass an examination for the issuance of a new commercial radio operator license, other than the Restricted Radiotelephone Operator Permit and the Restricted Radiotelephone Operator Permit-Limited Use, and for each change in operator class. An applicant must pass an examination for the issuance of a new Ship Radar Endorsement. Each application for the class of license or endorsement specified below must pass, or otherwise receive credit for, the corresponding examination elements:

(1) First Class Radiotelegraph Operator's Certificate.

(i) Telegraphy Elements 3 and 4;

(ii) Written Elements 1, 5, and 6;

(iii) Applicant must be at least 21 years old;

(iv) Applicant must have one year of experience in sending and receiving

public correspondence by radiotelegraph at a public coast station, a ship station, or both.

(2) Second Class Radiotelegraph Operator's Certificate.

(i) Telegraphy Elements 1 and 2;

(ii) Written Elements 1, 5, and 6.

(3) Third Class Radiotelegraph Operator's Certificate.

(i) Telegraphy Elements 1 and 2;

(ii) Written Elements 1 and 5.

(4) General Radiotelephone Operator License: Written Elements 1 and 3.

(5) Marine Radio Operator Permit: Written Element 1.

(6) GMDSS Radio Operator's License: Written Elements 1 and 7, or a Proof of Passing Certificate (PPC) issued by the United States Coast Guard or its designee representing a certificate of competency from a Coast Guard-approved training course for a GMDSS endorsement.

(7) Restricted GMDSS Radio Operator License: Written Elements 1 and 7R, or a Proof of Passing Certificate (PPC) issued by the United States Coast Guard or its designee representing a certificate of competency from a Coast Guard-approved training course for a GMDSS endorsement.

(8) GMDSS Radio Maintainer's License: Written Elements 1, 3, and 9.

(9) Ship Radar Endorsement: Written Element 8.

[58 FR 9124, Feb. 19, 1993, as amended at 59 FR 3795, Jan. 27, 1994; 68 FR 46959, Aug. 7, 2003]

### § 13.203 Examination elements.

(a) A written examination (written Element) must prove that the examinee possesses the operational and technical qualifications to perform the duties required by a person holding that class of commercial radio operator license. For each Element, the Commission shall establish through public notices or other appropriate means the number of questions to be included in the question pool, the number of questions to be included in the examination, and the number of questions that must be answered correctly to pass the examination. Each written examination must consist of questions relating to the pertinent subject matter, as follows:

(1) Element 1 (formerly Elements 1 and 2): Basic radio law and operating practice with which every maritime radio operator should be familiar. Questions concerning provisions of laws, treaties, regulations, and operating procedures and practices generally followed or required in communicating by means of radiotelephone stations.

(2) Element 3: General radiotelephone. Questions concerning electronic fundamentals and techniques required to adjust, repair, and maintain radio transmitters and receivers at stations licensed by the FCC in the aviation, maritime, and international fixed public radio services.

(3) Element 5: Radiotelegraph operating practice. Questions concerning radio operating procedures and practices generally followed or required in communicating by means of radiotelegraph stations primarily other than in the maritime mobile services of public correspondence.

(4) Element 6: Advanced radiotelegraph. Questions concerning technical, legal and other matters applicable to the operation of all classes of radiotelegraph stations, including operating procedures and practices in the maritime mobile services of public correspondence, and associated matters such as radio navigational aids, message traffic routing and accounting, etc.

(5) Element 7: GMDSS radio operating practices. Questions concerning GMDSS radio operating procedures and practices sufficient to show detailed practical knowledge of the operation of all GMDSS sub-systems and equipment; ability to send and receive correctly by radiotelephone and narrowband direct-printing telegraphy; detailed knowledge of the regulations applying to radio communications, knowledge of the documents relating to charges for radio communications and knowledge of those provisions of the International Convention for the Safety of Life at Sea which relate to radio; sufficient knowledge of English to be able to express oneself satisfactorily both orally and in writing; knowledge of and ability to perform each function listed in § 80.1081 of this chapter; and knowledge covering the

requirements set forth in IMO Assembly Resolution on Training for Radio Personnel (GMDSS), Annex 3.

(6) Element 7R: Restricted GMDSS radio operating practices. Questions concerning those GMDSS radio operating procedures and practices that are applicable to ship stations on vessels that sail exclusively in sea area A1, as defined in § 80.1069 of this chapter, sufficient to show detailed practical knowledge of the operation of pertinent GMDSS sub-systems and equipment; ability to send and receive correctly by radio telephone and narrow-band direct-printing telegraphy; detailed knowledge of the regulations governing radio communications within sea area A1, knowledge of the pertinent documents relating to charges for radio communications and knowledge of the pertinent provisions of the International Convention for the Safety of Life at Sea; sufficient knowledge of English to be able to express oneself satisfactorily both orally and in writing; knowledge of and ability to perform each pertinent function listed in § 80.1081 of this chapter; and knowledge covering the pertinent requirements set forth in IMO Assembly Resolution on Training for Radio Personnel (GMDSS), Annex 3.

(7) Element 8: Ship radar techniques. Questions concerning specialized theory and practice applicable to the proper installation, servicing and maintenance of ship radar equipment in general use for marine navigational purposes.

(8) Element 9: GMDSS radio maintenance practices and procedures. Questions concerning the requirements set forth in IMO Assembly on Training for Radio Personnel (GMDSS), Annex 5 and IMO Assembly on Radio Maintenance Guidelines for the Global Maritime Distress and Safety System related to Sea Areas A3 and A4.

(b) A telegraphy examination (telegraphy Elements) must prove that the examinee has the ability to send correctly by hand and to receive correctly by ear texts in the international Morse code at not less than the prescribed speed, using all the letters of the alphabet, numerals 0–9, period, comma, question mark, slant mark, and prosigns *AR*, *BT*, and *SK*.

(1) Telegraphy Element 1: 16 code groups per minute.

(2) Telegraphy Element 2: 20 words per minute.

(3) Telegraphy Element 3: 20 code groups per minute.

(4) Telegraphy Element 4: 25 words per minute.

[58 FR 9124, Feb. 19, 1993, as amended at 69 FR 64671, Nov. 8, 2004; 73 FR 4479, Jan. 25, 2008]

### § 13.207 Preparing an examination.

(a) Each telegraphy message and each written question set administered to an examinee for a commercial radio operator license must be provided by a COLEM.

(b) Each question set administered to an examinee must utilize questions taken from the applicable Element question pool. The COLEM may obtain the written question sets from a supplier or other COLEM.

(c) A telegraphy examination must consist of a plain language text or code group message sent in the international Morse code at no less than the prescribed speed for a minimum of five minutes. The message must contain each required telegraphy character at least once. No message known to the examinee may be administered in a telegraphy examination. Each five letters of the alphabet must be counted as one word or one code group. Each numeral, punctuation mark, and prosign must be counted as two letters of the alphabet. The COLEM may obtain the telegraphy message from a supplier or other COLEM.

### § 13.209 Examination procedures.

(a) Each examination for a commercial radio operator license must be administered at a location and a time specified by the COLEM. The COLEM is responsible for the proper conduct and necessary supervision of each examination. The COLEM must immediately terminate the examination upon failure of the examinee to comply with its instructions.

(b) Each examinee, when taking an examination for a commercial radio operator license, shall comply with the instructions of the COLEM.

(c) No examination that has been compromised shall be administered to

any examinee. Neither the same telegraphy message nor the same question set may be re-administered to the same examinee.

(d) Passing a telegraphy examination.

(1) To pass a receiving telegraphy examination, an examinee is required to receive correctly the message by ear, for a period of 1 minute without error at the rate of speed specified in § 13.203 for the class of license sought.

(2) To pass a sending telegraphy examination, an examinee is required to send correctly for a period of 1 minute at the rate of speed prescribed in § 13.203(b) for the class of license sought.

(e) Passing a telegraphy receiving examination is adequate proof of an examinee's ability to both send and receive telegraphy. The COLEM, however, may also include a sending segment in a telegraphy examination.

(f) The COLEM is responsible for determining the correctness of he examinee's answers. When the examinee does not score a passing grade on an examination element, the COLEM must inform the examinee of the grade.

(g) When the examinee is credited for all examination elements required for the commercial operator license sought, the examinee may apply to the FCC for the license.

(h) No applicant who is eligible to apply for any commercial radio operator license shall, by reason of any physical handicap, be denied the privilege of applying and being permitted to attempt to prove his or her qualifications (by examination if examination is required) for such commercial radio operator license in accordance with procedures established by the COLEM.

(i) The COLEM must accommodate an examinee whose physical disabilities require a special examination procedure. The COLEM may require a physician's certification indicating the nature of the disability before determining which, if any, special procedures are appropriate to use. In the case of a blind examinee, the examination questions may be read aloud and the examinee may answer orally. A blind examinee wishing to use this procedure must make arrangements with the COLEM prior to the date the examination is desired.

(j) The FCC may:

(1) Administer any examination element itself.

(2) Readminister any examination element previously administered by a COLEM, either itself or by designating another COLEM to readminister the examination element.

(3) Cancel the commercial operator license(s) of any licensee who fails to appear for re-administration of an examination when directed by the FCC, or who fails any required element that is re-administered. In case of such cancellation, the person will be issued an operator license consistent with completed examination elements that have not been invalidated by not appearing for, or by failing, the examination upon re-administration.

### § 13.211 Commercial radio operator license examination.

(a) Each session where an examination for a commercial radio operator license is administered must be managed by a COLEM or the FCC.

(b) Each examination for a commercial radio operator license must be administered as determined by the COLEM.

(c) The COLEM may limit the number of candidates at any examination.

(d) The COLEM may prohibit from the examination area items the COLEM determines could compromise the integrity of an examination or distract examinees.

(e) Within 10 days of completion of the examination element(s), the COLEM must provide the results of the examination to the examinee and the COLEM must issue a PPC to an examinee who scores a passing grade on an examination element.

(f) A PPC is valid for 365 days from the date it is issued.

### § 13.213 COLEM qualifications.

No entity may serve as a COLEM unless it has entered into a written agreement with the FCC. In order to be eligible to be a COLEM, the entity must:

(a) Agree to abide by the terms of the agreement;

(b) Be capable of serving as a COLEM;

(c) Agree to coordinate examinations for one or more types of commercial radio operator licenses and/or endorsements;

(d) Agree to assure that, for any examination, every examinee eligible under these rules is registered without regard to race, sex, religion, national origin or membership (or lack thereof) in any organization;

(e) Agree to make any examination records available to the FCC, upon request.

(f) Agree not to administer an examination to an employee, relative, or relative of an employee.

### § 13.215 Question pools.

The question pool for each written examination element will be composed of questions acceptable to the FCC. Each question pool must contain at least five (5) times the number of questions required for a single examination. The FCC will issue public announcements detailing the questions in the pool for each element. COLEMs must use only currently-authorized (through public notice or other appropriate means) question pools when preparing a question set for a written examination element.

[73 FR 4479, Jan. 25, 2008]

### § 13.217 Records.

Each COLEM recovering fees from examinees must maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. Records must cover the period from January 1 to December 31 of the preceding year and must be submitted as directed by the Commission. Each COLEM must retain records for 1 year and the records must be made available to the FCC upon request.

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AUTHORITY: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

SOURCE: 54 FR 17714, Apr. 25, 1989, unless otherwise noted.

## Subpart A—General

### § 15.1 Scope of this part.

(a) This part sets out the regulations under which an intentional, unintentional, or incidental radiator may be operated without an individual license. It also contains the technical specifications, administrative requirements and other conditions relating to the marketing of part 15 devices.

(b) The operation of an intentional or unintentional radiator that is not in accordance with the regulations in this part must be licensed pursuant to the provisions of section 301 of the Communications Act of 1934, as amended, unless otherwise exempted from the licensing requirements elsewhere in this chapter.

(c) Unless specifically exempted, the operation or marketing of an intentional or unintentional radiator that is not in compliance with the administrative and technical provisions in this part, including prior Commission authorization or verification, as appropriate, is prohibited under section 302 of the Communications Act of 1934, as amended, and subpart I of part 2 of this chapter. The equipment authorization and verification procedures are detailed in subpart J of part 2 of this chapter.

### § 15.3 Definitions.

(a) *Auditory assistance device.* An intentional radiator used to provide auditory assistance to a handicapped person or persons. Such a device may be used for auricular training in an education institution, for auditory assistance at places of public gatherings, such as a church, theater, or auditorium, and for auditory assistance to handicapped individuals, only, in other locations.

(b) *Biomedical telemetry device.* An intentional radiator used to transmit measurements of either human or animal biomedical phenomena to a receiver.

(c) *Cable input selector switch.* A transfer switch that is intended as a means to alternate between the reception of broadcast signals via connection to an antenna and the reception of cable television service.

(d) *Cable locating equipment.* An intentional radiator used intermittently by trained operators to locate buried cables, lines, pipes, and similar structures or elements. Operation entails coupling a radio frequency signal onto the cable, pipes, etc. and using a receiver to detect the location of that structure or element.

(e) *Cable system terminal device (CSTD).* A TV interface device that serves, as its primary function, to connect a cable system operated under part 76 of this chapter to a TV broadcast receiver or other subscriber premise equipment. Any device which functions as a CSTD in one of its operating modes must comply with the technical requirements for such devices when operating in that mode.

(f) *Carrier current system.* A system, or part of a system, that transmits radio frequency energy by conduction over the electric power lines. A carrier current system can be designed such that the signals are received by conduction directly from connection to the electric power lines (unintentional radiator) or the signals are received over-the-air due to radiation of the radio frequency signals from the electric power lines (intentional radiator).

(g) *CB receiver.* Any receiver that operates in the Personal Radio Services on frequencies allocated for Citizens Band (CB) Radio Service stations, as well as any receiver provided with a separate band specifically designed to receive the transmissions of CB stations in the Personal Radio Services. This includes the following: (1) A CB receiver sold as a separate unit of equipment; (2) the receiver section of a CB transceiver; (3) a converter to be used with any receiver for the purpose of receiving CB transmissions; and, (4) a multiband receiver that includes a band labelled ''CB'' or ''11-meter'' in which such band can be separately selected, except that an Amateur Radio

Service receiver that was manufactured prior to January 1, 1960, and which includes an 11-meter band shall not be considered to be a CB receiver.

(h) *Class A digital device.* A digital device that is marketed for use in a commercial, industrial or business environment, exclusive of a device which is marketed for use by the general public or is intended to be used in the home.

(i) *Class B digital device.* A digital device that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments. Examples of such devices include, but are not limited to, personal computers, calculators, and similar electronic devices that are marketed for use by the general public.

NOTE: The responsible party may also qualify a device intended to be marketed in a commercial, business or industrial environment as a Class B device, and in fact is encouraged to do so, provided the device complies with the technical specifications for a Class B digital device. In the event that a particular type of device has been found to repeatedly cause harmful interference to radio communications, the Commission may classify such a digital device as a Class B digital device, regardless of its intended use.

(j) *Cordless telephone system.* A system consisting of two transceivers, one a base station that connects to the public switched telephone network and the other a mobile handset unit that communicates directly with the base station. Transmissions from the mobile unit are received by the base station and then placed on the public switched telephone network. Information received from the switched telephone network is transmitted by the base station to the mobile unit.

NOTE: The Domestic Public Cellular Radio Telecommunications Service is considered to be part of the switched telephone network. In addition, intercom and paging operations are permitted provided these are not intended to be the primary modes of operation.

(k) *Digital device.* (Previously defined as a computing device). An unintentional radiator (device or system) that generates and uses timing signals or pulses at a rate in excess of 9,000 pulses (cycles) per second and uses digital techniques; inclusive of telephone equipment that uses digital techniques or any device or system that generates and uses radio frequency energy for the purpose of performing data processing functions, such as electronic computations, operations, transformations, recording, filing, sorting, storage, retrieval, or transfer. A radio frequency device that is specifically subject to an emanation requirement in any other FCC Rule part or an intentional radiator subject to subpart C of this part that contains a digital device is not subject to the standards for digital devices, provided the digital device is used only to enable operation of the radio frequency device and the digital device does not control additional functions or capabilities.

NOTE: Computer terminals and peripherals that are intended to be connected to a computer are digital devices.

(l) *Field disturbance sensor.* A device that establishes a radio frequency field in its vicinity and detects changes in that field resulting from the movement of persons or objects within its range.

(m) *Harmful interference.* Any emission, radiation or induction that endangers the functioning of a radio navigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter.

(n) *Incidental radiator.* A device that generates radio frequency energy during the course of its operation although the device is not intentionally designed to generate or emit radio frequency energy. Examples of incidental radiators are dc motors, mechanical light switches, etc.

(o) *Intentional radiator.* A device that intentionally generates and emits radio frequency energy by radiation or induction.

(p) *Kit.* Any number of electronic parts, usually provided with a schematic diagram or printed circuit board, which, when assembled in accordance with instructions, results in a device subject to the regulations in this part, even if additional parts of any type are required to complete assembly.

(q) *Perimeter protection system.* A field disturbance sensor that employs RF transmission lines as the radiating source. These RF transmission lines

are installed in such a manner that allows the system to detect movement within the protected area.

(r) *Peripheral device.* An input/output unit of a system that feeds data into and/or receives data from the central processing unit of a digital device. Peripherals to a digital device include any device that is connected external to the digital device, any device internal to the digital device that connects the digital device to an external device by wire or cable, and any circuit board designed for interchangeable mounting, internally or externally, that increases the operating or processing speed of a digital device, e.g., ''turbo'' cards and ''enhancement'' boards. Examples of peripheral devices include terminals, printers, external floppy disk drives and other data storage devices, video monitors, keyboards, interface boards, external memory expansion cards, and other input/output devices that may or may not contain digital circuitry. This definition does not include CPU boards, as defined in paragraph (bb) of this section, even though a CPU board may connect to an external keyboard or other components.

(s) *Personal computer.* An electronic computer that is marketed for use in the home, notwithstanding business applications. Such computers are considered Class B digital devices. Computers which use a standard TV receiver as a display device or meet all of the following conditions are considered examples of personal computers:

(1) Marketed through a retail outlet or direct mail order catalog.

(2) Notices of sale or advertisements are distributed or directed to the general public or hobbyist users rather than restricted to commercial users.

(3) Operates on a battery or 120 volt electrical supply.

If the responsible party can demonstrate that because of price or performance the computer is not suitable for residential or hobbyist use, it may request that the computer be considered to fall outside of the scope of this definition for personal computers.

(t) *Power line carrier systems.* An unintentional radiator employed as a carrier current system used by an electric power utility entity on transmission lines for protective relaying, telemetry, etc. for general supervision of the power system. The system operates by the transmission of radio frequency energy by conduction over the electric power transmission lines of the system. The system does not include those electric lines which connect the distribution substation to the customer or house wiring.

(u) *Radio frequency (RF) energy.* Electromagnetic energy at any frequency in the radio spectrum between 9 kHz and 3,000,000 MHz.

(v) *Scanning receiver.* For the purpose of this part, this is a receiver that automatically switches among two or more frequencies in the range of 30 to 960 MHz and that is capable of stopping at and receiving a radio signal detected on a frequency. Receivers designed solely for the reception of the broadcast signals under part 73 of this chapter, for the reception of NOAA broadcast weather band signals, or for operation as part of a licensed service are not included in this definition.

(w) *Television (TV) broadcast receiver.* A device designed to receive television pictures that are broadcast simultaneously with sound on the television channels authorized under part 73 of this chapter.

(x) *Transfer switch.* A device used to alternate between the reception of over-the-air radio frequency signals via connection to an antenna and the reception of radio frequency signals received by any other method, such as from a TV interface device.

(y) *TV interface device.* An unintentional radiator that produces or translates in frequency a radio frequency carrier modulated by a video signal derived from an external or internal signal source, and which feeds the modulated radio frequency energy by conduction to the antenna terminals or other non-baseband input connections of a television broadcast receiver. A TV interface device may include a standalone RF modulator, or a composite device consisting of an RF modulator, video source and other components devices. Examples of TV interface devices

are video cassette recorders and terminal devices attached to a cable system or used with a Master Antenna (including those used for central distribution video devices in apartment or office buildings).

(z) *Unintentional radiator*. A device that intentionally generates radio frequency energy for use within the device, or that sends radio frequency signals by conduction to associated equipment via connecting wiring, but which is not intended to emit RF energy by radiation or induction.

(aa) *Cable ready consumer electronics equipment*. Consumer electronics TV receiving devices, including TV receivers, videocassette recorders and similar devices, that incorporate a tuner capable of receiving television signals and an input terminal intended for receiving cable television service, and are marketed as ''cable ready'' or ''cable compatible.'' Such equipment shall comply with the technical standards specified in §15.118 and the provisions of §15.19(d).

(bb) *CPU board*. A circuit board that contains a microprocessor, or frequency determining circuitry for the microprocessor, the primary function of which is to execute user-provided programming, but not including:

(1) A circuit board that contains only a microprocessor intended to operate under the primary control or instruction of a microprocessor external to such a circuit board; or

(2) A circuit board that is a dedicated controller for a storage or input/output device.

(cc) *External radio frequency power amplifier*. A device which is not an integral part of an intentional radiator as manufactured and which, when used in conjunction with an intentional radiator as a signal source, is capable of amplifying that signal.

(dd) *Test equipment* is defined as equipment that is intended primarily for purposes of performing measurements or scientific investigations. Such equipment includes, but is not limited to, field strength meters, spectrum analyzers, and modulation monitors.

(ee) *Radar detector*. A receiver designed to signal the presence of radio signals used for determining the speed of motor vehicles. This definition does not encompass the receiver incorporated within a radar transceiver certified under the Commission's rules.

(ff) *Access Broadband over Power Line (Access BPL)*. A carrier current system installed and operated on an electric utility service as an unintentional radiator that sends radio frequency energy on frequencies between 1.705 MHz and 80 MHz over medium voltage lines or over low voltage lines to provide broadband communications and is located on the supply side of the utility service's points of interconnection with customer premises. Access BPL does not include power line carrier systems as defined in §15.3(t) or In-House BPL as defined in §15.3(gg).

(gg) *In-House Broadband over Power Line (In-House BPL)*. A carrier current system, operating as an unintentional radiator, that sends radio frequency energy by conduction over electric power lines that are not owned, operated or controlled by an electric service provider. The electric power lines may be aerial (overhead), underground, or inside the walls, floors or ceilings of user premises. In-House BPL devices may establish closed networks within a user's premises or provide connections to Access BPL networks, or both.

[54 FR 17714, Apr. 25, 1989, as amended at 55 FR 18340, May 2, 1990; 57 FR 33448, July 29, 1992; 59 FR 25340, May 16, 1994; 61 FR 31048, June 19, 1996; 62 FR 26242, May 13, 1997; 64 FR 22561, Apr. 27, 1999; 65 FR 64391, Oct. 27, 2000; 66 FR 32582, June 15, 2001; 67 FR 48993, July 29, 2002; 70 FR 1373, Jan. 7, 2005]

### §15.5 General conditions of operation.

(a) Persons operating intentional or unintentional radiators shall not be deemed to have any vested or recognizable right to continued use of any given frequency by virtue of prior registration or certification of equipment, or, for power line carrier systems, on the basis of prior notification of use pursuant to §90.35(g) of this chapter.

(b) Operation of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused and that interference must be accepted that may be

caused by the operation of an authorized radio station, by another intentional or unintentional radiator, by industrial, scientific and medical (ISM) equipment, or by an incidental radiator.

(c) The operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected.

(d) Intentional radiators that produce Class B emissions (damped wave) are prohibited.

[54 FR 17714, Apr. 25, 1989, as amended at 75 FR 63031, Oct. 13, 2010]

### § 15.7 [Reserved]

### § 15.9 Prohibition against eavesdropping.

Except for the operations of law enforcement officers conducted under lawful authority, no person shall use, either directly or indirectly, a device operated pursuant to the provisions of this part for the purpose of overhearing or recording the private conversations of others unless such use is authorized by all of the parties engaging in the conversation.

### § 15.11 Cross reference.

The provisions of subparts A, H, I, J and K of part 2 apply to intentional and unintentional radiators, in addition to the provisions of this part. Also, a cable system terminal device and a cable input selector switch shall be subject to the relevant provisions of part 76 of this chapter.

### § 15.13 Incidental radiators.

Manufacturers of these devices shall employ good engineering practices to minimize the risk of harmful interference.

### § 15.15 General technical requirements.

(a) An intentional or unintentional radiator shall be constructed in accordance with good engineering design and manufacturing practice. Emanations from the device shall be suppressed as much as practicable, but in no case shall the emanations exceed the levels specified in these rules.

(b) Except as follows, an intentional or unintentional radiator must be constructed such that the adjustments of any control that is readily accessible by or intended to be accessible to the user will not cause operation of the device in violation of the regulations. Access BPL equipment shall comply with the applicable standards at the control adjustment that is employed. The measurement report used in support of an application for Certification and the user instructions for Access BPL equipment shall clearly specify the user-or installer-control settings that are required for conformance with these regulations.

(c) Parties responsible for equipment compliance should note that the limits specified in this part will not prevent harmful interference under all circumstances. Since the operators of part 15 devices are required to cease operation should harmful interference occur to authorized users of the radio frequency spectrum, the parties responsible for equipment compliance are encouraged to employ the minimum field strength necessary for communications, to provide greater attenuation of unwanted emissions than required by these regulations, and to advise the user as to how to resolve harmful interference problems (for example, see § 15.105(b)).

[54 FR 17714, Apr. 25, 1989, as amended at 70 FR 1373, Jan. 7, 2005]

### § 15.17 Susceptibility to interference.

(a) Parties responsible for equipment compliance are advised to consider the proximity and the high power of non-Government licensed radio stations, such as broadcast, amateur, land mobile, and non-geostationary mobile satellite feeder link earth stations, and of U.S. Government radio stations, which could include high-powered radar systems, when choosing operating frequencies during the design of their equipment so as to reduce the susceptibility for receiving harmful interference. Information on non-Government use of the spectrum can be obtained by consulting the Table of Frequency Allocations in § 2.106 of this chapter.

(b) Information on U.S. Government operations can be obtained by contacting: Director, Spectrum Plans and Policy, National Telecommunications and Information Administration, Department of Commerce, Room 4096, Washington, DC 20230.

[54 FR 17714, Apr. 25, 1989, as amended at 62 FR 4655, Jan. 31, 1997; 63 FR 40835, July 31, 1998]

### § 15.19 Labelling requirements.

(a) In addition to the requirements in part 2 of this chapter, a device subject to certification, or verification shall be labelled as follows:

(1) Receivers associated with the operation of a licensed radio service, e.g., FM broadcast under part 73 of this chapter, land mobile operation under part 90, etc., shall bear the following statement in a conspicuous location on the device:

This device complies with part 15 of the FCC Rules. Operation is subject to the condition that this device does not cause harmful interference.

(2) A stand-alone cable input selector switch, shall bear the following statement in a conspicuous location on the device:

This device is verified to comply with part 15 of the FCC Rules for use with cable television service.

(3) All other devices shall bear the following statement in a conspicuous location on the device:

This device complies with part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation.

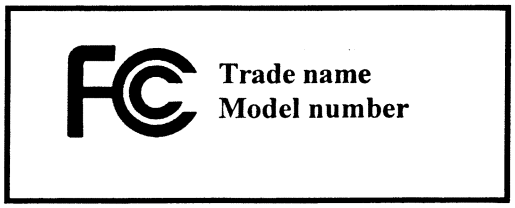
(4) Where a device is constructed in two or more sections connected by wires and marketed together, the statement specified under paragraph (a) of this section is required to be affixed only to the main control unit.

(5) When the device is so small or for such use that it is not practicable to place the statement specified under paragraph (a) of this section on it, the information required by this paragraph shall be placed in a prominent location in the instruction manual or pamphlet supplied to the user or, alternatively, shall be placed on the container in which the device is marketed. However, the FCC identifier or the unique identifier, as appropriate, must be displayed on the device.

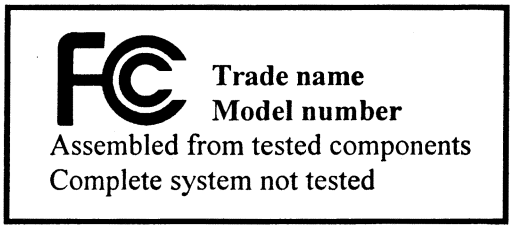
(b) Products subject to authorization under a Declaration of Conformity shall be labelled as follows:

(1) The label shall be located in a conspicuous location on the device and shall contain the unique identification described in § 2.1074 of this chapter and the following logo:

(i) If the product is authorized based on testing of the product or system; or




(ii) If a personal computer is authorized based on assembly using separately authorized components, in accordance with § 15.101(c)(2) or (c)(3), and the resulting product is not separately tested:




(2) Label text and information should be in a size of type large enough to be readily legible, consistent with the dimensions of the equipment and the label. However, the type size for the text is not required to be larger than eight point.

(3) When the device is so small or for such use that it is not practicable to place the statement specified under paragraph (b)(1) of this section on it, such as for a CPU board or a plug-in circuit board peripheral device, the text associated with the logo may be placed in a prominent location in the instruction manual or pamphlet supplied to the user. However, the unique identification (trade name and model number) and the logo must be displayed on the device.

(4) The label shall not be a stick-on, paper label. The label on these products shall be permanently affixed to the product and shall be readily visible to the purchaser at the time of purchase, as described in § 2.925(d) of this chapter. ''Permanently affixed'' means that the label is etched, engraved, stamped, silkscreened, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment or on a nameplate of metal, plastic, or other material fastened to the equipment by welding, riveting, or a permanent adhesive. The label must be designed to last the expected lifetime of the equipment in the environment in which the equipment may be operated and must not be readily detachable.

(c) [Reserved]

(d) Consumer electronics TV receiving devices, including TV receivers, videocassette recorders, and similar devices, that incorporate features intended to be used with cable television service, but do not fully comply with the technical standards for cable ready equipment set forth in § 15.118, shall not be marketed with terminology that describes the device as ''cable ready'' or ''cable compatible,'' or that otherwise conveys the impression that the device is fully compatible with cable service. Factual statements about the various features of a device that are intended for use with cable service or the quality of such features are acceptable so long as such statements do not imply that the device is fully compatible with cable service. Statements relating to product features are generally acceptable where they are limited to one or more specific features of a device, rather than the device as a whole. This requirement applies to consumer TV receivers, videocassette recorders and similar devices manufactured or imported for sale in this country on or after October 31, 1994.

[54 FR 17714, Apr. 25, 1989, as amended at 59 FR 25341, May 16, 1994; 61 FR 18509, Apr. 26, 1996; 61 FR 31048, June 19, 1996; 62 FR 41881, Aug. 4, 1997; 63 FR 36602, July 7, 1998; 65 FR 64391, Oct. 27, 2000; 68 FR 66733, Nov. 28, 2003; 68 FR 68545, Dec. 9, 2003]

### § 15.21 Information to user.

The users manual or instruction manual for an intentional or unintentional radiator shall caution the user that changes or modifications not expressly approved by the party responsible for compliance could void the user's authority to operate the equipment. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form,

provided the user can reasonably be expected to have the capability to access information in that form.

[54 FR 17714, Apr. 25, 1989, as amended at 68 FR 68545, Dec. 9, 2003]

### § 15.23 Home-built devices.

(a) Equipment authorization is not required for devices that are not marketed, are not constructed from a kit, and are built in quantities of five or less for personal use.

(b) It is recognized that the individual builder of home-built equipment may not possess the means to perform the measurements for determining compliance with the regulations. In this case, the builder is expected to employ good engineering practices to meet the specified technical standards to the greatest extent practicable. The provisions of § 15.5 apply to this equipment.

### § 15.25 Kits.

A TV interface device, including a cable system terminal device, which is marketed as a kit shall comply with the following requirements:

(a) All parts necessary for the assembled device to comply with the technical requirements of this part must be supplied with the kit. No mechanism for adjustment that can cause operation in violation of the requirements of this part shall be made accessible to the builder.

(b) At least two units of the kit shall be assembled in exact accordance with the instructions supplied with the product to be marketed. If all components required to fully complete the kit (other than those specified in paragraph (a) of this section which are needed for compliance with the technical provisions and must be included with the kit) are not normally furnished with the kit, assembly shall be made using the recommended components. The assembled units shall be certified or authorized under the Declaration of Conformity procedure, as appropriate, pursuant to the requirements of this part.

(1) The measurement data required for a TV interface device subject to certification shall be obtained for each of the two units and submitted with an application for certification pursuant to subpart J of part 2 of this chapter.

(2) The measurement data required for a TV interface device subject to Declaration of Conformity shall be obtained for the units tested and retained on file pursuant to the provisions of subpart J of part 2 of this chapter.

(c) A copy of the exact instructions that will be provided for assembly of the device shall be submitted with an application for certification. Those parts which are not normally furnished shall be detailed in the application for equipment authorization.

(d) In lieu of the label required by § 15.19, the following label, along with the label bearing the FCC identifier and other information specified in §§ 2.925 and 2.926, shall be included in the kit with instructions to the builder that it shall be attached to the completed kit:

*(Name of Grantee)*

*(FCC Identifier)*

This device can be expected to comply with part 15 of the FCC Rules provided it is assembled in exact accordance with the instructions provided with this kit. Operation is subject to the following conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received including interference that may cause undesired operation.

(e) For the purpose of this section, circuit boards used as repair parts for the replacement of electrically identical defective circuit boards are not considered to be kits.

[54 FR 17714, Apr. 25, 1989,as amended at 63 FR 36602, July 7, 1998]

### § 15.27 Special accessories.

(a) Equipment marketed to a consumer must be capable of complying with the necessary regulations in the configuration in which the equipment is marketed. Where special accessories, such as shielded cables and/or special connectors, are required to enable an unintentional or intentional radiator to comply with the emission limits in this part, the equipment must be marketed with, i.e., shipped and sold with, those special accessories. However, in lieu of shipping or packaging the special accessories with the unintentional

or intentional radiator, the responsible party may employ other methods of ensuring that the special accessories are provided to the consumer, without additional charge, at the time of purchase. Information detailing any alternative method used to supply the special accessories shall be included in the application for a grant of equipment authorization or retained in the verification records, as appropriate. The party responsible for the equipment, as detailed in § 2.909 of this chapter, shall ensure that these special accessories are provided with the equipment. The instruction manual for such devices shall include appropriate instructions on the first page of the text concerned with the installation of the device that these special accessories must be used with the device. It is the responsibility of the user to use the needed special accessories supplied with the equipment. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

(b) If a device requiring special accessories is installed by or under the supervision of the party marketing the device, it is the responsibility of that party to install the equipment using the special accessories. For equipment requiring professional installation, it is not necessary for the responsible party to market the special accessories with the equipment. However, the need to use the special accessories must be detailed in the instruction manual, and it is the responsibility of the installer to provide and to install the required accessories.

(c) Accessory items that can be readily obtained from multiple retail outlets are not considered to be special accessories and are not required to be marketed with the equipment. The manual included with the equipment must specify what additional components or accessories are required to be used in order to ensure compliance with this part, and it is the responsibility of the user to provide and use those components and accessories.

(d) The resulting system, including any accessories or components marketed with the equipment, must comply with the regulations.

[54 FR 17714, Apr. 25, 1989, as amended at 68 FR 68545, Dec. 9, 2003]

### § 15.29 Inspection by the Commission.

(a) Any equipment or device subject to the provisions of this part, together with any certificate, notice of registration or any technical data required to be kept on file by the operator, supplier or party responsible for compliance of the device shall be made available for inspection by a Commission representative upon reasonable request.

(b) The owner or operator of a radio frequency device subject to this part shall promptly furnish to the Commission or its representative such information as may be requested concerning the operation of the radio frequency device.

(c) The party responsible for the compliance of any device subject to this part shall promptly furnish to the Commission or its representatives such information as may be requested concerning the operation of the device, including a copy of any measurements made for obtaining an equipment authorization or demonstrating compliance with the regulations.

(d) The Commission, from time to time, may request the party responsible for compliance, including an importer, to submit to the FCC Laboratory in Columbia, Maryland, various equipment to determine that the equipment continues to comply with the applicable standards. Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party. Testing by the Commission will be performed using the measurement procedure(s) that was in effect at the time the equipment was authorized or verified.

### § 15.31 Measurement standards.

(a) The following measurement procedures are used by the Commission to determine compliance with the technical requirements in this part. Except where noted, copies of these procedures

are available from the Commission's current duplicating contractor whose name and address are available from the Commission's Consumer and Governmental Affairs Bureau at 1–888–CALL-FCC (1–888–225–5322).

(1) FCC/OET MP–2: Measurement of UHF Noise Figures of TV Receivers.

(2) Unlicensed Personal Communication Service (UPCS) devices are to be measured for compliance using ANSI C63.17–1998: ''Methods of Measurement of the Electromagnetic and Operational Compatibility of Unlicensed Personal Communications Services (UPCS) Devices'', (incorporated by reference, see §15.38). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(3) Other intentional and unintentional radiators are to be measured for compliance using the following procedure excluding sections 4.1.5.2, 5.7, 9 and 14: ANSI C63.4–2003: ''Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz'' (incorporated by reference, see §15.38). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

NOTE TO PARAGRAPH (a)(3): Digital devices tested to show compliance with the provisions of §§15.107(e) and 15.109(g) must be tested following the ANSI C63.4 procedure described in paragraph (a)(3) of this section.

(b) All parties making compliance measurements on equipment subject to the requirements of this part are urged to use these measurement procedures. Any party using other procedures should ensure that such other procedures can be relied on to produce measurement results compatible with the FCC measurement procedures. The description of the measurement procedure used in testing the equipment for compliance and a list of the test equipment actually employed shall be made part of an application for certification or included with the data required to be retained by the party responsible for devices authorized pursuant to a Declaration of Conformity or devices subject to verification.

(c) For swept frequency equipment, measurements shall be made with the frequency sweep stopped at those frequencies chosen for the measurements to be reported.

(d) Field strength measurements shall be made, to the extent possible, on an open field site. Test sites other than open field sites may be employed if they are properly calibrated so that the measurement results correspond to what would be obtained from an open field site. In the case of equipment for which measurements can be performed only at the installation site, such as perimeter protection systems, carrier current systems, and systems employing a ''leaky'' coaxial cable as an antenna, measurements for verification or for obtaining a grant of equipment authorization shall be performed at a minimum of three installations that can be demonstrated to be representative of typical installation sites.

(e) For intentional radiators, measurements of the variation of the input power or the radiated signal level of the fundamental frequency component of the emission, as appropriate, shall be performed with the supply voltage varied between 85% and 115% of the nominal rated supply voltage. For battery operated equipment, the equipment tests shall be performed using a new battery.

(f) To the extent practicable, the device under test shall be measured at the distance specified in the appropriate rule section. The distance specified corresponds to the horizontal distance between the measurement antenna and the closest point of the equipment under test, support equipment or interconnecting cables as determined by the boundary defined by an imaginary straight line periphery describing a simple geometric configuration enclosing the system containing the equipment under test. The equipment under test, support equipment and any interconnecting cables shall be included within this boundary.

(1) At frequencies at or above 30 MHz, measurements may be performed at a distance other than what is specified provided: measurements are not made in the near field except where it can be shown that near field measurements

are appropriate due to the characteristics of the device; and it can be demonstrated that the signal levels needed to be measured at the distance employed can be detected by the measurement equipment. Measurements shall not be performed at a distance greater than 30 meters unless it can be further demonstrated that measurements at a distance of 30 meters or less are impractical. When performing measurements at a distance other than that specified, the results shall be extrapolated to the specified distance using an extrapolation factor of 20 dB/decade (inverse linear-distance for field strength measurements; inverse-linear-distance-squared for power density measurements).

(2) At frequencies below 30 MHz, measurements may be performed at a distance closer than that specified in the regulations; however, an attempt should be made to avoid making measurements in the near field. Pending the development of an appropriate measurement procedure for measurements performed below 30 MHz, when performing measurements at a closer distance than specified, the results shall be extrapolated to the specified distance by either making measurements at a minimum of two distances on at least one radial to determine the proper extrapolation factor or by using the square of an inverse linear distance extrapolation factor (40 dB/decade).

(3) The applicant for a grant of certification shall specify the extrapolation method used in the application filed with the Commission. For equipment subject to Declaration of Conformity or verification, this information shall be retained with the measurement data.

(4) When measurement distances of 30 meters or less are specified in the regulations, the Commission will test the equipment at the distance specified unless measurement at that distance results in measurements being performed in the near field. When measurement distances of greater than 30 meters are specified in the regulations, the Commission will test the equipment at a closer distance, usually 30 meters, extrapolating the measured field strength to the specified distance using the methods shown in this section.

(5) Measurements shall be performed at a sufficient number of radials around the equipment under test to determine the radial at which the field strength values of the radiated emissions are maximized. The maximum field strength at the frequency being measured shall be reported in the equipment authorization report. This paragraph shall not apply to Access BPL equipment on overhead medium voltage lines. In lieu thereof, the measurement guidelines established by the Commission for Access BPL shall be followed.

(g) Equipment under test shall be adjusted, using those controls that are readily accessible to or are intended to be accessible to the consumer, in such a manner as to maximize the level of the emissions. For those devices to which wire leads may be attached by the consumer, tests shall be performed with wire leads attached. The wire leads shall be of the length to be used with the equipment if that length is known. Otherwise, wire leads one meter in length shall be attached to the equipment. Longer wire leads may be employed if necessary to interconnect to associated peripherals.

(h) For a composite system that incorporates devices contained either in a single enclosure or in separate enclosures connected by wire or cable, testing for compliance with the standards in this part shall be performed with all of the devices in the system functioning. If an intentional radiator incorporates more than one antenna or other radiating source and these radiating sources are designed to emit at the same time, measurements of conducted and radiated emissions shall be performed with all radiating sources that are to be employed emitting. A device which incorporates a carrier current system shall be tested as if the carrier current system were incorporated in a separate device; that is, the device shall be tested for compliance with whatever rules would apply to the device were the carrier current system not incorporated, and the carrier current system shall be tested for compliance with the rules applicable to carrier current systems.

(i) If the device under test provides for the connection of external accessories, including external electrical input signals, the device shall be tested with the accessories attached. The device under test shall be fully exercised with these external accessories. The emission tests shall be performed with the device and accessories configured in a manner that tends to produce maximized emissions within the range of variations that can be expected under normal operating conditions. In the case of multiple accessory external ports, an external accessory shall be connected to one of each type of port. Only one test using peripherals or external accessories that are representative of the devices that will be employed with the equipment under test is required. All possible equipment combinations do not need to be tested. The accessories or peripherals connected to the device being tested shall be unmodified, commercially available equipment.

(j) If the equipment under test consists of a central control unit and an external or internal accessory(ies) (peripheral) and the party verifying the equipment or applying for a grant of equipment authorization manufactures or assembles the central control unit and at least one of the accessory devices that can be used with that control unit, testing of the control unit and/or the accessory(ies) must be performed using the devices manufactured or assembled by that party, in addition to any other needed devices which the party does not manufacture or assemble. If the party verifying the equipment or applying for a grant of equipment authorization does not manufacture or assemble the central control unit and at least one of the accessory devices that can be used with that control unit or the party can demonstrate that the central control unit or accessory(ies) normally would be marketed or used with equipment from a different entity, testing of the central control unit and/or the accessory(ies) must be performed using the specific combination of equipment which is intended to be marketed or used together. Only one test using peripherals or accessories that are representatve of the devices that will be employed with the equipment under test is required. All possible equipment combinations are not required to be tested. The accessories or peripherals connected to the device being tested shall be unmodified, commercially available equipment.

(k) A composite system is a system that incorporates different devices contained either in a single enclosure or in separate enclosures connected by wire or cable. If the individual devices in a composite system are subject to different technical standards, each such device must comply with its specific standards. In no event may the measured emissions of the composite system exceed the highest level permitted for an individual component. For digital devices which consist of a combination of Class A and Class B devices, the total combination of which results in a Class A digital device, it is only necessary to demonstrate that the equipment combination complies with the limits for a Class A device. This equipment combination may not be employed for obtaining a grant of equipment authorization or verifying a Class B digital device. However, if the digital device combination consists of a Class B central control unit, e.g., a personal computer, and a Class A internal peripheral(s), it must be demonstrated that the Class B central control unit continues to comply with the limits for a Class B digital device with the Class A internal peripheral(s) installed but not active.

(l) Measurements of radio frequency emissions conducted to the public utility power lines shall be performed using a 50 ohm/50 uH line-impedance stabilization network (LISN).

NOTE: Receivers tested under the transition provisions contained in §15.37 may be tested with a 50 ohm/5 μH LISN.

(m) Measurements on intentional radiators or receivers, other than TV broadcast receivers, shall be performed and, if required, reported for each band in which the device can be operated with the device operating at the number of frequencies in each band specified in the following table:

| Frequency range over which device operates | Number of frequencies | Location in the range of operation |
|---|---|---|
| 1 MHz or less | 1 | Middle. |
| 1 to 10 MHz | 2 | 1 near top and 1 near bottom. |
| More than 10 MHz | 3 | 1 near top, 1 near middle and 1 near bottom. |

(n) Measurements on TV broadcast receivers shall be performed with the receiver tuned to each VHF frequency and also shall include the following oscillator frequencies: 520, 550, 600, 650, 700, 750, 800, 850, 900 and 931 MHz. If measurements cannot be made on one or more of the latter UHF frequencies because of the presence of signals from licensed radio stations or for other reasons to be detailed in the measurement report, measurements shall be made with the receiver oscillator at a nearby frequency. If the receiver is not capable of receiving channels above 806 MHz, the measurements employing the oscillator frequencies 900 and 931 MHz may be omitted.

(o) The amplitude of spurious emissions from intentional radiators and emissions from unintentional radiators which are attenuated more than 20 dB below the permissible value need not be reported unless specifically required elsewhere in this part.

(p) In those cases where the provisions in this section conflict with the measurement procedures in paragraph (a) of this section and the procedures were implemented after June 23, 1989, the provisions contained in the measurement procedures shall take precedence.

[54 FR 17714, Apr. 25, 1989, as amended at 56 FR 13083, Mar. 29, 1991; 57 FR 24990, June 12, 1992; 57 FR 33448, July 29, 1992; 58 FR 37430, July 12, 1993; 58 FR 51249, Oct. 1, 1993; 61 FR 14502, Apr. 2, 1996; 62 FR 41881, Aug. 4, 1997; 62 FR 45333, Aug. 27, 1997; 63 FR 36602, July 7, 1998; 63 FR 42278, Aug. 7, 1998; 65 FR 58466, Sept. 29, 2000; 68 FR 68545, Dec. 9, 2003; 69 FR 54034, Sept. 7, 2004; 70 FR 1373, Jan. 7, 2005]

### § 15.32 Test procedures for CPU boards and computer power supplies.

Power supplies and CPU boards used with personal computers and for which separate authorizations are required to be obtained shall be tested as follows:

(a) CPU boards shall be tested as follows:

(1) Testing for radiated emissions shall be performed with the CPU board installed in a typical enclosure but with the enclosure's cover removed so that the internal circuitry is exposed at the top and on at least two sides. Additional components, including a power supply, peripheral devices, and subassemblies, shall be added, as needed, to result in a complete personal computer system. If the oscillator and the microprocessor circuits are contained on separate circuit boards, both boards, typical of the combination that would normally be employed, must be used in the test. Testing shall be in accordance with the procedures specified in § 15.31.

(i) Under these test conditions, the system under test shall not exceed the radiated emission limits specified in § 15.109 by more than 6 dB. Emissions greater than 6 dB that can be identified and documented to originate from a component(s) other than the CPU board being tested, may be dismissed.

(ii) Unless the test in paragraph (a)(1)(i) of this section demonstrates compliance with the limits in § 15.109, a second test shall be performed using the same configuration described above but with the cover installed on the enclosure. Testing shall be in accordance with the procedures specified in § 15.31. Under these test conditions, the system under test shall not exceed the radiated emission limits specified in § 15.109.

(2) In lieu of the procedure in (a)(1) of this section, CPU boards may be tested to demonstrate compliance with the limits in § 15.109 using a specified enclosure with the cover installed. Testing for radiated emissions shall be performed with the CPU board installed in a typical system configuration. Additional components, including a power supply, peripheral devices, and subassemblies, shall be added, as needed, to result in a complete personal computer system. If the oscillator and the microprocessor circuits are contained on separate circuit boards, both boards, typical of the combination that would normally be employed, must be used in the test. Testing shall be in accordance with the procedures specified in § 15.31.

Under this procedure, CPU boards that comply with the limits in § 15.109 must be marketed together with the specific enclosure used for the test.

(3) The test demonstrating compliance with the AC power line conducted limits specified in § 15.107 shall be performed in accordance with the procedures specified in § 15.31 using an enclosure, peripherals, power supply and subassemblies that are typical of the type with which the CPU board under test would normally be employed.

(b) The power supply shall be tested installed in an enclosure that is typical of the type within which it would normally be installed. Additional components, including peripheral devices, a CPU board, and subassemblies, shall be added, as needed, to result in a complete personal computer system. Testing shall be in accordance with the procedures specified in § 15.31 and must demonstrate compliance with all of the standards contained in this part.

[61 FR 31048, June 19, 1996, as amended at 62 FR 41881, Aug. 4, 1997]

### § 15.33 Frequency range of radiated measurements.

(a) For an intentional radiator, the spectrum shall be investigated from the lowest radio frequency signal generated in the device, without going below 9 kHz, up to at least the frequency shown in this paragraph:

(1) If the intentional radiator operates below 10 GHz: to the tenth harmonic of the highest fundamental frequency or to 40 GHz, whichever is lower.

(2) If the intentional radiator operates at or above 10 GHz and below 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 100 GHz, whichever is lower.

(3) If the intentional radiator operates at or above 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 200 GHz, whichever is lower, unless specified otherwise elsewhere in the rules.

(4) If the intentional radiator contains a digital device, regardless of whether this digital device controls the functions of the intentional radiator or the digital device is used for additional control or function purposes other than to enable the operation of the intentional radiator, the frequency range shall be investigated up to the range specified in paragraphs (a)(1) through (a)(3) of this section or the range applicable to the digital device, as shown in paragraph (b)(1) of this section, whichever is the higher frequency range of investigation.

(b) For unintentional radiators:

(1) Except as otherwise indicated in paragraphs (b)(2) or (b)(3) of this section, for an unintentional radiator, including a digital device, the spectrum shall be investigated from the lowest radio frequency signal generated or used in the device, without going below the lowest frequency for which a radiated emission limit is specified, up to the frequency shown in the following table:

| Highest frequency generated or used in the device or on which the device operates or tunes (MHz) | Upper frequency of measurement range (MHz) |
|---|---|
| Below 1.705 | 30. |
| 1.705–108 | 1000. |
| 108–500 | 2000. |
| 500–1000 | 5000. |
| Above 1000 | 5th harmonic of the highest frequency or 40 GHz, whichever is lower. |

(2) A unintentional radiator, excluding a digital device, in which the highest frequency generated in the device, the highest frequency used in the device and the highest frequency on which the device operates or tunes are less than 30 MHz and which, in accordance with § 15.109, is required to comply with standards on the level of radiated emissions within the frequency range 9 kHz to 30 MHz, such as a CB receiver or a device designed to conduct its radio frequency emissions via connecting wires or cables, e.g., a carrier current system not intended to radiate, shall be investigated from the lowest radio frequency generated or used in the device, without going below 9 kHz (25 MHz for CB receivers), up to the frequency shown in the following table. If the unintentional radiator contains a digital device, the upper frequency to be investigated shall be that shown in the table below or in the table in paragraph (b)(1) of this section, as based on both the highest frequency generated and the highest frequency used in the digital device, whichever range is higher.

| Highest frequency generated or used in the device or on which the device operates or tunes (MHz) | Upper frequency of measurement range (MHz) |
|---|---|
| Below 1.705 | 30 |
| 1.705–10 | 400 |
| 10–30 | 500 |

(3) Except for a CB receiver, a receiver employing superheterodyne techniques shall be investigated from 30 MHz up to at least the second harmonic of the highest local oscillator frequency generated in the device. If such receiver is controlled by a digital device, the frequency range shall be investigated up to the higher of the second harmonic of the highest local oscillator frequency generated in the device or the upper frequency of the measurement range specified for the digital device in paragraph (b)(1) of this section.

(c) The above specified frequency ranges of measurements apply to the measurement of radiated emissions and, in the case of receivers, the measurement to demonstrate compliance with the antenna conduction limits specified in § 15.111. The frequency range of measurements for AC power line conducted limits is specified in §§ 15.107 and 15.207 and applies to all equipment subject to those regulations. In some cases, depending on the frequency(ies) generated and used by the equipment, only signals conducted onto the AC power lines are required to be measured.

(d) Particular attention should be paid to harmonics and subharmonics of the fundamental frequency as well as to those frequencies removed from the fundamental by multiples of the oscillator frequency. Radiation at the frequencies of multiplier states should also be checked.

[54 FR 17714, Apr. 25, 1989, as amended at 61 FR 14502, Apr. 2, 1996; 63 FR 42278, Aug. 7, 1998]

### § 15.35 Measurement detector functions and bandwidths.

The conducted and radiated emission limits shown in this part are based on the following, unless otherwise specified elsewhere in this part:

(a) On any frequency or frequencies below or equal to 1000 MHz, the limits shown are based on measuring equipment employing a CISPR quasi-peak detector function and related measurement bandwidths, unless otherwise specified. The specifications for the measuring instrument using the CISPR quasi-peak detector can be found in Publication 16 of the International Special Committee on Radio Interference (CISPR) of the International Electrotechnical Commission. As an alternative to CISPR quasi-peak measurements, the responsible party, at its option, may demonstrate compliance with the emission limits using measuring equipment employing a peak detector function, properly adjusted for such factors as pulse desensitization, as long as the same bandwidths as indicated for CISPR quasi-peak measurements are employed.

NOTE: For pulse modulated devices with a pulse-repetition frequency of 20 Hz or less and for which CISPR quasi-peak measurements are specified, compliance with the regulations shall be demonstrated using measuring equipment employing a peak detector function, properly adjusted for such factors as pulse desensitization, using the same measurement bandwidths that are indicated for CISPR quasi-peak measurements.

(b) Unless otherwise specified, on any frequency or frequencies above 1000 MHz, the radiated emission limits are based on the use of measurement instrumentation employing an average detector function. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. When average radiated emission measurements are specified in this part, including average emission measurements below 1000 MHz, there also is a limit on the peak level of the radio frequency emissions. Unless otherwise specified, *e.g.*, see §§ 15.250, 15.252, 15.255, and 15.509–15.519, the limit on peak radio frequency emissions is 20 dB above the maximum permitted average emission limit applicable to the equipment under test. This peak limit applies to the total peak emission level radiated by the device, *e.g.*, the total peak power level. Note that the use of a pulse desensitization correction factor may be needed to determine the total peak emission level. The instruction manual or application note for the

measurement instrument should be consulted for determining pulse desensitization factors, as necessary.

(c) Unless otherwise specified, e.g. § 15.255(b), when the radiated emission limits are expressed in terms of the average value of the emission, and pulsed operation is employed, the measurement field strength shall be determined by averaging over one complete pulse train, including blanking intervals, as long as the pulse train does not exceed 0.1 seconds. As an alternative (provided the transmitter operates for longer than 0.1 seconds) or in cases where the pulse train exceeds 0.1 seconds, the measured field strength shall be determined from the average absolute voltage during a 0.1 second interval during which the field strength is at its maximum value. The exact method of calculating the average field strength shall be submitted with any application for certification or shall be retained in the measurement data file for equipment subject to notification or verification.

[54 FR 17714, Apr. 25, 1989, as amended at 56 FR 13083, Mar. 29, 1991; 61 FR 14502, Apr. 2, 1996; 63 FR 42279, Aug. 7, 1998; 67 FR 34855, May 16, 2002; 70 FR 6773, Feb. 9, 2005]

### § 15.37 Transition provisions for compliance with the rules.

Equipment may be authorized, manufactured and imported under the rules in effect prior to June 23, 1989, in accordance with the following schedules:

(a) *For all intentional and unintentional radiators, except for receivers:* Radio frequency equipment verified by the responsible party or for which an application for a grant of equipment authorization is submitted to the Commission on or after June 23, 1992, shall comply with the regulations specified in this part. Radio frequency equipment that is manufactured or imported on or after June 23, 1994, shall comply with the regulations specified in this part.

(b) *For receivers:* Receivers subject to the regulations in this part that are manufactured or imported on or after June 23, 1999, shall comply with the regulations specified in this part. However, if a receiver is associated with a transmitter that could not have been authorized under the regulations in effect prior to June 23, 1989, e.g., a transmitter operating under the provisions of § 15.209 or § 15.249 (below 960 MHz), the transition provisions in this section do not apply. Such receivers must comply with the regulations in this part. In addition, receivers are subject to the provisions in paragraph (f) of this section.

(c) There are no restrictions on the operation or marketing of equipment complying with the regulations in effect prior to June 23, 1989.

(d) Prior to May 25, 1991, person shall import, market or operate intentional radiators within the band 902–905 MHz under the provisions of § 15.249. Until that date, the Commission will not issue a grant of equipment authorization for equipment operating under § 15.249 if the equipment is designed to permit operation within the band 902–905 MHz.

(e) *For cordless telephones:* The manufacture and importation of cordless telephones not complying with § 15.214(d) of this part shall cease on or before September 11, 1991. These provisions will not apply to cordless telephones which are repaired or refurbished, or re-imported after repair or refurbishment. Applications for a grant of equipment authorization of cordless telephones not complying with § 15.214(d) of this part will not be accepted by the Commission after May 10, 1991. Cordless telephones that have previously received equipment authorization and that, without modification, already comply with the requirements of § 15.214(d) of this part, need not be reauthorized.

(f) The manufacture or importation of scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that do not comply with the provisions of § 15.121(a)(1) shall cease on or before April 26, 1994. Effective April 26, 1993, the Commission will not grant equipment authorization for receivers that do not comply with the provisions of § 15.121(a)(1). These rules do not prohibit the sale or use of authorized receivers manufactured in the United States, or imported into the United States, prior to April 26, 1994.

(g) For CPU boards and power supplies designed to be used with personal

computers: The manufacture and importation of these products shall cease on or before June 19, 1997 unless these products have been authorized under a Declaration of Conformity or a grant of certification, demonstrating compliance with all of the provisions in this part. Limited provisions, as detailed in § 15.101(d), are provided to permit the importation and manufacture of these products subsequent to this date where the CPU boards and/or power supplies are marketed only to personal computer equipment manufacturers.

(h) The manufacture or importation of scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that do not comply with the provisions of § 15.121 shall cease on or before October 25, 1999. Effective July 26, 1999 the Commission will not grant equipment authorization for receivers that do not comply with the provisions of § 15.121. This paragraph does not prohibit the sale or use of authorized receivers manufactured in the United States, or imported into the United States, prior to October 25, 1999.

(i) Effective October 16, 2002, an equipment approval may no longer be obtained for medical telemetry equipment operating under the provisions of § 15.241 or § 15.242. The requirements for obtaining an approval for medical telemetry equipment after this date are found in Subpart H of Part 95 of this chapter.

(j) All radio frequency devices that are authorized under the certification, verification or declaration of conformity procedures on or after July 12, 2004 shall comply with the conducted limits specified in § 15.107 or § 15.207 as appropriate. All radio frequency devices that are manufactured or imported on or after July 11, 2005 shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate. Equipment authorized, imported or manufactured prior to these dates shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate, or with the conducted limits that were in effect immediately prior to September 9, 2002.

(k) Radar detectors manufactured or imported after August 28, 2002 and marketed after September 27, 2002 shall comply with the regulations specified in this part. Radar detectors manufactured or imported prior to January 27, 2003 may be labeled with the information required by §§ 2.925 and 15.19(a) of this chapter on the individual equipment carton rather than on the device, and are exempt from complying with the requirements of § 15.21.

(l) U–NII equipment operating in the 5.25–5.35 GHz band for which applications for certification are filed on or after July 20, 2006 shall comply with the DFS and TPC requirements specified in § 15.407. U–NII equipment operating in the 5.25–5.35 GHz band that are imported or marketed on or after July 20, 2007 shall comply with the DFS and TPC requirements in § 15.407.

(m) All Access BPL devices that are manufactured, imported, marketed or installed on or after July 7, 2006, shall comply with the requirements specified in subpart G of this part, including certification of the equipment.

(n) Marketing of TV band devices operating under subpart H of this part is not permitted prior to February 18, 2009.

[54 FR 17714, Apr. 25, 1989; 54 FR 32339, Aug. 7, 1989; 55 FR 25095, June 20, 1990; 56 FR 3785, Jan. 31, 1991; 58 FR 25575, Apr. 27, 1993; 61 FR 31049, June 19, 1996; 64 FR 22561, Apr. 27, 1999; 65 FR 44008, July 17, 2000; 67 FR 45670, July 10, 2002; 67 FR 48993, July 29, 2002; 69 FR 2686, Jan. 20, 2004; 70 FR 1373, Jan. 7, 2005; 70 FR 17329, Apr. 6, 2005; 71 FR 11540, Mar. 8, 2006; 74 FR 7326, Feb. 17, 2009]

### § 15.38 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for purchase at the corresponding addresses as noted, and all are available for inspection at the Federal Communications Commission, 445 12th St., SW., Reference Information Center, Room CY–A257, Washington, DC 20554, (202) 418–0270, and at the National Archives and Records Administration (NARA). For information on

the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) The following materials are available for purchase from at least one of the following addresses: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112, (800) 854–7179, or at *http://global.ihs.com;* or American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, NY 10036, (212) 642–4900,or at *http://webstore.ansi.org/ansidocstore/default.asp.;* or Society of Cable Telecommunications Engineers, 140 Philips Road, Exton, PA 19341–1318, (800) 542–5040, or at *http://www.scte.org/standards/index.cfm.*

(1) SCTE 28 2003 (formerly DVS 295): ''Host-POD Interface Standard,'' 2003, IBR approved for § 15.123.

(2) SCTE 41 2003 (formerly DVS 301): ''POD Copy Protection System,'' 2003, IBR approved for § 15.123.

(3) ANSI/SCTE 54 2003 (formerly DVS 241): ''Digital Video Service Multiplex and Transport System Standard for Cable Television,'' 2003, IBR approved for § 15.123.

(4) ANSI/SCTE 65 2002 (formerly DVS 234): ''Service Information Delivered Out-of-Band for Digital Cable Television,'' 2002, IBR approved for § 15.123.

(5) SCTE 40 2003 (formerly DVS 313): ''Digital Cable Network Interface Standard,'' 2003, IBR approved for § 15.123.

(6) ANSI C63.4–2003: ''Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,'' 2003, IBR approved for § 15.31, except for sections 4.1, 5.2, 5.7, 9 and 14.

(7) CEA–542–B: ''CEA Standard: Cable Television Channel Identification Plan,'' July 2003, IBR approved for § 15.118.

(8) EIA–608: ''Recommended Practice for Line 21 Data Service,'' 1994, IBR approved for § 15.120.

(9) EIA–744: ''Transport of Content Advisory Information Using Extended Data Service (XDS),'' 1997, IBR approved for § 15.120.

(10) EIA–708–B: ''Digital Television (DTV) Closed Captioning,'' 1999, IBR approved for § 15.122.

(11) Third Edition of the International Special Committee on Radio Interference (CISPR), Pub. 22, ''Information Technology Equipment—Radio Disturbance Characteristics—Limits and Methods of Measurement,'' 1997, IBR approved for § 15.109.

(12) ANSI C63.17–1998: ''Methods of Measurement of the Electromagnetic and Operational Compatibility of Unlicensed Personal Communications Services (UPCS) Devices'', 1998, IBR approved for § 15.31.

(13) CEA–766–A: ''U.S. and Canadian Region Rating Tables (RRT) and Content Advisory Descriptors for Transport of Content Advisory Information using ATSC A/65–A Program and System Information Protocol (PSIP),'' April 2001, IBR approved for § 15.120.

(c) The following materials are freely available from at least one of the following addresses: Cable Television Laboratories, Inc., 858 Coal Creek Circle, Louisville, Colorado, 80027, *http://www.cablelabs.com/opencable/udcp*, (303) 661–9100; or at Consumer Electronics Association, 1919 S. Eads St., Arlington; VA 22202, *http://www.ce.org/public_policy*, (703) 907–7634.

(1) Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 3, 2003, IBR approved for § 15.123(c).

(2) Uni-Dir-ATP–I02–040225: ''Uni-Directional Receiving Device, Acceptance Test Plan,'' February 25, 2004, IBR approved for § 15.123(c).

(3) M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008, IBR approved for § 15.123(c).

(4) TP–ATP–M–UDCP–I05–20080304, ''Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008, IBR approved for § 15.123(c).

[68 FR 66732, Nov. 28, 2003, as amended at 68 FR 68546, Dec. 9, 2003; 69 FR 18803, Apr. 9, 2004; 69 FR 54034, Sept. 7, 2004; 69 FR 59534, Oct. 4, 2004; 69 FR 57861, Sept. 28, 2004; 76 FR 40277, July 8, 2011]

## Subpart B—Unintentional Radiators

### § 15.101 Equipment authorization of unintentional radiators.

(a) Except as otherwise exempted in §§ 15.23, 15.103, and 15.113, unintentional radiators shall be authorized prior to the initiation of marketing, as follows:

| Type of device | Equipment authorization required |
|---|---|
| TV broadcast receiver | Verification. |
| FM broadcast receiver | Verification. |
| CB receiver | Declaration of Conformity or Certification. |
| Superregenerative receiver | Declaration of Conformity or Certification. |
| Scanning receiver | Certification. |
| Radar detector | Certification. |
| All other receivers subject to part 15 | Declaration of Conformity or Certification. |
| TV interface device | Declaration of Conformity or Certification. |
| Cable system terminal device | Declaration of Conformity. |
| Stand-alone cable input selector switch | Verification. |
| Class B personal computers and peripherals | Declaration of Conformity or Certification. [1] |
| CPU boards and internal power supplies used with Class B personal computers. | Declaration of Conformity or Certification. [1] |
| Class B personal computers assembled using authorized CPU boards or power supplies. | Declaration of Conformity. |
| Class B external switching power supplies | Verification. |
| Other Class B digital devices & peripherals | Verification. |
| Class A digital devices, peripherals & external switching power supplies. | Verification. |
| Access Broadband over Power Line (Access BPL) | Certification. |
| All other devices | Verification. |

(b) Only those receivers that operate (tune) within the frequency range of 30–960 MHz, CB receivers and radar detectors are subject to the authorizations shown in paragraph (a) of this section. However, receivers indicated as being subject to Declaration of Conformity that are contained within a transceiver, the transmitter portion of which is subject to certification, shall be authorized under the verification procedure. Receivers operating above 960 MHz or below 30 MHz, except for radar detectors and CB receivers, are exempt from complying with the technical provisions of this part but are subject to § 15.5.

(c) Personal computers shall be authorized in accordance with one of the following methods:

(1) The specific combination of CPU board, power supply and enclosure is tested together and authorized under a Declaration of Conformity or a grant of certification;

(2) The personal computer is authorized under a Declaration of Conformity or a grant of certification, and the CPU board or power supply in that computer is replaced with a CPU board or power supply that has been separately authorized under a Declaration of Conformity or a grant of certification; or

(3) The CPU board and power supply used in the assembly of a personal computer have been separately authorized under a Declaration of Conformity or a grant of certification; and

(4) Personal computers assembled using either of the methods specified in paragraphs (c)(2) or (c)(3) of this section must, by themselves, also be authorized under a Declaration of Conformity if they are marketed. However, additional testing is not required for this Declaration of Conformity, provided the procedures in § 15.102(b) are followed.

(d) Peripheral devices, as defined in § 15.3(r), shall be authorized under a Declaration of Conformity, or a grant of certification, or verified, as appropriate, prior to marketing. Regardless of the provisions of paragraphs (a) or (c) of this section, if a CPU board, power supply, or peripheral device will always be marketed with a specific personal computer, it is not necessary to obtain a separate authorization for

that product provided the specific combination of personal computer, peripheral device, CPU board and power supply has been authorized under a Declaration of Conformity or a grant of certification as a personal computer.

(1) No authorization is required for a peripheral device or a subassembly that is sold to an equipment manufacturer for further fabrication; that manufacturer is responsible for obtaining the necessary authorization prior to further marketing to a vendor or to a user.

(2) Power supplies and CPU boards that have not been separately authorized and are designed for use with personal computers may be imported and marketed only to a personal computer equipment manufacturer that has indicated, in writing, to the seller or importer that they will obtain a Declaration of Conformity or a grant of certification for the personal computer employing these components.

(e) Subassemblies to digital devices are not subject to the technical standards in this part unless they are marketed as part of a system in which case the resulting system must comply with the applicable regulations. Subassemblies include:

(1) Devices that are enclosed solely within the enclosure housing the digital device, except for: power supplies used in personal computers; devices included under the definition of a peripheral device in §15.3(r); and personal computer CPU boards, as defined in §15.3(bb);

(2) CPU boards, as defined in §15.3(bb), other than those used in personal computers, that are marketed without an enclosure or power supply; and

(3) Switching power supplies that are separately marketed and are solely for use internal to a device other than a personal computer.

(f) The procedures for obtaining a grant of certification or notification and for verification and a Declaration of Conformity are contained in subpart J of part 2 of this chapter.

[54 FR 17714, Apr. 25, 1989, as amended at 61 FR 31050, June 19, 1996; 63 FR 36602, July 7, 1998; 64 FR 4997, Feb. 2, 1999; 67 FR 48993, July 29, 2002; 70 FR 1373, Jan. 7, 2005]

**§ 15.102 CPU boards and power supplies used in personal computers.**

(a) Authorized CPU boards and power supplies that are sold as separate components shall be supplied with complete installation instructions. These instructions shall specify all of the installation procedures that must be followed to ensure compliance with the standards, including, if necessary, the type of enclosure, e.g., a metal enclosure, proper grounding techniques, the use of shielded cables, the addition of any needed components, and any necessary modifications to additional components.

(1) Any additional parts needed to ensure compliance with the standards, except for the enclosure, are considered to be special accessories and, in accordance with §15.27, must be marketed with the CPU board or power supply.

(2) Any modifications that must be made to a personal computer, peripheral device, CPU board or power supply during installation of a CPU board or power supply must be simple enough that they can be performed by the average consumer. Parts requiring soldering, disassembly of circuitry or other similar modifications are not permitted.

(b) Assemblers of personal computer systems employing modular CPU boards and/or power supplies are not required to test the resulting system provided the following conditions are met:

(1) Each device used in the system has been authorized as required under this part (according to §15.101(e), some subassemblies used in a personal computer system may not require an authorization);

(2) The original label and identification on each piece of equipment remain unchanged;

(3) Each responsible party's instructions to ensure compliance (including, if necessary, the use of shielded cables or other accessories or modifications) are followed when the system is assembled;

(4) If the system is marketed, the resulting equipment combination is authorized under a Declaration of Conformity pursuant to §15.101(c)(4) and a compliance information statement, as described in §2.1077(b), is supplied with

the system. Marketed systems shall also comply with the labelling requirements in § 15.19 and must be supplied with the information required under §§ 15.21, 15.27 and 15.105; and

(5) The assembler of a personal computer system may be required to test the system and/or make necessary modifications if a system is found to cause harmful interference or to be noncompliant with the appropriate standards in the configuration in which it is marketed (see §§ 2.909, 15.1, 15.27(d) and 15.101(e)).

[61 FR 31050, June 19, 1996]

### § 15.103 Exempted devices.

The following devices are subject only to the general conditions of operation in §§ 15.5 and 15.29 and are exempt from the specific technical standards and other requirements contained in this part. The operator of the exempted device shall be required to stop operating the device upon a finding by the Commission or its representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected. Although not mandatory, it is strongly recommended that the manufacturer of an exempted device endeavor to have the device meet the specific technical standards in this part.

(a) A digital device utilized exclusively in any transportation vehicle including motor vehicles and aircraft.

(b) A digital device used exclusively as an electronic control or power system utilized by a public utility or in an industrial plant. The term *public utility* includes equipment only to the extent that it is in a dedicated building or large room owned or leased by the utility and does not extend to equipment installed in a subscriber's facility.

(c) A digital device used exclusively as industrial, commercial, or medical test equipment.

(d) A digital device utilized exclusively in an appliance, e.g., microwave oven, dishwasher, clothes dryer, air conditioner (central or window), etc.

(e) Specialized medical digital devices (generally used at the direction of or under the supervision of a licensed health care practitioner) whether used in a patient's home or a health care facility. Non-specialized medical devices, i.e., devices marketed through retail channels for use by the general public, are not exempted. This exemption also does not apply to digital devices used for record keeping or any purpose not directly connected with medical treatment.

(f) Digital devices that have a power consumption not exceeding 6 nW.

(g) Joystick controllers or similar devices, such as a mouse, used with digital devices but which contain only non-digital circuitry or a simple circuit to convert the signal to the format required (e.g., an integrated circuit for analog to digital conversion) are viewed as passive add-on devices, not themselves directly subject to the technical standards or the equipment authorization requirements.

(h) Digital devices in which both the highest frequency generated and the highest frequency used are less than 1.705 MHz and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Digital devices that include, or make provision for the use of, battery eliminators, AC adaptors or battery chargers which permit operation while charging or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, do not fall under this exemption.

(i) Responsible parties should note that equipment containing more than one device is not exempt from the technical standards in this part unless all of the devices in the equipment meet the criteria for exemption. If only one of the included devices qualifies for exemption, the remainder of the equipment must comply with any applicable regulations. If a device performs more than one function and all of those functions do not meet the criteria for exemption, the device does not qualify for inclusion under the exemptions.

### § 15.105 Information to the user.

(a) For a Class A digital device or peripheral, the instructions furnished the user shall include the following or similar statement, placed in a prominent location in the text of the manual:

NOTE: This equipment has been tested and found to comply with the limits for a Class A digital device, pursuant to part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference when the equipment is operated in a commercial environment. This equipment generates, uses, and can radiate radio frequency energy and, if not installed and used in accordance with the instruction manual, may cause harmful interference to radio communications. Operation of this equipment in a residential area is likely to cause harmful interference in which case the user will be required to correct the interference at his own expense.

(b) For a Class B digital device or peripheral, the instructions furnished the user shall include the following or similar statement, placed in a prominent location in the text of the manual:

NOTE: This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

—Reorient or relocate the receiving antenna.
—Increase the separation between the equipment and receiver.
—Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
—Consult the dealer or an experienced radio/TV technician for help.

(c) The provisions of paragraphs (a) and (b) of this section do not apply to digital devices exempted from the technical standards under the provisions of § 15.103.

(d) For systems incorporating several digital devices, the statement shown in paragraph (a) or (b) of this section needs to be contained only in the instruction manual for the main control unit.

(e) In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

[54 FR 17714, Apr. 25, 1989, as amended at 68 FR 68546, Dec. 9, 2003]

### § 15.107 Conducted limits.

(a) Except for Class A digital devices, for equipment that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies within the band 150 kHz to 30 MHz shall not exceed the limits in the following table, as measured using a 50 μH/50 ohms line impedance stabilization network (LISN). Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal. The lower limit applies at the band edges.

| Frequency of emission (MHz) | Conducted limit (dBμV) | |
|---|---|---|
| | Quasi-peak | Average |
| 0.15–0.5 | 66 to 56* | 56 to 46* |
| 0.5–5 | 56 | 46 |
| 5–30 | 60 | 50 |

*Decreases with the logarithm of the frequency.

(b) For a Class A digital device that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies within the band 150 kHz to 30 MHz shall not exceed the limits in the following table, as measured using a 50 μH/50 ohms LISN. Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal. The lower limit applies at the boundary between the frequency ranges.

| Frequency of emission (MHz) | Conducted limit (dBμV) | |
|---|---|---|
| | Quasi-peak | Average |
| 0.15–0.5 | 79 | 66 |
| 0.5–30 | 73 | 60 |

(c) The limits shown in paragraphs (a) and (b) of this section shall not

apply to carrier current systems operating as unintentional radiators on frequencies below 30 MHz. In lieu thereof, these carrier current systems shall be subject to the following standards:

(1) For carrier current systems containing their fundamental emission within the frequency band 535–1705 kHz and intended to be received using a standard AM broadcast receiver: no limit on conducted emissions.

(2) For all other carrier current systems: 1000 μV within the frequency band 535–1705 kHz, as measured using a 50 μH/50 ohms LISN.

(3) Carrier current systems operating below 30 MHz are also subject to the radiated emission limits in § 15.109(e).

(d) Measurements to demonstrate compliance with the conducted limits are not required for devices which only employ battery power for operation and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Devices that include, or make provision for, the use of battery chargers which permit operating while charging, AC adaptors or battery eliminators or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, shall be tested to demonstrate compliance with the conducted limits.

[54 FR 17714, Apr. 25, 1989, as amended at 57 FR 33448, July 29, 1992; 58 FR 51249, Oct. 1, 1993; 66 FR 19098, Apr. 13, 2001; 67 FR 45670, July 10, 2002]

### § 15.109 Radiated emission limits.

(a) Except for Class A digital devices, the field strength of radiated emissions from unintentional radiators at a distance of 3 meters shall not exceed the following values:

| Frequency of emission (MHz) | Field strength (microvolts/meter) |
|---|---|
| 30–88 | 100 |
| 88–216 | 150 |
| 216–960 | 200 |
| Above 960 | 500 |

(b) The field strength of radiated emissions from a Class A digital device, as determined at a distance of 10 meters, shall not exceed the following:

| Frequency of emission (MHz) | Field strength (microvolts/meter) |
|---|---|
| 30–88 | 90 |
| 88–216 | 150 |
| 216–960 | 210 |
| Above 960 | 300 |

(c) In the emission tables above, the tighter limit applies at the band edges. Sections 15.33 and 15.35 which specify the frequency range over which radiated emissions are to be measured and the detector functions and other measurement standards apply.

(d) For CB receivers, the field strength of radiated emissions within the frequency range of 25–30 MHz shall not exceed 40 microvolts/meter at a distance of 3 meters. The field strength of radiated emissions above 30 MHz from such devices shall comply with the limits in paragraph (a) of this section.

(e) Carrier current systems used as unintentional radiators or other unintentional radiators that are designed to conduct their radio frequency emissions via connecting wires or cables and that operate in the frequency range of 9 kHz to 30 MHz, including devices that deliver the radio frequency energy to transducers, such as ultrasonic devices not covered under part 18 of this chapter, shall comply with the radiated emission limits for intentional radiators provided in § 15.209 for the frequency range of 9 kHz to 30 MHz. As an alternative, carrier current systems used as unintentional radiators and operating in the frequency range of 525 kHz to 1705 kHz may comply with the radiated emission limits provided in § 15.221(a). At frequencies above 30 MHz, the limits in paragraph (a), (b), or (g) of this section, as appropriate, apply.

(f) For a receiver which employs terminals for the connection of an external receiving antenna, the receiver shall be tested to demonstrate compliance with the provisions of this section with an antenna connected to the antenna terminals unless the antenna conducted power is measured as specified in § 15.111(a). If a permanently attached receiving antenna is used, the receiver shall be tested to demonstrate compliance with the provisions of this section.

(g) As an alternative to the radiated emission limits shown in paragraphs (a) and (b) of this section, digital devices may be shown to comply with the standards contained in Third Edition of the International Special Committee on Radio Interference (CISPR), Pub. 22, ''Information Technology Equipment—Radio Disturbance Characteristics—Limits and Methods of Measurement'' (incorporated by reference, *see* §15.38). In addition:

(1) The test procedure and other requirements specified in this part shall continue to apply to digital devices.

(2) If, in accordance with §15.33 of this part, measurements must be performed above 1000 MHz, compliance above 1000 MHz shall be demonstrated with the emission limit in paragraph (a) or (b) of this section, as appropriate. Measurements above 1000 MHz may be performed at the distance specified in the CISPR 22 publications for measurements below 1000 MHz provided the limits in paragraphs (a) and (b) of this section are extrapolated to the new measurement distance using an inverse linear distance extrapolation factor (20 dB/decade), e.g., the radiated limit above 1000 MHz for a Class B digital device is 150 uV/m, as measured at a distance of 10 meters.

(3) The measurement distances shown in CISPR Pub. 22, including measurements made in accordance with this paragraph above 1000 MHz, are considered, for the purpose of §15.31(f)(4) of this part, to be the measurement distances specified in this part.

(4) If the radiated emissions are measured to demonstrate compliance with the alternative standards in this paragraph, compliance must also be demonstrated with the conducted limits shown in §15.107(e).

(h) Radar detectors shall comply with the emission limits in paragraph (a) of this section over the frequency range of 11.7–12.2 GHz.

[54 FR 17714, Apr. 25, 1989, as amended at 56 FR 373, Jan. 4, 1991; 58 FR 51249, Oct. 1, 1993; 66 FR 19098, Apr. 13, 2001; 67 FR 48993, July 29, 2002; 69 FR 2849, Jan. 21, 2004]

### §15.111 Antenna power conduction limits for receivers.

(a) In addition to the radiated emission limits, receivers that operate (tune) in the frequency range 30 to 960 MHz and CB receivers that provide terminals for the connection of an external receiving antenna may be tested to demonstrate compliance with the provisions of §15.109 with the antenna terminals shielded and terminated with a resistive termination equal to the impedance specified for the antenna, provided these receivers also comply with the following: With the receiver antenna terminal connected to a resistive termination equal to the impedance specified or employed for the antenna, the power at the antenna terminal at any frequency within the range of measurements specified in §15.33 shall not exceed 2.0 nanowatts.

(b) CB receivers and receivers that operate (tune) in the frequency range 30 to 960 MHz that are provided only with a permanently attached antenna shall comply with the radiated emission limitations in this part, as measured with the antenna attached.

### §15.113 Power line carrier systems.

Power line carrier systems, as defined in §15.3(t), are subject only to the following requirements:

(a) A power utility operating a power line carrier system shall submit the details of all existing systems plus any proposed new systems or changes to existing systems to an industry-operated entity as set forth in §90.35(g) of this chapter. No notification to the FCC is required.

(b) The operating parameters of a power line carrier system (particularly the frequency) shall be selected to achieve the highest practical degree of compatibility with authorized or licensed users of the radio spectrum. The signals from this operation shall be contained within the frequency band 9 kHz to 490 kHz. A power line carrier system shall operate on an unprotected, non-interference basis in accordance with §15.5 of this part. If harmful interference occurs, the electric power utility shall discontinue use or adjust its power line carrier operation, as required, to remedy the interference. Particular attention should be paid to the possibility of interference to Loran C operations at 100 kHz.

(c) Power line carrier system apparatus shall be operated with the minimum power possible to accomplish the desired purpose. No equipment authorization is required.

(d) The best engineering principles shall be used in the generation of radio frequency currents by power line carrier systems to guard against harmful interference to authorized radio users, particularly on the fundamental and harmonic frequencies.

(e) Power line carrier system apparatus shall conform to such engineering standards as may be promulgated by the Commission. In addition, such systems should adhere to industry approved standards designed to enhance the use of power line carrier systems.

(f) The provisions of this section apply only to systems operated by a power utility for general supervision of the power system and do not permit operation on electric lines which connect the distribution substation to the customer or house wiring. Such operation can be conducted under the other provisions of this part.

[54 FR 17714, Apr. 25, 1989; 54 FR 32339, Aug. 7, 1989; 75 FR 63031, Oct. 13, 2010]

### § 15.115 TV interface devices, including cable system terminal devices.

(a) Measurements of the radiated emissions of a TV interface device shall be conducted with the output terminal(s) of the device terminated by a resistance equal to the rated output impedance. The emanations of a TV interface device incorporating an intentional radiator shall not exceed the limits in § 15.109 or subpart C of this part, whichever is higher for each frequency. Where it is possible to determine which portion of the device is contributing a particular radio frequency emission, the emissions from the TV interface device portion shall comply with the emission limits in § 15.109, and the emissions from the intentional radiator shall comply with subpart C of this part.

(b) Output signal limits:

(1) At any RF output terminal, the maximum measured RMS voltage, in microvolts, corresponding to the peak envelope power of the modulated signal during maximum amplitude peaks across a resistance (R in ohms) matching the rated output impedance of the TV interface device, shall not exceed the following:

(i) For a cable system terminal device or a TV interface device used with a master antenna, 692.8 times the square root of (R) for the video signal and 155 times the square root of (R) for the audio signal.

(ii) For all other TV interface devices, 346.4 times the square root of (R) for the video signal and 77.5 times the square root of (R) for the audio signal.

(2) At any RF output terminal, the maximum measured RMS voltage, in microvolts, corresponding to the peak envelope power of the modulated signal during maximum amplitude peaks across a resistance (R in ohms) matching the rated output impedance of the TV interface device, of any emission appearing on frequencies removed by more than 4.6 MHz below or 7.4 MHz above the video carrier frequency on which the TV interface device is operated shall not exceed the following:

(i) For a cable system terminal device or a TV interface device used with a master antenna, 692.8 times the square root of (R).

(ii) For all other TV interface devices, 10.95 times the square root of (R).

(3) The term *master antenna* used in this section refers to TV interface devices employed for central distribution of television or other video signals within a building. Such TV interface devices must be designed to:

(i) Distribute multiple television signals at the same time;

(ii) Distribute such signals by cable to outlets or TV receivers in multiple rooms in the building in which the TV interface devices are installed; and,

(iii) Distribute all over-the-air or cable signals.

NOTE: Cable-ready video cassette recorders continue to be subject to the provisions for general TV interface devices.

(c) A TV interface device shall be equipped with a transfer switch for connecting the antenna terminals of a receiver selectively either to the receiving antenna or to the radio frequency output of the TV interface device, subject to the following:

(1) When measured in any of its set positions, transfer switches shall comply with the following requirements:

(i) For a cable system terminal device or a TV interface device equipped for use with a cable system or a master antenna, as defined in paragraph (b)(3) of this section, the isolation between the antenna and cable input terminals shall be at least 80 dB from 54 MHz to 216 MHz, at least 60 dB from 216 MHz to 550 MHz and at least 55 dB from 550 MHz to 806 MHz. The 80 dB standard applies at 216 MHz and the 60 dB standard applies at 550 MHz. In the case of a transfer switch requiring a power source, the required isolation shall be maintained in the event the device is not connected to a power source or power is interrupted. The provisions of this paragraph regarding frequencies in the range 550 MHz to 806 MHz are applicable as of June 30, 1997.

(ii) For all other TV interface devices, the maximum voltage, corresponding to the peak envelope power of the modulated video signal during maximum amplitude peaks, in microvolts, appearing at the receiving antenna input terminals when terminated with a resistance (R in ohms) matching the rated impedance of the antenna input of the switch, shall not exceed 0.346 times the square root of (R).

(iii) Measurement to determine compliance with the transfer switch limits shall be made using a connecting cable, where required, between the TV interface device and the transfer switch of the type and length:

(A) Provided with the TV interface device,

(B) Recommended in the instruction manual, or

(C) Normally employed by the consumer.

(2) A TV interface device shall be designed and constructed, to the extent practicable, so as to preclude the possibility that the consumer may inadvertently attach the output of the device to the receiving antenna, if any, without first going through the transfer switch.

(3) A transfer switch is not required for a TV interface device that, when connected, results in the user no longer having any need to receive standard over-the-air broadcast signals via a separate antenna. A transfer switch is not required to be marketed with a cable system terminal device unless that device provides for the connection of an external antenna. A transfer switch is not required for a device that is intended to be used as an accessory to an authorized TV interface device.

(4) An actual transfer switch is not required for a TV interface device, including a cable system terminal device, that has an antenna input terminal(s); provided, the circuitry following the antenna input terminal(s) has sufficient bandwidth to allow the reception of all TV broadcast channels authorized under part 73 of this chapter and: For a cable system terminal device that can alternate between the reception of cable television service and an antenna, compliance with the isolation requirement specified in paragraph (c)(1)(i) of this section can be demonstrated; and, for all other TV interface devices, the maximum voltage appearing at the antenna terminal(s) does not exceed the limit in paragraph (c)(1)(ii) of this section.

(5) If a transfer switch is not required, the following label shall be used in addition to the label shown in § 15.19(a):

This device is intended to be attached to a receiver that is not used to receive over-the-air broadcast signals. Connection of this device in any other fashion may cause harmful interference to radio communications and is in violation of the FCC Rules, part 15.

(d) A TV interface device, including a cable system terminal device, shall incorporate circuitry to automatically prevent emanations from the device from exceeding the technical specifications in this part. These circuits shall be adequate to accomplish their functions when the TV interface device is presented, if applicable, with video input signal levels in the range of one to five volts; this requirement is not applicable to a TV interface device that uses a built-in signal source and has no provisions for the connection of an external signal source. For devices that contain provisions for an external signal source but do not contain provisions for the input of an external baseband signal, e.g., some cable system terminal devices, compliance with the provisions of this paragraph shall be demonstrated with a radio frequency input signal of 0 to 25 dBmV.

(e) For cable system terminal devices and TV interface devices used with a master antenna, as defined in paragraph (b)(3) of this section, the holder of the grant of authorization shall specify in the instruction manual or pamphlet, if a manual is not provided, the types of wires or coaxial cables necessary to ensure that the unit complies with the requirements of this part. The holder of the grant of authorization must comply with the provisions of § 15.27. For all other TV interface devices, the wires or coaxial cables used to couple the output signals to the TV receiver shall be provided by the responsible party.

(f) A TV interface device which is submitted to the Commission as a composite device in a single enclosure containing a RF modulator, video source and other component devices shall be submitted on a single application (FCC Form 731) and shall be authorized as a single device.

(g) An external device or accessory that is intended to be attached to a TV interface device shall comply with the technical and administrative requirements set out in the rules under which it operates. For example, a personal computer must be certificated to show compliance with the regulations for digital devices.

(h) Stand-alone switches used to alternate between cable service and an antenna shall provide isolation between the antenna and cable input terminals that is at least 80 dB from 54 MHz to 216 MHz, at least 60 dB from 216 MHz to 550 MHz and at least 55 dB from 550 MHz to 806 MHz. The 80 dB standard applies at 216 MHz and the 60 dB standard applies at 550 MHz. In the case of stand-alone switches requiring a power source, the required isolation shall be maintained in the event the device is not connected to a power source or power is interrupted. The provisions of this paragraph are applicable as of June 30, 1997.

(i) Switches and other devices intended to be used to by-pass the processing circuitry of a cable system terminal device, whether internal to such a terminal device or a stand-alone unit, shall not attenuate the input signal more than 6 dB from 54 MHz to 550 MHz, or more than 8 dB from 550 MHz to 804 MHz. The 6 dB standard applies at 550 MHz. The provisions of this paragraph are applicable June 30, 1997.

[54 FR 17714, Apr. 25, 1989, as amended at 57 FR 33448, July 29, 1992; 59 FR 25341, May 16, 1994; 61 FR 18509, Apr. 26, 1996]

### § 15.117 TV broadcast receivers.

(a) All TV broadcast receivers shipped in interstate commerce or imported into the United States, for sale or resale to the public, shall comply with the provisions of this section, except that paragraphs (f) and (g) of this section shall not apply to the features of such sets that provide for reception of digital television signals. The reference in this section to TV broadcast receivers also includes devices, such as TV interface devices and set-top devices that are intended to provide audio-video signals to a video monitor, that incorporate the tuner portion of a TV broadcast receiver and that are equipped with an antenna or antenna terminals that can be used for off-the-air reception of TV broadcast signals, as authorized under part 73 of this chapter.

(b) TV broadcast receivers shall be capable of adequately receiving all channels allocated by the Commission to the television broadcast service.

(c) On a given receiver, use of the UHF and VHF tuning systems shall provide approximately the same degree of tuning accuracy with approximately the same expenditure of time and effort: *Provided, however,* That this requirement will be considered to be met if the need for routine fine tuning is eliminated on UHF channels.

(1) *Basic tuning mechanism.* If a TV broadcast receiver is equipped to provide for repeated access to VHF television channels at discrete tuning positions, that receiver shall be equipped to provide for repeated access to a minimum of six UHF television channels at discrete tuning positions. Unless a discrete tuning position is provided for each channel allocated to UHF television, each position shall be readily adjustable to a particular UHF channel by the user without the use of tools. If 12 or fewer discrete tuning positions are provided, each position shall be adjustable to receive any channel allocated to UHF television.

NOTE: The combination of detented rotary switch and pushbutton controls is acceptable, provided UHF channels, after their initial selection, can be accurately tuned with an expenditure of time and effort approximately the same as that used in accurately tuning VHF channels. A UHF tuning system comprising five pushbuttons and a separate manual tuning knob is considered to provide repeated access to six channels at discrete tuning positions. A one-knob (VHF/UHF) tuning system providing repeated access to 11 or more discrete tuning positions is also acceptable, provided each of the tuning positions is readily adjustable, without the use of tools, to receive any UHF channel.

(2) *Tuning controls and channel readout.* UHF tuning controls and channel readout on a given receiver shall be comparable in size, location, accessibility and legibility to VHF controls and readout on that receiver.

NOTE: Differences between UHF and VHF channel readout that follow directly from the larger number of UHF television channels available are acceptable if it is clear that a good faith effort to comply with the provisions of this section has been made.

(d) If equipment and controls that tend to simplify, expedite or perfect the reception of television signals (e.g., AFC, visual aids, remote control, or signal seeking capability referred to generally as tuning aids) are incorporated into the VHF portion of a TV broadcast receiver, tuning aids of the same type and comparable capability and quality shall be provided for the UHF portion of that receiver.

(e) If a television receiver has an antenna affixed to the VHF antenna terminals, it must have an antenna designed for and capable of receiving all UHF television channels affixed to the UHF antenna terminals. If a VHF antenna is provided with but not affixed to a receiver, a UHF antenna shall be provided with the receiver.

(f) The picture sensitivity of a TV broadcast receiver averaged for all channels between 14 and 69 inclusive shall not be more than 8dB larger than the peak picture sensitivity of that receiver averaged for all channels between 2 and 13 inclusive.

(g) The noise figure for any television channel 14 to 69 inclusive shall not exceed 14 dB. A TV receiver model is considered to comply with this noise figure if the maximum noise figure for channels 14–69 inclusive of 97.5% of all receivers within that model does not exceed 14 dB.

(1) The responsible party shall measure the noise figure of a number of UHF channels of the test sample to give reasonable assurance that the UHF noise figure for each channel complies with the above limit.

(2) The responsible party shall insert in his files a statement explaining the basis on which it will rely to ensure that at least 97.5% of all production units of the test sample that are manufactured have a noise figure of no greater than 14 dB.

(3) [Reserved]

(4) In the case of a TV tuner built-in as part of a video tape recorder that uses a power splitter between the antenna terminals of the video tape recorder and the input terminals of the TV tuner or a TV broadcast receiver that uses a power splitter between the antenna terminals of two or more UHF tuners contained within that receiver, 4 dB may be subtracted from the noise figure measured at the antenna terminals of the video tape recorder or TV broadcast receiver for determining compliance of the UHF tuner(s) with the 14 dB noise figure limit.

(h) *Digital television reception capability.* TV broadcast receivers are required only to provide useable picture and sound commensurate with their video and audio capabilities when receiving digital television signals.

(i) *Digital television reception capability implementation schedule.* (1) Responsible parties, as defined in §2.909 of this chapter, are required to equip new TV broadcast receivers that are shipped in interstate commerce or imported from any foreign country into the United States and for which they are responsible to comply with the provisions of this section in accordance with the following schedule:

(i) Receivers with screen sizes 36″ and above—50% of all of a responsible party's units must include DTV tuners effective July 1, 2004; 100% of such units must include DTV tuners effective July 1, 2005.

(ii) Receivers with screen sizes 25″ to less than 36″—50% of all of a responsible party's units must include DTV tuners effective July 1, 2005; 100% of

such units must include DTV tuners effective March 1, 2006.

(iii) Receivers with screen sizes less than 25″—100% of all such units must include DTV tuners effective March 1, 2007.

(iv) Other video devices (videocassette recorders (VCRs), digital video recorders such as hard drive and DVD recorders, etc.) that receive television signals—100% of all such units must include DTV tuners effective March 1, 2007.

(2) For purposes of this implementation schedule, screen sizes are to be measured diagonally across the picture viewing area.

(3) Responsible parties may include combinations of DTV monitors and set-top DTV tuners in meeting the required percentages of units with a DTV tuner if such combinations are marketed together with a single price.

(4) The requirement to include digital television reception capability in new TV broadcast receivers does not apply to devices such as mobile telephones and personal digital assistants where such devices do not include the capability to receive TV service on the frequencies allocated for broadcast television service.

(j) For a TV broadcast receiver equipped with a cable input selector switch, the selector switch shall provide, in any of its set positions, isolation between the antenna and cable input terminals of at least 80 dB from 54 MHz to 216 MHz, at least 60 dB from 216 MHz to 550 MHz and at least 55 dB from 550 MHz to 806 MHz. The 80 dB standard applies at 216 MHz and the 60 dB standard applies at 550 MHz. In the case of a selector switch requiring a power source, the required isolation shall be maintained in the event the device is not connected to a power source or power is interrupted. An actual switch that can alternate between reception of cable television service and an antenna is not required for a TV broadcast receiver, provided compliance with the isolation requirement specified in this paragraph can be demonstrated and the circuitry following the antenna input terminal(s) has sufficient band-width to allow the reception of all TV broadcast channels authorized under this chapter. The provisions of this paragraph regarding frequencies in the range 550 MHz to 806 MHz are applicable as of June 30, 1997.

(k) The following requirements apply to all responsible parties, as defined in § 2.909 of this chapter, and any person that displays or offers for sale or rent television receiving equipment that is not capable of receiving, decoding and tuning digital signals.

(1) Such parties and persons shall place conspicuously and in close proximity to such television broadcast receivers a sign containing, in clear and conspicuous print, the Consumer Alert disclosure text required by paragraph (k)(3) of this section. The text should be in a size of type large enough to be clear, conspicuous and readily legible, consistent with the dimensions of the equipment and the label. The information may be printed on a transparent material and affixed to the screen, if the receiver includes a display, in a manner that is removable by the consumer and does not obscure the picture, or, if the receiver does not include a display, in a prominent location on the device, such as on the top or front of the device, when displayed for sale, or the information in this format may be displayed separately immediately adjacent to each television broadcast receiver offered for sale and clearly associated with the analog-only model to which it pertains.

(2) If such parties and persons display or offer for sale or rent such television broadcast receivers via direct mail, catalog, or electronic means, they shall prominently display in close proximity to the images or descriptions of such television broadcast receivers, in clear and conspicuous print, the Consumer Alert disclosure text required by paragraph (k)(3) of this section. The text should be in a size large enough to be clear, conspicuous, and readily legible, consistent with the dimensions of the advertisement or description.

(3) *Consumer alert.* This television receiver has only an analog broadcast tuner and will require a converter box after February 17, 2009, to receive over-the-air broadcasts with an antenna because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before with cable and satellite TV services, gaming

consoles, VCRs, DVD players, and similar products. For more information, call the Federal Communications Commission at 1–888–225–5322 (TTY: 1–888–835–5322) or visit the Commission's digital television Web site at: *http://www.dtv.gov*.

[54 FR 17714, Apr. 25, 1993, as amended at 59 FR 25341, May 16, 1994; 61 FR 30532, June 17, 1996; 67 FR 63294, Oct. 11, 2002; 70 FR 38804, July 6, 2005; 70 FR 75743, Dec. 21, 2005; 72 FR 26560, May 10, 2007; 73 FR 5681, Jan. 30, 2008]

### § 15.118 Cable ready consumer electronics equipment.

(a) All consumer electronics TV receiving equipment marketed in the United States as cable ready or cable compatible shall comply with the provisions of this section. Consumer electronics TV receiving equipment that includes features intended for use with cable service but does not fully comply with the provisions of this section are subject to the labelling requirements of § 15.19(d). Until such time as generally accepted testing standards are developed, paragraphs (c) and (d) of this section will apply only to the analog portion of covered consumer electronics TV receiving equipment

(b) Cable ready consumer electronics equipment shall be capable of receiving all NTSC or similar video channels on channels 1 through 125 of the channel allocation plan set forth in CEA–542–B: ''CEA Standard: Cable Television Channel Identification Plan,'' (incorporated by reference, *see* § 15.38).

(c) Cable ready consumer electronics equipment must meet the following technical performance requirements. Compliance with these requirements shall be determined by performing measurements at the unfiltered IF output port. Where appropriate, the Commission will consider allowing alternative measurement methods.

(1) *Adjacent channel interference*. In the presence of a lower adjacent channel CW signal that is 1.5 MHz below the desired visual carrier in frequency and 10 dB below the desired visual carrier in amplitude, spurious signals within the IF passband shall be attenuated at least 55 dB below the visual carrier of the desired signal. The desired input signal shall be an NTSC visual carrier modulated with a 10 IRE flat field with color burst and the aural carrier which is 10 dB below the visual carrier should be unmodulated. Measurements are to be performed for input signal levels of 0 dBmV and +15 dBmV, with the receiver tuned to ten evenly spaced EIA IS–132 channels covering the band 54 MHz to 804 MHz.

(2) *Image channel interference*. Image channel interference within the IF passband shall be attenuated below the visual carrier of the desired channel by at least 60 dB from 54 MHz to 714 MHz and 50 dB from 714 MHz to 804 MHz. The 60 dB standard applies at 714 MHz. In testing for compliance with this standard, the desired input signal is to be an NTSC signal on which the visual carrier is modulated with a 10 IRE flat field with color burst and the aural carrier is unmodulated and 10 dB below the visual carrier. The undesired test signal shall be a CW signal equal in amplitude to the desired visual carrier and located 90 MHz above the visual carrier frequency of the desired channel. Measurements shall be performed for input signals of 0 dBmV and +15 dBmV, with the receiver tuned to at least ten evenly spaced EIA IS–132 channels covering the band 54 MHz to 804 MHz.

(3) *Direct pickup interference*. The direct pickup (DPU) of a co-channel interfering ambient field by a cable ready device shall not exceed the following criteria. The ratio of the desired to undesired signal levels at the IF passband on each channel shall be at least 45 dB. The average ratio over the six channels shall be at least 50 dB. The desired input signal shall be an NTSC signal having a visual carrier level of 0 dBmV. The visual carrier is modulated with a 10 IRE flat field with color burst, visual to aural carrier ratio of 10 dB, aural carrier unmodulated. The equipment under test (EUT) shall be placed on a rotatable table that is one meter in height. Any excess length of the power cord and other connecting leads shall be coiled on the floor under the table. The EUT shall be immersed in a horizontally polarized uniform CW field of 100 mV/m at a frequency 2.55 MHz above the visual carrier of the EUT tuned channel. Measurements shall be made with the EUT tuned to six EIA IS–132 channels, two each in

the low VHF, high VHF and UHF broadcast bands. On each channel, the levels at the IF passband due to the desired and interfering signals are to be measured.

(4) *Tuner overload.* Spurious signals within the IF passband shall be attenuated at least 55 dB below the visual carrier of the desired channel using a comb-like spectrum input with each visual carrier signal individually set at +15 dBmV from 54 to 550 MHz. The desired input signal is to be an NTSC signal on which the visual carrier is modulated with a 10 IRE flat field with color burst and the aural carrier is unmodulated and 10 dB below the visual carrier. Measurements shall be made with the receiver tuned to at least seven evenly spaced EIA IS–132 channels covering the band 54 MHz to 550 MHz. In addition, spurious signals within the IF passband shall be attenuated at least 51 dB below the visual carrier of the desired channel using a comb spectrum input with each signal individually set at +15 dBmV from 550 to 804 MHz. Measurements shall be made with the receiver tuned to at least three evenly spaced EIA IS–132 channels covering the band 550 MHz to 804 MHz.

(5) *Cable input conducted emissions.* (i) Conducted spurious emissions that appear at the cable input to the device must meet the following criteria. The input shall be an NTSC video carrier modulated with a 10 IRE flat field with color burst at a level of 0 dBmV and with a visual to aural ratio of 10 dB. The aural carrier shall be unmodulated. The peak level of the spurious signals will be measured using a spectrum analyzer connected by a directional coupler to the cable input of the equipment under test. Spurious signal levels must not exceed the limits in the following table:

From 54 MHz up to and including 300 MHz–26 dBmV
From 300 MHz up to and including 450 MHz–20 dBmV
From 450 MHz up to and including 804 MHz-15 dBmV

(ii) The average of the measurements on multiple channels from 450 MHz up to and including 804 MHz shall be no greater than -20 dBmV. Measurements shall be made with the receiver tuned to at least four EIA IS–132 channels in each of the above bands. The test channels are to be evenly distributed across each of the bands. Measurements for conducted emissions caused by sources internal to the device are to be made in a shielded room. Measurements for conducted emissions caused by external signal sources shall be made in an ambient RF field whose field strength is 100 mV/m, following the same test conditions as described in paragraph (c)(3) of this section.

(d) The field strength of radiated emissions from cable ready consumer electronics equipment shall not exceed the limits in § 15.109(a) when measured in accordance with the applicable procedures specified in §§ 15.31 and 15.35 for unintentional radiators, with the following modifications. During testing the NTSC input signal level is to be +15 dBmV, with a visual to aural ratio of 10 dB. The visual carrier is to be modulated by a 10 IRE flat field with color burst; the aural carrier is to be unmodulated. Measurements are to be taken on six EIA IS–132 channels evenly spaced across the required RF input range of the equipment under test.

NOTE: The provisions of paragraphs (a) through (d) of this section are applicable as of June 30, 1997.

[59 FR 25341, May 16, 1994, as amended at 61 FR 18509, Apr. 26, 1996; 65 FR 64391, Oct. 27, 2000; 68 FR 68546, Dec. 9, 2003; 69 FR 2849, Jan. 21, 2004; 69 FR 57861, Sept. 28, 2004]

### § 15.119 Closed caption decoder requirements for analog television receivers.

(a) Effective July 1, 1993, all TV broadcast receivers with picture screens 33 cm (13 in) or larger in diameter shipped in interstate commerce, manufactured, assembled, or imported from any foreign country into the United States shall comply with the provisions of this section.

NOTE: This paragraph places no restriction on the shipping or sale of television receivers that were manufactured before July 1, 1993.

(b) *Transmission format.* Closed-caption information is transmitted on line 21 of field 1 of the vertical blanking interval of television signals, in accordance with § 73.682(a)(22) of this chapter.

(c) *Operating modes.* The television receiver will employ customer-selectable modes of operation for TV and Caption. A third mode of operation, Text, may be included on an optional basis. The Caption and Text Modes may contain data in either of two operating channels, referred to in this document as C1 and C2. The television receiver must decode both C1 and C2 captioning, and must display the captioning for whichever channel the user selects. The TV Mode of operation allows the video to be viewed in its original form. The Caption and Text Modes define one or more areas (called ''boxes'') on the screen within which caption or text characters are displayed.

NOTE: For more information regarding Text mode, see ''Television Captioning for the Deaf: Signal and Display Specifications'', Engineering Report No. E–7709–C, Public Broadcasting Service, dated May 1980, and ''TeleCaption II Decoder Module Performance Specification'', National Captioning Institute, Inc., dated November 1985. These documents are available, respectively, from the Public Broadcasting Service, 1320 Braddock Place, Alexandria, VA 22314 and from the National Captioning Institute, Inc., 5203 Leesburg Pike, Falls Church, VA 22041.

(d) *Screen format.* The display area for captioning and text shall fall approximately within the safe caption area as defined in paragraph (n)(12) of this section. This display area will be further divided into 15 character rows of equal height and 32 columns of equal width, to provide accurate placement of text on the screen. Vertically, the display area begins on line 43 and is 195 lines high, ending on line 237 on an interlaced display. All captioning and text shall fall within these established columns and rows. The characters must be displayed clearly separated from the video over which they are placed. In addition, the user must have the capability to select a black background over which the captioned letters are displaced.

(1) *Caption mode.* In the Caption Mode, text can appear on up to 4 rows simultaneously anywhere on the screen within the defined display area. In addition, a solid space equal to one column width may be placed before the first character and after the last character of each row to enhance legibility. The caption area will be transparent anywhere that either:

(i) No standard space character or other character has been addressed and no accompanying solid space is needed; or,

(ii) An accompanying solid space is used and a ''transparent space'' special character has been addressed which does not immediately precede or follow a displayed character.

(2) [Reserved]

(e) *Presentation format.* In analyzing the presentation of characters, it is convenient to think in terms of a non-visible cursor which marks the screen position at which the next event in a given mode and data channel will occur. The receiver remembers the cursor position for each mode even when data are received for a different address in an alternate mode or data channel.

(1) *Screen addressing.* Two kinds of control codes are used to move the cursor to specific screen locations. In Caption Mode, these addressing codes will affect both row and column positioning. In Text Mode, the codes affect only column positioning. In both modes, the addressing codes are optional. Default positions are defined for each mode and style when no addressing code is provided.

(i) The first type of addressing code is the Preamble Address Code (PAC). It assigns a row number and one of eight ''indent'' figures. Each successive indent moves the cursor four columns to the right (starting from the left margin). Thus, an indent of 0 places the cursor at Column 1, an indent of 4 sets it at Column 5, etc. The PAC indent is non-destructive to displayable characters. It will not affect the display to the left of the new cursor position on the indicated row. Note that Preamble Address Codes also set initial attributes for the displayable characters which follow. See paragraph (h) of this section and the Preamble Address Code table.

(ii) The second type of addressing code is the Tab Offset, which is one of three Miscellaneous Control Codes. Tab Offset will move the cursor one, two, or three columns to the right. The character cells skipped over will be unaffected; displayable characters in these

cells, if any, will remain intact while empty cells will remain empty, in the same manner that a PAC indent is non-destructive.

(2) [Reserved]

(f) *Caption Mode.* There are three styles of presenting text in Caption Mode: roll-up, pop-on, and paint-on. Character display varies significantly with the style used, but certain rules of character erasure are common to all styles. A character can be erased by addressing another character to the same screen location or by backspacing over the character from a subsequent location on the same row. The entire displayed memory will be erased instantly by receipt of an Erase Displayed Memory command. Both displayed memory and non-displayed memory will be entirely erased simultaneously by either: The user switching receiver channels or data channels (C1/C2) or fields (F1/F2) in decoders so equipped; the loss of valid data (see paragraph (j) of this section); or selecting non-captioning receiver functions which use the display memory of the decoder. Receipt of an End of Caption command will cause a displayed caption to become non-displayed (and vice versa) without being erased from memory. Changing the receiver to a non-captioning mode which does not require use of the decoder's display memory will leave that memory intact, and the decoder will continue to process data as if the caption display were selected.

(1) *Roll-up.* Roll-up style captioning is initiated by receipt of one of three Miscellaneous Control Codes that determine the maximum number of rows displayed simultaneously, either 2, 3 or 4 contiguous rows. These are the three Roll-Up Caption commands.

(i) The bottom row of the display is known as the ''base row''. The cursor always remains on the base row. Rows of text roll upwards into the contiguous rows immediately above the base row to create a ''window'' 2 to 4 rows high.

(ii) The Roll-Up command, in normal practice, will be followed (not necessarily immediately) by a Preamble Address Code indicating the base row and the horizontal indent position. If no Preamble Address Code is received, the base row will default to Row 15 or, if a roll-up caption is currently displayed, to the same base row last received, and the cursor will be placed at Column 1. If the Preamble Address Code received contains a different base row than that of a currently displayed caption, the entire window will move intact (and without erasing) to the new base row immediately.

(iii) Each time a Carriage Return is received, the text in the top row of the window is erased from memory and from the display or scrolled off the top of the window. The remaining rows of text are each rolled up into the next highest row in the window, leaving the base row blank and ready to accept new text. This roll-up must appear smooth to the user, and must take no more than 0.433 second to complete. The cursor is automatically placed at Column 1 (pending receipt of a Preamble Address Code).

(iv) Increasing or decreasing the number of roll-up rows instantly changes the size of the active display window, appropriately turning on or off the display of the top one or two rows. A row which is turned off should also be erased from memory.

(v) Characters are always displayed immediately when received by the receiver. Once the cursor reaches the 32nd column position on any row, all subsequent characters received prior to a Carriage Return, Preamble Address Code, or Backspace will be displayed in that column replacing any previous character occupying that address.

(vi) The cursor moves automatically one column to the right after each character or Mid-Row Code received. A Backspace will move the cursor one column to the left, erasing the character or Mid-Row Code occupying that location. (A Backspace received when the cursor is in Column 1 will be ignored.)

(vii) The Delete to End of Row command will erase from memory any characters or control codes starting at the current cursor location and in all columns to its right on the same row. If no displayable characters remain on the row after the Delete to End of Row is acted upon, the solid space (if any) for that row should also be erased to conform with the following provisions.

(viii) If a solid space is used for legibility, it should appear when the first displayable character (not a transparent space) or Mid-Row Code is received on a row, not when the Preamble Address Code, if any, is given. A row on which there are no displayable characters or Mid-Row Codes will not display a solid space, even when rolled up between two rows which do display a solid space.

(ix) If the reception of data for a row is interrupted by data for the alternate data channel or for Text Mode, the display of caption text will resume from the same cursor position if a Roll-Up Caption command is received and no Preamble Address Code is given which would move the cursor.

(x) A roll-up caption remains displayed until one of the standard caption erasure techniques is applied. Receipt of a Resume Caption Loading command (for pop-on style) or a Resume Direct Captioning command (for paint-on style) will not affect a roll-up display. Receipt of a Roll-Up Caption command will cause any pop-on or paint-on caption to be erased from displayed memory and non-displayed memory.

(2) *Pop-on.* Pop-on style captioning is initiated by receipt of a Resume Caption Loading command. Subsequent data are loaded into a non-displayed memory and held there until an End of Caption command is received, at which point the non-displayed memory becomes the displayed memory and vice versa. (This process is often referred to as ''flipping memories'' and does not automatically erase memory.) An End of Caption command forces the receiver into pop-on style if no Resume Caption Loading command has been received which would do so. The display will be capable of 4 full rows, not necessarily contiguous, simultaneous anywhere on the screen.

(i) Preamble Address Codes can be used to move the cursor around the screen in random order to place captions on Rows 1 to 15. Carriage Returns have no effect on cursor location during caption loading.

(ii) The cursor moves automatically one column to the right after each character or Mid-Row Code received. Receipt of a Backspace will move the cursor one column to the left, erasing the character or Mid-Row Code occupying that location. (A Backspace received when the cursor is in Column 1 will be ignored.) Once the cursor reaches the 32nd column position on any row, all subsequent characters received prior to a Backspace, an End of Caption, or a Preamble Address Code, will replace any previous character at that location.

(iii) The Delete to End of Row command will erase from memory any characters or control codes starting at the current cursor location and in all columns to its right on the same row. If no displayable characters remain on a row after the Delete to End of Row is acted upon, the solid space (if any) for that element should also be erased.

(iv) If data reception is interrupted during caption loading by data for the alternate caption channel or for Text Mode, caption loading will resume at the same cursor position if a Resume Caption Loading command is received and no Preamble Address Code is given that would move the cursor.

(v) Characters remain in non-displayed memory until an End of Caption command flips memories. The caption will be erased without being displayed upon receipt of an Erase Non-Displayed Memory command, a Roll-Up Caption command, or if the user switches receiver channels, data channels or fields, or upon the loss of valid data (see paragraph (j) of this section).

(vi) A pop-on caption, once displayed, remains displayed until one of the standard caption erasure techniques is applied or until a Roll-Up Caption command is received. Characters within a displayed pop-on caption will be replaced by receipt of the Resume Direct Captioning command and paint-on style techniques (see below).

(3) *Paint-on.* Paint-on style captioning is initiated by receipt of a Resume Direct Captioning command. Subsequent data are addressed immediately to displayed memory without need for an End of Caption command.

(i) Preamble Address Codes can be used to move the cursor around the screen in random order to display captions on Rows 1 to 15. Carriage Returns have no affect on cursor location during direct captioning. The cursor

moves automatically one column to the right after each character or Mid-Row Code is received. Receipt of a Backspace will move the cursor one column to the left, erasing the character or Mid-Row Code occupying that location. (A Backspace received when the cursor is in Column 1 will be ignored.) Once the cursor reaches the 32nd column position on any row, all subsequent characters received prior to a Preamble Address Code or Backspace will be displayed in that column replacing any previous character occupying that location.

(ii) The Delete to End of Row command will erase from memory any characters or control codes starting at the current cursor location and in all columns to its right on the same row. If no displayable characters remain on the row after the Delete to End of Row is acted upon, the solid space (if any) for that element should also be erased.

(iii) If the reception of data is interrupted during the direct captioning by data for the alternate caption channel or for Text Mode, the display of caption text will resume at the same cursor position if a Resume Direct Captioning command is received and no Preamble Address Code is given which would move the cursor.

(iv) Characters remain displayed until one of the standard caption erasure techniques is applied or until a Roll-Up Caption command is received. An End of Caption command leaves a paint-on caption fully intact in non-displayed memory. In other words, a paint-on style caption behaves precisely like a pop-on style caption which has been displayed.

(g) *Character format*. Characters are to be displayed on the screen within a character ''cell'' which is the height and width of a single row and column. The following codes define the displayable character set. Television receivers manufactured prior to January 1, 1996 and having a character resolution of 5×7 dots, or less, may display the allowable alternate characters in the character table. A statement must be in a prominent location on the box or other package in which the receiver is to be marketed, and information must be in the owner's manual, indicating the receiver displays closed captioning in upper case only.

CHARACTER SET TABLE

*Special Characters*

These require two bytes for each symbol. Each hex code as shown will be preceded by a 11h for data channel 1 or by a 19h for data channel 2. For example: 19h 37h will place a musical note in data channel 2.

| HEX | Example | Alternate | Description |
|---|---|---|---|
| 30 | ® | See note [1] | Registered mark symbol |
| 31 | ° | | Degree sign |
| 32 | ½ | | ½ |
| 33 | ¿ | | Inverse query |
| 34 | ™ | See note [1] | Trademark symbol |
| 35 | ¢ | | Cents sign |
| 36 | £ | | Pounds Sterling sign |
| 37 | ♪ | | Music note |
| 38 | à | A | Lower-case a with grave accent |
| 39 | | | Transparent space |
| 3A | è | E | Lower-case e with grave accent |
| 3B | â | A | Lower-case a with circumflex |
| 3C | ê | E | Lower-case e with circumflex |
| 3D | î | I | Lower-case i with circumflex |
| 3E | ô | O | Lower-case o with circumflex |
| 3F | û | U | Lower-case u with circumflex |

[1] NOTE: The registered and trademark symbols are used to satisfy certain legal requirements. There are various legal ways in which these symbols may be drawn or displayed. For example, the trademark symbol may be drawn with the ''T'' next to the ''M'' or over the ''M''. It is preferred that the trademark symbol be superscripted, i.e., XYZ™. It is left to each individual manufacturer to interpret these symbols in any way that meets the legal needs of the user.

*Standard characters*

| HEX | Example | Alternate | Description |
|---|---|---|---|
| 20 | | | Standard space |
| 21 | ! | | Exclamation mark |
| 22 | " | | Quotation mark |
| 23 | # | | Pounds (number) sign |
| 24 | $ | | Dollar sign |
| 25 | % | | Percentage sign |
| 26 | & | | Ampersand |
| 27 | ' | | Apostrophe |
| 28 | ( | | Open parentheses |
| 29 | ) | | Close parentheses |
| 2A | á | A | Lower-case a with acute accent |
| 2B | + | | Plus sign |
| 2C | , | | Comma |
| 2D | – | | Minus (hyphen) sign |
| 2E | . | | Period |
| 2F | / | | Slash |
| 30 | 0 | | Zero |
| 31 | 1 | | One |
| 32 | 2 | | Two |
| 33 | 3 | | Three |
| 34 | 4 | | Four |
| 35 | 5 | | Five |
| 36 | 6 | | Six |
| 37 | 7 | | Seven |
| 38 | 8 | | Eight |
| 39 | 9 | | Nine |
| 3A | : | | Colon |
| 3B | ; | | Semi-colon |

| HEX | Example | Alternate | Description |
|---|---|---|---|
| 3C | < | | Less than sign |
| 3D | = | | Equal sign |
| 3E | > | | Greater than sign |
| 3F | ? | | Question mark |
| 40 | @ | | At sign |
| 41 | A | | Upper-case A |
| 42 | B | | Upper-case B |
| 43 | C | | Upper-case C |
| 44 | D | | Upper-case D |
| 45 | E | | Upper-case E |
| 46 | F | | Upper-case F |
| 47 | G | | Upper-case G |
| 48 | H | | Upper-case H |
| 49 | I | | Upper-case I |
| 4A | J | | Upper-case J |
| 4B | K | | Upper-case K |
| 4C | L | | Upper-case L |
| 4D | M | | Upper-case M |
| 4E | N | | Upper-case N |
| 4F | O | | Upper-case O |
| 50 | P | | Upper-case P |
| 51 | Q | | Upper-case Q |
| 52 | R | | Upper-case R |
| 53 | S | | Upper-case S |
| 54 | T | | Upper-case T |
| 55 | U | | Upper-case U |
| 56 | V | | Upper-case V |
| 57 | W | | Upper-case W |
| 58 | X | | Upper-case X |
| 59 | Y | | Upper-case Y |
| 5A | Z | | Upper-case Z |
| 5B | [ | | Open bracket |
| 5C | é | E | Lower-case e with acute accent |
| 5D | ] | | Close bracket |
| 5E | í | I | Lower-case i with acute accent |
| 5F | ó | O | Lower-case o with acute accent |
| 60 | ú | U | Lower-case u with acute accent |
| 61 | a | A | Lower-case a |
| 62 | b | B | Lower-case b |
| 63 | c | C | Lower-case c |
| 64 | d | D | Lower-case d |
| 65 | e | E | Lower-case e |
| 66 | f | F | Lower-case f |
| 67 | g | G | Lower-case g |
| 68 | h | H | Lower-case h |
| 69 | i | I | Lower-case i |
| 6A | j | J | Lower-case j |
| 6B | k | K | Lower-case k |
| 6C | l | L | Lower-case l |
| 6D | m | M | Lower-case m |
| 6E | n | N | Lower-case n |
| 6F | o | O | Lower-case o |
| 70 | p | P | Lower-case p |
| 71 | q | Q | Lower-case q |
| 72 | r | R | Lower-case r |
| 73 | s | S | Lower-case s |
| 74 | t | T | Lower-case t |
| 75 | u | U | Lower-case u |
| 76 | v | V | Lower-case v |
| 77 | w | W | Lower-case w |
| 78 | x | X | Lower-case x |
| 79 | y | Y | Lower-case y |
| 7A | z | Z | Lower-case z |
| 7B | ç | C | Lower-case c with cedilla |
| 7C | ÷ | | Division sign |
| 7D | Ñ | | Upper-case N with tilde |
| 7E | ñ | Ñ | Lower-case n with tilde |
| 7F | ■ | | Solid block |

(h) *Character Attributes*—(1) *Transmission of Attributes*. A character may be transmitted with any or all of four attributes: Color, italics, underline, and flash. All of these attributes are set by control codes included in the received data. An attribute will remain in effect until changed by another control code or until the end of the row is reached. Each row begins with a control code which sets the color and underline attributes. (White non-underlined is the default display attribute if no Preamble Address Code is received before the first character on an empty row.) Attributes are not affected by transparent spaces within a row.

(i) All Mid-Row Codes and the Flash On command are spacing attributes which appear in the display just as if a standard space (20h) had been received. Preamble Address Codes are non-spacing and will not alter any attributes when used to position the cursor in the midst of a row of characters.

(ii) The color attribute has the highest priority and can only be changed by the Mid-Row Code of another color. Italics has the next highest priority. If characters with both color and italics are desired, the italics Mid-Row Code must follow the color assignment. Any color Mid-Row Code will turn off italics. If the least significant bit of a Preamble Address Code or of a color or italics Mid-Row Code is a 1 (high), underlining is turned on. If that bit is a 0 (low), underlining is off.

(iii) The flash attribute is transmitted as a Miscellaneous Control Code. The Flash On command will not alter the status of the color, italics, or underline attributes. However, any color or italics Mid-Row Code will turn off flash.

(iv) Thus, for example, if a red, italicized, underlined, flashing character is desired, the attributes must be received in the following order: a red Mid-Row or Preamble Address Code, an italics Mid-Row Code with underline bit, and the Flash On command. The character will then be preceded by three spaces (two if red was assigned via a Preamble Address Code).

(2) *Display of attributes*. The underline attribute will be displayed by drawing a line beneath the character in the same color as the character. The flash attribute will be displayed by causing the character to blink from the display

at least once per second. The italic attribute must be capable of being displayed by either a special italic font, or by the modification of the standard font by slanting. The user may be given the option to select other methods of italic display as well. The support of the color attributes is optional. If the color attributes are supported, they will be displayed in the color they have been assigned. If color attributes are not supported, the display may be in color, but all color changes will be ignored.

(i) *Control codes.* There are three different types of control codes used to identify the format, location, attributes, and display of characters: Preamble Address Codes, Mid-Row Codes, and Miscellaneous Control Codes.

(1) Each control code consists of a pair of bytes which are always transmitted together in a single field of line 21 and which are normally transmitted twice in succession to help insure correct reception of the control instructions. The first of the control code bytes is a non-printing character in the range 10h to 1Fh. The second byte is always a printing character in the range 20h to 7Fh. Any such control code pair received which has not been assigned a function is ignored. If the non-printing character in the pair is in the range 00h to 0Fh, that character alone will be ignored and the second character will be treated normally.

(2) If the second byte of a control code pair does not contain odd parity (see paragraph (j) of this section), then the pair is ignored. The redundant transmission of the pair will be the instruction upon which the receiver acts.

(3) If the first byte of the first transmission of a control code pair fails the parity check, then that byte is inserted into the currently active memory as a solid block character (7Fh) followed by whatever the second byte is. Again, the redundant transmission of the pair will be the controlling instruction.

(4) If the first transmission of a control code pair passes parity, it is acted upon within one video frame. If the next frame contains a perfect repeat of the same pair, the redundant code is ignored. If, however, the next frame contains a different but also valid control code pair, this pair, too, will be acted upon (and the receiver will expect a repeat of this second pair in the next frame). If the first byte of the expected redundant control code pair fails the parity check and the second byte is identical to the second byte in the immediately preceding pair, then the expected redundant code is ignored. If there are printing characters in place of the redundant code, they will be processed normally.

(5) There is provision for decoding a second data channel. The second data channel is encoded with the same control codes and procedures already described. The first byte of every control code pair indicates the data channel (C1/C2) to which the command applies. Control codes which do not match the data channel selected by the user, and all subsequent data related to that control code, are ignored by the receiver.

MID-ROW CODES

| Data channel 1 | Data channel 2 | Attribute description |
|---|---|---|
| 11 20 | 19 20 | White. |
| 11 21 | 19 21 | White Underline. |
| 11 22 | 19 22 | Green. |
| 11 23 | 19 23 | Green Underline. |
| 11 24 | 19 24 | Blue. |
| 11 25 | 19 25 | Blue Underline. |
| 11 26 | 19 26 | Cyan. |
| 11 27 | 19 27 | Cyan Underline. |
| 11 28 | 19 28 | Red. |
| 11 29 | 19 29 | Red Underline. |
| 11 2A | 19 2A | Yellow. |
| 11 2B | 19 2B | Yellow Underline. |
| 11 2C | 19 2C | Magenta. |
| 11 2D | 19 2D | Magenta Underline. |
| 11 2E | 19 2E | Italics. |
| 11 2F | 19 2F | Italics Underline. |

MISCELLANEOUS CONTROL CODES

| Data channel 1 | Data channel 2 | Mnemonic | Command description |
|---|---|---|---|
| 14 20 | 1C 20 | RCL | Resume caption loading. |
| 14 21 | 1C 21 | BS ... | Backspace. |
| 14 22 | 1C 22 | AOF | Reserved (formerly Alarm Off). |
| 14 23 | 1C 23 | AON | Reserved (formerly Alarm On). |
| 14 24 | 1C 24 | DER | Delete to End of Row. |
| 14 25 | 1C 25 | RU2 | Roll-Up Captions–2 Rows. |
| 14 26 | 1C 26 | RU3 | Roll-Up Captions–3 Rows. |
| 14 27 | 1C 27 | RU4 | Roll-Up Captions–4 Rows. |
| 14 28 | 1C 28 | FON | Flash On. |
| 14 29 | 1C 29 | RDC | Resume Direct Captioning. |
| 14 2A | 1C 2A | TR ... | Text Restart. |
| 14 2B | 1C 2B | RTD | Resume Text Display. |
| 14 2C | 1C 2C | EDM | Erase Displayed Memory. |
| 14 2D | 1C 2D | CR ... | Carriage Return. |
| 14 2E | 1C 2E | ENM | Erase Non-Displayed Memory. |
| 14 2F | 1C 2F | EOC | End of Caption (Flip Memories). |

MISCELLANEOUS CONTROL CODES—Continued

| Data channel 1 | Data channel 2 | Mnemonic | Command description |
|---|---|---|---|
| 17 21 | 1F 21 | TO1 | Tab Offset 1 Column. |
| 17 22 | 1F 22 | TO2 | Tab Offset 2 Columns. |

MISCELLANEOUS CONTROL CODES—Continued

| Data channel 1 | Data channel 2 | Mnemonic | Command description |
|---|---|---|---|
| 17 23 | 1F 23 | TO3 | Tab Offset 3 Columns. |

PREAMBLE ADDRESS CODES

| | Row 1 | Row 2 | Row 3 | Row 4 | Row 5 | Row 6 | Row 7 | Row 8 | Row 9 | Row 10 | Row 11 | Row 12 | Row 13 | Row 14 | Row 15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| First byte of code pair: | | | | | | | | | | | | | | | |
| Data Channel 1 | 11 | 11 | 12 | 12 | 15 | 15 | 16 | 16 | 17 | 17 | 10 | 13 | 13 | 14 | 14 |
| Data Channel 2 | 19 | 19 | 1A | 1A | 1D | 1D | 1E | 1E | 1F | 1F | 18 | 1B | 1B | 1C | 1C |
| Second byte of code pair: | | | | | | | | | | | | | | | |
| White | 40 | 60 | 40 | 60 | 40 | 60 | 40 | 60 | 40 | 60 | 40 | 40 | 60 | 40 | 60 |
| White Underline | 41 | 61 | 41 | 61 | 41 | 61 | 41 | 61 | 41 | 61 | 41 | 41 | 61 | 41 | 61 |
| Green | 42 | 62 | 42 | 62 | 42 | 62 | 42 | 62 | 42 | 62 | 42 | 42 | 62 | 42 | 62 |
| Green Underline | 43 | 63 | 43 | 63 | 43 | 63 | 43 | 63 | 43 | 63 | 43 | 43 | 63 | 43 | 63 |
| Blue | 44 | 64 | 44 | 64 | 44 | 64 | 44 | 64 | 44 | 64 | 44 | 44 | 64 | 44 | 64 |
| Blue Underline | 45 | 65 | 45 | 65 | 45 | 65 | 45 | 65 | 45 | 65 | 45 | 45 | 65 | 45 | 65 |
| Cyan | 46 | 66 | 46 | 66 | 46 | 66 | 46 | 66 | 46 | 66 | 46 | 46 | 66 | 46 | 66 |
| Cyan Underline | 47 | 67 | 47 | 67 | 47 | 67 | 47 | 67 | 47 | 67 | 47 | 47 | 67 | 47 | 67 |
| Red | 48 | 68 | 48 | 68 | 48 | 68 | 48 | 68 | 48 | 68 | 48 | 48 | 68 | 48 | 68 |
| Red Underline | 49 | 69 | 49 | 69 | 49 | 69 | 49 | 69 | 49 | 69 | 49 | 49 | 69 | 49 | 69 |
| Yellow | 4A | 6A | 4A | 6A | 4A | 6A | 4A | 6A | 4A | 6A | 4A | 4A | 6A | 4A | 6A |
| Yellow Underline | 4B | 6B | 4B | 6B | 4B | 6B | 4B | 6B | 4B | 6B | 4B | 4B | 68 | 4B | 6B |
| Magenta | 4C | 6C | 4C | 6C | 4C | 6C | 4C | 6C | 4C | 6C | 4C | 4C | 6C | 4C | 6C |
| Magenta Underline | 4D | 6D | 4D | 6D | 4D | 6D | 4D | 6D | 4D | 6D | 4D | 4D | 6D | 4D | 6D |
| White Italics | 4E | 6E | 4E | 6E | 4E | 6E | 4E | 6E | 4E | 6E | 4E | 4E | 6E | 4E | 6E |
| White Italics Underline | 4F | 6F | 4F | 6F | 4F | 6F | 4F | 6F | 4F | 6F | 4F | 4F | 6F | 4F | 6F |
| Indent 0 | 50 | 70 | 50 | 70 | 50 | 70 | 50 | 70 | 50 | 70 | 50 | 50 | 70 | 50 | 70 |
| Indent 0 Underline | 51 | 71 | 51 | 71 | 51 | 71 | 51 | 71 | 51 | 71 | 51 | 51 | 71 | 51 | 71 |
| Indent 4 | 52 | 72 | 52 | 72 | 52 | 72 | 52 | 72 | 52 | 72 | 52 | 52 | 72 | 52 | 72 |
| Indent 4 Underline | 53 | 73 | 53 | 73 | 53 | 73 | 53 | 73 | 53 | 73 | 53 | 53 | 73 | 53 | 73 |
| Indent 8 | 54 | 74 | 54 | 74 | 54 | 74 | 54 | 74 | 54 | 74 | 54 | 54 | 74 | 54 | 74 |
| Indent 8 Underline | 55 | 75 | 55 | 75 | 55 | 75 | 55 | 75 | 55 | 75 | 55 | 55 | 75 | 55 | 75 |
| Indent 12 | 56 | 76 | 56 | 76 | 56 | 76 | 56 | 76 | 56 | 76 | 56 | 56 | 76 | 56 | 76 |
| Indent 12 Underline | 57 | 77 | 57 | 77 | 57 | 77 | 57 | 77 | 57 | 77 | 57 | 57 | 77 | 57 | 77 |
| Indent 16 | 58 | 78 | 58 | 78 | 58 | 78 | 58 | 78 | 58 | 78 | 58 | 58 | 78 | 58 | 78 |
| Indent 16 Underline | 59 | 79 | 59 | 79 | 59 | 79 | 59 | 79 | 59 | 79 | 59 | 59 | 79 | 59 | 79 |
| Indent 20 | 5A | 7A | 5A | 7A | 5A | 7A | 5A | 7A | 5A | 7A | 5A | 5A | 7A | 5A | 7A |
| Indent 20 Underline | 5B | 7B | 5B | 7B | 5B | 7B | 5B | 7B | 5B | 7B | 5B | 5B | 7B | 5B | 7B |
| Indent 24 | 5C | 7C | 5C | 7C | 5C | 7C | 5C | 7C | 5C | 7C | 5C | 5C | 7C | 5C | 7C |
| Indent 24 Underline | 5D | 7D | 5D | 7D | 5D | 7D | 5D | 7D | 5D | 7D | 5D | 5D | 7D | 5D | 7D |
| Indent 28 | 5E | 7E | 5E | 7E | 5E | 7E | 5E | 7E | 5E | 7E | 5E | 5E | 7E | 5E | 7E |
| Indent 28 Underline | 5F | 7F | 5F | 7F | 5F | 7F | 5F | 7F | 5F | 7F | 5F | 5F | 7F | 5F | 7F |

NOTE: All indent codes (second byte equals 50h–5fh, 70th–7fh) assign white as the color attribute.

(j) *Data rejection*. The receiver should provide an effective procedure to verify data. A receiver will reject data if the data is invalid, or if the data is directed to the data channel or field not selected by the user. Invalid data is any data that fails to pass a check for odd parity, or which, having passed the parity check, is assigned no function.

(1) If a print character fails to pass a check for parity, a solid block (7Fh) should be displayed in place of the failed character. In addition, valid data can be corrupted in many ways and may not be suitable for display. For example, repeated fields, skipped fields and altered field sequences are all possible from consumer video equipment and might present meaningless captions.

(2) The receiver will ignore data rejected due to being directed to a deselected field or channel. However, this will not cause the display to be disabled.

(k) *Automatic display enable/disable*. The receiver shall provide an automatic enable/disable capability to prevent the display of invalid or incomplete data, when the user selects the

Caption Mode. The display should automatically become enable after the receiver verifies the data as described in paragraph (j) of this section. The display will be automatically disabled when there is a sustained detection of invalid data. The display will be re-enabled when the data verification process has been satisfied once again.

(l) *Compatibility with Cable Security Systems.* Certain cable television security techniques, such as signal encryption and copy protection, can alter the television signal so that some methods of finding line 21 will not work. In particular, counting of lines or timing from the start of the vertical blanking interval may cause problems. Caption decoding circuitry must function properly when receiving signals from cable security systems that were designed and marketed prior to April 5, 1991. Further information concerning such systems is available from the National Cable Television Association, Inc., Washington, DC, and from the Electronic Industries Association, Washington, DC.

(m) *Labelling and consumer information requirements.* The box or other package in which the individual television receiver is to be marketed shall carry a statement in a prominent location, visible to the buyer before purchase, which reads as follows:

> This television receiver provides display of television closed captioning in accordance with §15.119 of the FCC rules.

Receivers that do not support color attributes or text mode, as well as receivers that display only upper-case characters pursuant to paragraph (g) of this section, must include with the statement, and in the owner's manual, language indicating that those features are not supported.

(n) *Glossary of terms.* The following terms are used to describe caption decoder specifications:

(1) *Base row:* The bottom row of a roll-up display. The cursor always remains on the base row. Rows of text roll upwards into the contiguous rows immediately above the base row.

(2) *Box:* The area surrounding the active character display. In Text Mode, the box is the entire screen area defined for display, whether or not displayable characters appear. In Caption Mode, the box is dynamically redefined by each caption and each element of displayable characters within a caption. The box (or boxes, in the case of a multiple-element caption) includes all the cells of the displayed characters, the non-transparent spaces between them, and one cell at the beginning and end of each row within a caption element in those decoders that use a solid space to improve legibility.

(3) *Caption window:* The invisible rectangle which defines the top and bottom limits of a roll-up caption. The window can be 2 to 4 rows high. The lowest row of the window is called the base row.

(4) *Cell:* The discrete screen area in which each displayable character or space may appear. A cell is one row high and one column wide.

(5) *Column:* One of 32 vertical divisions of the screen, each of equal width, extending approximately across the full width of the safe caption area as defined in paragraph (n)(12) of this section. Two additional columns, one at the left of the screen and one at the right, may be defined for the appearance of a box in those decoders which use a solid space to improve legibility, but no displayable characters may appear in those additional columns. For reference, columns may be numbered 0 to 33, with columns 1 to 32 reserved for displayable characters.

(6) *Displayable character:* Any letter, number or symbol which is defined for on-screen display, plus the 20h space.

(7) *Display disable:* To turn off the display of captions or text (and accompanying background) at the receiver, rather than through codes transmitted on line 21 which unconditionally erase the display. The receiver may disable the display because the user selects an alternate mode, e.g., TV Mode, or because no valid line 21 data is present.

(8) *Display enable:* To allow the display of captions or text when they are transmitted on line 21 and received as valid data. For display to be enabled, the user must have selected Caption Mode or Text Mode, and valid data for the selected mode must be present on line 21.

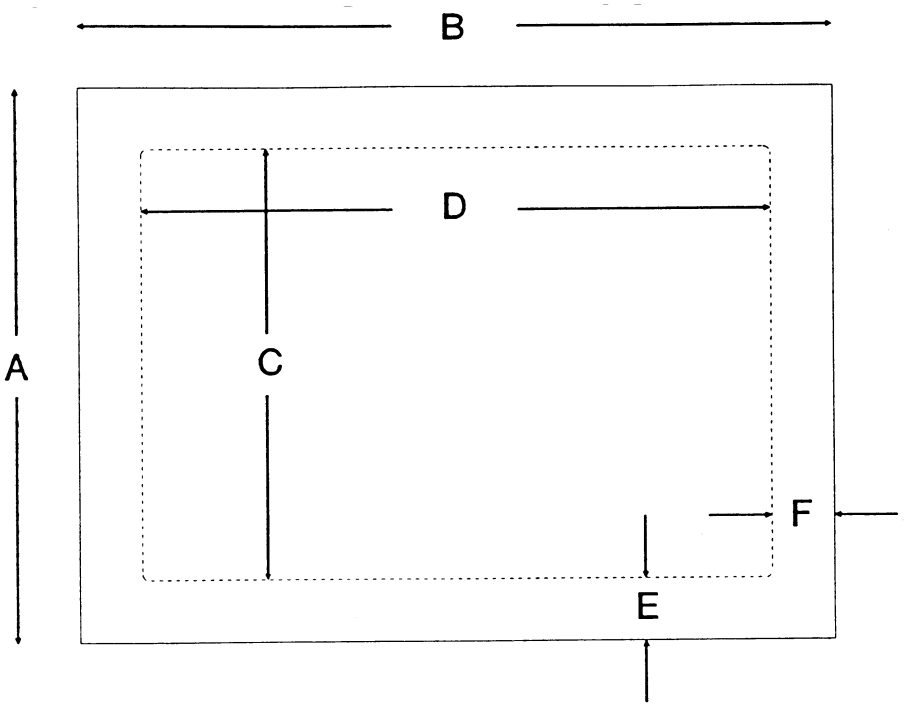
(9) *Element:* In a pop-on or paint-on style caption, each contiguous area of

cells containing displayable characters and non-transparent spaces between those characters. A single caption may have multiple elements. An element is not necessarily a perfect rectangle, but may include rows of differing widths.

(10) *Erase Display:* In Caption Mode, to clear the screen of all characters (and accompanying background) in response to codes transmitted on line 21. (The caption service provider can accomplish the erasure either by sending an Erase Displayed Memory command or by sending an Erase Non-Displayed Memory command followed by an End of Caption command, effectively making a blank caption ''appear''.) Display can also be erased by the receiver when the caption memory erasure conditions are met, such as the user changing TV channels.

(11) *Row:* One of 15 horizontal divisions of the screen, extending across the full height of the safe caption area as defined in paragraph (n)(12) of this section.

(12) *Safe caption area:* The area of the television picture within which captioning and text shall be displayed to ensure visibility of the information on the majority of home television receivers. The safe caption area is specified as shown in the following figure:




The dimensions of the above figure shall be as follows:

| Label | Dimensions | Percent of television picture height |
|---|---|---|
| A | Television picture height | 100.0 |
| B | Television picture width | 133.33 |
| C | Height of safe caption area | 80.0 |
| D | Width of safe caption area | 106.67 |
| E | Vertical position of safe caption area. | 10.0 |

| Label | Dimensions | Percent of television picture height |
|---|---|---|
| F | Horizontal position of safe caption area. | 13.33 |

(13) *Special characters:* Displayable characters (except for ''transparent space'') which require a two-byte sequence of one non-printing and one printing character. The non-printing byte varies depending on the data channel. Regular characters require unique one-byte codes which are the same in either data channel.

(14) *Text:* When written with an upper-case ''T'', refers to the Text Mode. When written with a lower-case ''t'', refers to any combination of displayable characters.

(15) *Transparent space:* Transmitted as a special character, it is a one-column-wide space behind which program video is always visible (except when a transparent space immediately precedes or follows a displayable character and solid box is needed to make that character legible).

[56 FR 27201, June 13, 1991, as amended at 57 FR 19094, May 4, 1992; 58 FR 44893, Aug. 25, 1993]

### § 15.120 Program blocking technology requirements for television receivers.

(a) Effective July 1, 1999, manufacturers of television broadcast receivers as defined in section 15.3(w) of this chapter, including personal computer systems meeting that definition, must ensure that one-half of their product models with picture screens 33 cm (13 in) or larger in diameter shipped in interstate commerce or manufactured in the United States comply with the provisions of paragraphs (c), (d), and (e) of this section.

NOTE: This paragraph places no restrictions on the shipping or sale of television receivers that were manufactured before July 1999.

(b) Effective January 1, 2000, all TV broadcast receivers as defined in § 15.3(w), including personal computer systems meeting that definition, with picture screens 33 cm (13 in) or larger, measured diagonally, or with displays in the 16:9 aspect ratio that are 19.8 cm (7.8 in) or greater in height and digital television receivers without an associated display device shipped in interstate commerce or manufactured in the United States shall comply with the provisions of paragraphs (c), (d), and (e) of this section.

(c) *Transmission format.* (1) Analog television program rating information shall be transmitted on line 21 of field 2 of the vertical blanking interval of television signals, in accordance with § 73.682(a)(22) of this chapter.

(2) Digital television program rating information shall be transmitted in digital television signals in accordance with § 73.682(d) of this chapter.

(d) *Operation.* (1) Analog television receivers will receive program ratings transmitted pursuant to EIA–744: ''Transport of Content Advisory Information Using Extended Data Service (XDS)'' (incorporated by reference, *see* § 15.38) and EIA–608: ''Recommended Practice for Line 21 Data Service'' (incorporated by reference, *see* § 15.38). Blocking of programs shall occur when a program rating is received that meets the pre-determined user requirements.

(2) Digital television receivers shall react in a similar manner as analog televisions when programmed to block specific rating categories. Effective March 15, 2006, digital television receivers will receive program rating descriptors transmitted pursuant to industry standard EIA/CEA–766–A ''U.S. and Canadian Region Rating Tables (RRT) and Content Advisory Descriptors for Transport of Content Advisory Information using ATSC A/65–A Program and System Information Protocol (PSIP),'' 2001 (incorporated by reference, *see* § 15.38). Blocking of programs shall occur when a program rating is received that meets the pre-determined user requirements. Digital television receivers shall be able to respond to changes in the content advisory rating system.

(e) All television receivers as described in paragraph (a) of this section shall block programming as follows:

(1) *Channel Blocking.* Channel Blocking should occur as soon as a program rating packet with the appropriate Content Advisory or MPAA rating level is received. Program blocking is

described as a receiver performing all of the following:

- Muting the program audio.
- Rendering the video black or otherwise indecipherable.
- Eliminating program-related captions.

(2) *Default State*. The default state of a receiver (i.e., as provided to the consumer) should not block unrated programs. However, it is permissible to include features that allow the user to reprogram the receiver to block programs that are not rated.

(3) *Picture-In-Picture (PIP)*. If a receiver has the ability to decode program-related rating information for the Picture-In-Picture (PIP) video signal, then it should block the PIP channel in the same manner as the main channel. If the receiver does not have the ability to decode PIP program-related rating information, then it should block or otherwise disable the PIP if the viewer has enabled program blocking.

(4) *Selection of Ratings*. Each television receiver, in accordance with user input, shall block programming based on the age based ratings, the content based ratings, or a combination of the two.

(i) If the user chooses to block programming according to its age based rating level, the receiver must have the ability to automatically block programs with a more restrictive age based rating. For example, if all shows with an age-based rating of TV-PG have been selected for blocking, the user should be able to automatically block programs with the more restrictive ratings of TV–14 and TV-MA.

(ii) If the user chooses to block programming according to a combination of age based and content based ratings the receiver must have the ability to automatically block programming with a more restrictive age rating but a similar content rating. For example, if all shows rated TV-PG-V have been selected for blocking, the user should be able to block automatically shows with the more restrictive ratings of TV–14–V and TV-MA-V.

(iii) The user should have the capability of overriding the automatic blocking described in paragraphs (e)(4)(i) and (4)(ii) of this section.

[63 FR 20133, Apr. 23, 1998, as amended at 68 FR 68546, Dec. 9, 2003; 69 FR 2849, Jan. 21, 2004; 69 FR 59534, Oct. 4, 2004; 73 FR 5682, Jan. 30, 2008; 74 FR 63079, Dec. 2, 2009]

### § 15.121 Scanning receivers and frequency converters used with scanning receivers.

(a) Except as provided in paragraph (c) of this section, scanning receivers and frequency converters designed or marketed for use with scanning receivers, shall:

(1) Be incapable of operating (tuning), or readily being altered by the user to operate, within the frequency bands allocated to the Cellular Radiotelephone Service in part 22 of this chapter (cellular telephone bands). Scanning receivers capable of ''readily being altered by the user'' include, but are not limited to, those for which the ability to receive transmissions in the cellular telephone bands can be added by clipping the leads of, or installing, a simple component such as a diode, resistor or jumper wire; replacing a plug-in semiconductor chip; or programming a semiconductor chip using special access codes or an external device, such as a personal computer. Scanning receivers, and frequency converters designed for use with scanning receivers, also shall be incapable of converting digital cellular communication transmissions to analog voice audio.

(2) Be designed so that the tuning, control and filtering circuitry is inaccessible. The design must be such that any attempts to modify the equipment to receive transmissions from the Cellular Radiotelephone Service likely will render the receiver inoperable.

(b) Except as provided in paragraph (c) of this section, scanning receivers shall reject any signals from the Cellular Radiotelephone Service frequency bands that are 38 dB or lower based upon a 12 dB SINAD measurement, which is considered the threshold where a signal can be clearly discerned from any interference that may be present.

(c) Scanning receivers and frequency converters designed or marketed for use with scanning receivers, are not

subject to the requirements of paragraphs (a) and (b) of this section provided that they are manufactured exclusively for, and marketed exclusively to, entities described in 18 U.S.C. 2512(2), or are marketed exclusively as test equipment pursuant to § 15.3(dd).

(d) Modification of a scanning receiver to receive transmissions from Cellular Radiotelephone Service frequency bands will be considered to constitute manufacture of such equipment. This includes any individual, individuals, entity or organization that modifies one or more scanners. Any modification to a scanning receiver to receive transmissions from the Cellular Radiotelephone Service frequency bands voids the certification of the scanning receiver, regardless of the date of manufacture of the original unit. In addition, the provisions of § 15.23 shall not be interpreted as permitting modification of a scanning receiver to receiver Cellular Radiotelephone Service transmissions.

(e) Scanning receivers and frequency converters designed for use with scanning receivers shall not be assembled from kits or marketed in kit form unless they comply with the requirements in paragraph (a) through (c) of this section.

(f) Scanning receivers shall have a label permanently affixed to the product, and this label shall be readily visible to the purchaser at the time of purchase. The label shall read as follows: WARNING: MODIFICATION OF THIS DEVICE TO RECEIVE CELLULAR RADIOTELEPHONE SERVICE SIGNALS IS PROHIBITED UNDER FCC RULES AND FEDERAL LAW.

(1) ''Permanently affixed'' means that the label is etched, engraved, stamped, silkscreened, indelible printed or otherwise permanently marked on a permanently attached part of the equipment or on a nameplate of metal, plastic or other material fastened to the equipment by welding, riveting, or permanent adhesive. The label shall be designed to last the expected lifetime of the equipment in the environment in which the equipment may be operated and must not be readily detachable. The label shall not be a stick-on, paper label.

(2) When the device is so small that it is not practicable to place the warning label on it, the information required by this paragraph shall be placed in a prominent location in the instruction manual or pamphlet supplied to the user and shall also be placed on the container in which the device is marketed. However, the FCC identifier must be displayed on the device.

[64 FR 22561, Apr. 27, 1999, as amended at 66 FR 32582, June 15, 2001]

### § 15.122 Closed caption decoder requirements for digital television receivers and converter boxes.

(a)(1) Effective July 1, 2002, all digital television receivers with picture screens in the 4:3 aspect ratio with picture screens measuring 13 inches or larger diagonally, all digital television receivers with picture screens in the 16:9 aspect ratio measuring 7.8 inches or larger vertically and all separately sold DTV tuners shipped in interstate commerce or manufactured in the United States shall comply with the provisions of this section.

NOTE TO PARAGRAPH (a)(1): This paragraph places no restrictions on the shipping or sale of digital television receivers that were manufactured before July 1, 2002.

(2) Effective July 1, 2002, DTV converter boxes that allow digitally transmitted television signals to be displayed on analog receivers shall pass available analog caption information to the attached receiver in a form recognizable by that receiver's built-in caption decoder circuitry.

NOTE TO PARAGRAPH (a)(2): This paragraph places no restrictions on the shipping or sale of DTV converter boxes that were manufactured before July 1, 2002.

(b) Digital television receivers and tuners must be capable of decoding closed captioning information that is delivered pursuant to EIA–708–B: ''Digital Television (DTV) Closed Captioning'' (incorporated by reference, *see* § 15.38).

(c) *Services*. (1) Decoders must be capable of decoding and processing data for the six standard services, Caption Service #1 through Caption Service #6.

(2) Decoders that rely on Program and System Information Protocol data

to implement closed captioning functions must be capable of decoding and processing the Caption Service Directory data. Such decoders must be capable of decoding all Caption Channel Block Headers consisting of Standard Service Headers, Extended Service Block Headers, and Null Block headers. However, decoding of the data is required only for Standard Service Blocks (Service IDs <-6), and then only if the characters for the corresponding language are supported. The decoders must be able to display the directory for services 1 through 6.

(d) *Code space organization.* (1) Decoders must support Code Space C0, G0, C1, and G1 in their entirety.

| | | C 0 | | G 0 | | | | | | C 1 | | G 1 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | B7-b4 | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | A | B | C | D | E | F |
| b3-b0 | 0 | NUL | EXT1 | SP | 0 | @ | P | ` | p | CW0 | SPA | NBS | ° | À | Ð | à | ð |
| | 1 | | | ! | 1 | A | Q | a | q | CW1 | SPC | ¡ | ± | Á | Ñ | á | ñ |
| | 2 | | | " | 2 | B | R | b | r | CW2 | SPL | ¢ | ² | Â | Ò | â | ò |
| | 3 | ETX | | # | 3 | C | S | c | s | CW3 | | £ | ³ | Ã | Ó | ã | ó |
| | 4 | | | $ | 4 | D | T | d | t | CW4 | | ¤ | ´ | Ä | Ô | ä | ô |
| | 5 | | | % | 5 | E | U | e | u | CW5 | | ¥ | µ | Å | Õ | å | õ |
| | 6 | | | & | 6 | F | V | f | v | CW6 | | ¦ | ¶ | Æ | Ö | æ | ö |
| | 7 | | | ' | 7 | G | W | g | w | CW7 | SWA | § | · | Ç | × | ç | ÷ |
| | 8 | BS | P16 | ( | 8 | H | X | h | x | CLW | DF0 | ¨ | ¸ | È | Ø | è | ø |
| | 9 | | | ) | 9 | I | Y | i | y | DSW | DF1 | © | ¹ | É | Ù | é | ù |
| | A | | | * | : | J | Z | j | z | HDW | DF2 | ª | º | Ê | Ú | ê | ú |
| | B | | | + | ; | K | [ | k | { | TGW | DF3 | « | » | Ë | Û | ë | û |
| | C | FF | | , | < | L | \ | l | \| | DLW | DF4 | ¬ | ¼ | Ì | Ü | ì | ü |
| | D | CR | | - | = | M | ] | m | } | DLY | DF5 | - | ½ | Í | Ý | í | ý |
| | E | HCR | | . | > | N | ^ | n | ~ | DLC | DF6 | ® | ¾ | Î | Þ | î | þ |
| | F | | | / | ? | O | _ | o | ♪ | RST | DF7 | ¯ | ¿ | Ï | ß | ï | ÿ |
| | 0 | | | TSP | | | | | | | | CC | | | | | |
| | 1 | | | NBTSP | ‘ | | | | | | | | | | | | |
| | 2 | | | | ’ | | | | | | | | | | | | |
| | 3 | | | | “ | | | | | | | | | | | | |
| | 4 | | | | ” | | | | | | | | | | | | |
| | 5 | | | … | | | | | | | | | | | | | |
| | 6 | | | | | | | | 1/8 | | | | | | | | |
| | 7 | | | | | | | | 3/8 | | | | | | | | |
| | 8 | | | | | | | | 5/8 | | | | | | | | |
| | 9 | | | | ™ | | | | 7/8 | | | | | | | | |
| | A | | | Š | š | | | | ▏ | | | | | | | | |
| | B | | | | | | | | ▕ | | | | | | | | |
| | C | | | Œ | œ | | | | ▁ | | | | | | | | |
| | D | | | | SM | | | | — | | | | | | | | |
| | E | | | | | | | | ▗ | | | | | | | | |
| | F | | | | Ÿ | | | | ▕ | | | | | | | | |
| | | C 2 | | G 2 | | | | | | C 3 | | G 3 | | | | | |

Table 1 DTVCC Code Set Mapping

(2) The following characters within code space G2 must be supported:

(i) Transparent space (TSP).

(ii) Non-breaking transparent space (NBTSP).

(iii) Solid block ( ).

(iv) Trademark symbol (™).

(v) Latin-1 characters Š, Œ, š, œ, Ÿ.

(3) The substitutions in Table 2 are to be made if a decoder does not support the remaining G2 characters.

TABLE 2—G2 CHARACTER SUBSTITUTION TABLE

| G2 Character | Substitute with |
|---|---|
| Open single quote (‘), G2 char code 0×31. | G0 single quote (‘), char code 0×27 |
| Close single quote (’), G2 char code 0×32. | G0 single quote (’), char code 0×27 |
| Open double quote (“), G2 char code 0×33. | G0 double quote (“), char code 0×22 |
| Close double quote (”), G2 char code 0×34. | G0 double quote (”), char code 0×22 |
| Bold bullet (•), G2 char code 0×35. | G1 bullet (•), char code 0×B7 |
| Elipsis (. . .), G2 char code 0×25. | G0 underscore (_), char code 0×5F |
| One-eighth (⅛), G2 char code 0×76. | G0 percent sign (%), char code 0×25 |
| Three-eighths (⅜), G2 char code 0×77. | G0 percent sign (%), char code 0×25 |
| Five-eighths (⅝), G2 char code 0×78. | G0 percent sign (%), char code 0×25 |
| Seven-eighths (⅞), G2 char code 0×79. | G0 percent sign (%), char code 0×25 |
| Vertical border (|), G2 char code 0×7A. | G0 stroke (|), char code 0×7C |

TABLE 2—G2 CHARACTER SUBSTITUTION TABLE—Continued

| G2 Character | Substitute with |
|---|---|
| Upper-right border (⎺), G2 char code 0×7B. | G0 dash (-), char code 0×2D |
| Lower-left border (⎿), G2 char code 0×7C. | G0 dash (-), char code 0×2D |
| Horizontal border (—), G2 char code 0×7D. | G0 dash (-), char code 0×2D |
| Lower-right border (⎽), G2 char code 0×7E. | G0 dash (-), char code 0×2D |
| Upper-left border (⎾), G2 char code 0×7F. | G0 dash (-), char code 0×2D |

(4) Support for code spaces C2, C3, and G3 is optional. All unsupported graphic symbols in the G3 code space are to be substituted with the G0 underscore character (_), char code 0×5F.

(e) *Screen coordinates.* Table 3 specifies the screen coordinate resolutions and limits for anchor point positioning in 4:3 and 16:9 display formats, and the number of characters per row.

TABLE 3—SCREEN COORDINATE RESOLUTIONS AND LIMITS

| Screen aspect ratio | Maximum anchor position resolution | Minimum anchor position resolution | Maximum displayed rows | Maximum characters per row |
|---|---|---|---|---|
| 4:3 | 75v×160h | 15v×32h | 4 | 32 |
| 16:9 | 75v×210h | 15v×42h | 4 | 42 |
| Other | 75v×(5×H) | 15v×H* | 4 | [1] |

[1] H = 32 × (the width of the screen in relation to a 4:3 display). For example, the 16:9 format is ⅓ wider than a 4:3 display; thus, H = 32 * 4/3 = 42.667, or 42.

(1) This means that the minimum grid resolution for a 4:3 aspect ratio instrument is 15 vertical positions × 32 horizontal positions. This minimum grid resolution for 16:9 ratio instrument is 15 vertical positions × 42 horizontal positions. These minimum grid sizes are to cover the entire safe-title area of the corresponding screen.

(2) The minimum coordinates equate to a ⅕ reduction in the maximum horizontal and vertical grid resolution coordinates. Caption providers are to use the maximum coordinate system values when specifying anchor point positions. Decoders using the minimum resolution are to divide the provided horizontal and vertical screen coordinates by 5 to derive the equivalent minimum coordinates.

(3) Any caption targeted for both 4:3 and 16:9 instruments is limited to 32 contiguous characters per row. If a caption is received by a 4:3 instrument that is targeted for a 16:9 display only, or requires a window width greater than 32 characters, then the caption may be completely disregarded by the decoder. 16:9 instruments should be able to process and display captions intended for 4:3 displays, providing all other minimum recommendations are met.

(4) If the resulting size of any window is larger than the safe title area for the corresponding display's aspect ratio, then this window will be completely disregarded.

(f) *Caption windows.* (1) Decoders need to display no more than 4 rows of captions on the screen at any given time, regardless of the number of windows displayed. This implies that no more than 4 windows can be displayed at any given time (with each having only one caption row). However, decoders should maintain storage to support a minimum total of 8 rows of captions. This

storage is needed for the worst-case support of a displayed window with 4 rows of captioning and a non-displayed window which is buffering the incoming rows for the next 4-row caption. As implied above, the maximum number of windows that may be displayed at any one time by a minimum decoder implementation is 4. If more than 4 windows are defined in the caption stream, the decoder may disregard the youngest and lowest priority window definition(s). Caption providers must be aware of this limitation, and either restrict the total number of windows used or accept that some windows will not be displayed.

(2) Decoders do not need to support overlapped windows. If a window overlaps another window, the overlapped window need not be displayed by the decoder.

(3) At a minimum, decoders will assume that all windows have rows and columns ''locked''. This implies that if a decoder implements the SMALL pen-size, then word-''un''wrapping, when shrinking captions, need not be implemented. Also, if a decoder implements the LARGE pen size, then word wrapping (when enlarging captions) need not be implemented.

(4) Whenever possible, the receiver should render embedded carriage returns as line breaks, since these carriage returns indicate an important aspect of the caption's formatting as determined by the service provider. However, it may sometimes be necessary for the receiver to ignore embedded line breaks. For example, if a caption is to appear in a larger font, and if its window's rows and/or columns are unlocked, the rows of text may need to become longer or shorter to fit within the allocated space. Such automatic reformatting of a caption is known as ''word wrap.'' If decoders support word-wrapping, it must be implemented as follows:

(i) The receiver should follow standard typographic practice when implementing word wrap. Potential breaking points (word-wrapping points) are indicated by the space character (20h) and by the hyphen character (2Dh).

(ii) If a row is to be broken at a space, the receiver should remove the space from the caption display. If a row is to be broken after a hyphen, the hyphen should be retained.

(iii) If an embedded return is to be removed, it should usually be replaced with a space. However, if the character to the left of the embedded return is a hyphen, the embedded return should be removed but NOT replaced with a space.

(iv) This specification does not include optional hyphens, nor does it provide for any form of automatic hyphenation. No non-breaking hyphen is defined. The non-breaking space (A0h in the G1 code set) and the non-breaking transparent space (21h in the G2 code set) should not be considered as potential line breaks.

(v) If a single word exceeds the length of a row, the word should be placed at the start of a new row, broken at the character following the last character that fits on the row, and continued with further breaks if needed.

(g) *Window text painting.* (1) All decoders should implement ''left'', ''right'', and ''center'' caption-text justification. Implementation of ''full'' justification is optional. If ''full'' justification is not implemented, fully justified captions should be treated as though they are ''left'' justified.

(i) For ''left'' justification, decoders should display any portion of a received row of text when it is received. For ''center'', ''right'', and ''full'' justification, decoders may display any portion of a received row of text when it is received, or may delay display of a received row of text until reception of a row completion indicator. A row completion indicator is defined as receipt of a CR, ETX or any other command, except SetPenColor, SetPenAttributes, or SetPenLocation where the pen relocation is within the same row.

(ii) Receipt of a character for a displayed row which already contains text with ''center'', ''right'' or ''full'' justification will cause the row to be cleared prior to the display of the newly received character and any subsequent characters. Receipt of a justification command which changes the last received justification for a given window will cause the window to be cleared.

(2) At a minimum, decoders must support LEFT__TO__RIGHT printing.

(3) At a minimum, decoders must support BOTTOM__TO__TOP scrolling. For windows sharing the same horizontal scan lines on the display, scrolling may be disabled.

(4) At a minimum, decoders must support the same recommended practices for scroll rate as is provided for NTSC closed-captioning.

(5) At a minimum, decoders must support the same recommended practices for smooth scrolling as is provided for NTSC closed-captioning.

(6) At a minimum, decoders must implement the ''snap'' window display effect. If the window ''fade'' and ''wipe'' effects are not implemented, then the decoder will ''snap'' all windows when they are to be displayed, and the ''effect speed'' parameter is ignored.

(h) *Window colors and borders.* At a minimum, decoders must implement borderless windows with solid, black backgrounds (i.e., border type = NONE, fill color = (0,0,0), fill opacity = SOLID), and borderless transparent windows (i.e., border type = NONE, fill opacity = TRANSPARENT).

(i) *Predefined window and pen styles.* Predefined Window Style and Pen Style ID's may be provided in the DefineWindow command. At a minimum, decoders should implement Predefined Window Attribute Style 1 and Predefined Pen Attribute Style 1, as shown in Table 4 and Table 5, respectively.

TABLE 4—PREDEFINED WINDOW STYLE ID'S

| Style ID # | Justify | Print direction | Scroll direction | Word wrap | Display effect | Effect direction | Effect speed | Fill color | Fill opacity | Border type | Border color | Usage |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Left | Left-to-right | Bottom-to-top. | No | Snap | n/a | n/a | (0,0,0) Black. | Solid | None | n/a | NTSC Style PopUp Captions |
| 2 | Left | Left-to-right | Bottom-to-top. | No | Snap | n/a | n/a | n/a | Transparent. | None | n/a | PopUp Captions w/o Black Background |
| 3 | Cntr | Left-to-right | Bottom-to-top. | No | Snap | n/a | n/a | (0,0,0) Black. | Solid | None | n/a | NTSC Style Centered PopUp Captions |
| 4 | Left | Left-to-right | Bottom-to-top. | Yes | Snap | n/a | n/a | (0,0,0) Black. | Solid | None | n/a | NTSC Style RollUp Captions |
| 5 | Left | Left-to-right | Bottom-to-top. | Yes | Snap | n/a | n/a | n/a | Transparent. | None | n/a | RollUp Captions w/o Black Background |
| 6 | Cntr | Left-to-right | Bottom-to-top. | Yes | Snap | n/a | n/a | (0,0,0) Black. | Solid | None | n/a | NTSC Style Centered RollUp Captions |
| 7 | Left | Top-to-bottom. | Right-to-left | No | Snap | n/a | n/a | (0,0,0) Black. | Solid | None | n/a | Ticker Tape |

TABLE 5—PREDEFINED PEN STYLE ID'S

| Predefined style ID | Pen size | Font style | Offset | Italics | Underline | Edge type | Foregrnd color | Foregrnd opacity | Backgrnd color | Backgrnd opacity | Edge color | Usage |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Stndr | 0 | Normal | No | No | None | (2,2,2) White. | Solid | (0,0,0) Black. | Solid | n/a | Default NTSC Style* |

TABLE 5—PREDEFINED PEN STYLE ID'S—Continued

| Predefined style ID | Pen size | Font style | Offset | Italics | Underline | Edge type | Foregrnd color | Foregrnd opacity | Backgrnd color | Backgrnd opacity | Edge color | Usage |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2 | Stndr | 1 | Normal | No | No | None | (2,2,2) | Solid | (0,0,0) White. | Solid | n/a | NTSC Style* Mono w/ Serif |
| 3 | Stndr | 2 | Normal | No | No | None | (2,2,2) White. | Solid | (0,0,0) Black. | Solid | n/a | NTSC Style* Prop w/ Serif |
| 4 | Stndr | 3 | Normal | No | No | None | (2,2,2) White. | Solid | (0,0,0) Black. | Solid | n/a | NTSC Style* Mono w/ o Serif |
| 5 | Stndr | 4 | Normal | No | No | None | (2,2,2) White. | Solid | (0,0,0) Black. | Solid | n/a | NTSC Style* Prop w/o Serif |
| 6 | Stndr | 3 | Normal | No | No | Unifrm | (2,2,2) White. | Solid | n/a | Trans- parent. | (0,0,0) Black. | Mono w/o Serif, Bor- dered Text, No BG |
| 7 | Stndr | 4 | Normal | No | No | Unifrm | (2,2,2) White. | Solid | n/a | Trans- parent. | (0,0,0) Black. | Prop. w/o Serif, Bor- dered Text, No BG |

*"NTSC Style"—White Text on Black Background

(j) *Pen size*. (1) Decoders must support the standard, large, and small pen sizes and must allow the caption provider to choose a pen size and allow the viewer to choose an alternative size. The STANDARD pen size should be implemented such that the height of the tallest character in any implemented font is no taller than 1/15 of the height of the safe-title area, and the width of the widest character is no wider than 1/32 of the width of the safe-title area for 4:3 displays and 1/42 of the safe-title area width for 16:9 displays.

(2) The LARGE pen size should be implemented such that the width of the widest character in any implemented font is no wider than 1/32 of the safe-title area for 16:9 displays. This recommendation allows for captions to grow to a LARGE pen size without having to reformat the caption since no caption will have more than 32 characters per row.

(k) *Font styles*. (1) Decoders must support the eight fonts listed below. Caption providers may specify 1 of these 8 font styles to be used to write caption text. The styles specified in the ''font style'' parameter of the SetPenAttributes command are numbered from 0 through 7. The following is a list of the 8 required font styles. For information purposes only, each font style references one or more popular fonts which embody the characteristics of the style:

(i) 0—Default (undefined)

(ii) 1—Monospaced with serifs (similar to Courier)

(iii) 2—Proportionally spaced with serifs (similar to Times New Roman)

(iv) 3—Monospaced without serifs (similar to Helvetica Monospaced)

(v) 4—Proportionally spaced without serifs (similar to Arial and Swiss)

(vi) 5—Casual font type (similar to Dom and Impress)

(vii) 6—Cursive font type (similar to Coronet and Marigold)

(viii) 7—Small capitals (similar to Engravers Gothic)

(2) Font styles may be implemented in any typeface which the decoder manufacturer deems to be a readable rendition of the font style, and need not be in the exact typefaces given in the example above. Decoders must include the ability for consumers to choose among the eight fonts. The decoder must display the font chosen by the caption provider unless the viewer chooses a different font.

(l) *Character offsetting*. Decoders need not implement the character offsetting (*i.e.*, subscript and superscript) pen attributes.

(m) *Pen styles*. At a minimum, decoders must implement normal, italic, and underline pen styles.

(n) *Foreground color and opacity*. (1) At a minimum, decoders must implement transparent, translucent, solid and flashing character foreground type attributes.

(2) At a minimum, decoders must implement the following character foreground colors: white, black, red, green, blue, yellow, magenta and cyan.

(3) Caption providers may specify the color/opacity. Decoders must include the ability for consumers to choose among the color/opacity options. The decoder must display the color/opacity chosen by the caption provider unless the viewer chooses otherwise.

(o) *Background color and opacity*. (1) Decoders must implement the following background colors: white, black, red, green, blue, yellow, magenta and cyan. It is recommended that this background is extended beyond the character foreground to a degree that the foreground is separated from the underlying video by a sufficient number of background pixels to insure the foreground is separated from the background.

(2) Decoders must implement transparent, translucent, solid and flashing background type attributes. Caption providers may specify the color/opacity. Decoders must include the ability for consumers to choose among the color/opacity options. The decoder must display the color/opacity chosen by the caption provider unless the viewer chooses otherwise.

(p) Character edges. Decoders must implement separate edge color and type attribute control.

(q) Color representation. (1) At a minimum, decoders must support the 8 colors listed in Table 6.

TABLE 6—MINIMUM COLOR LIST TABLE

| Color | Red | Green | Blue |
|---|---|---|---|
| Black | 0 | 0 | 0 |
| White | 2 | 2 | 2 |
| Red | 2 | 0 | 0 |
| Green | 0 | 2 | 0 |
| Blue | 0 | 0 | 2 |
| Yellow | 2 | 2 | 0 |
| Magenta | 2 | 0 | 2 |
| Cyan | 0 | 2 | 2 |

(2)(i) When a decoder supporting this Minimum Color List receives an RGB value not in the list, it will map the received value to one of the values in the list via the following algorithm:

(A) All one (1) values are to be changed to 0.

(B) All two (2) values are to remain unchanged.

(C) All three (3) values are to be changed to 2.

(ii) For example, the RGB value (1,2,3) will be mapped to (0,2,2), (3,3,3) will be mapped to (2,2,2) and (1,1,1) will be mapped to (0,0,0).

(3) Table 7 is an alternative minimum color list table supporting 22 colors.

TABLE 7—ALTERNATIVE MINIMUM COLOR LIST TABLE

| Color | Red | Green | Blue |
|---|---|---|---|
| Black | 0 | 0 | 0 |
| Gray | 1 | 1 | 1 |
| White | 2 | 2 | 2 |
| Bright White | 3 | 3 | 3 |
| Dark Red | 1 | 0 | 0 |
| Red | 2 | 0 | 0 |
| Bright Red | 3 | 0 | 0 |
| Dark Green | 0 | 1 | 0 |
| Green | 0 | 2 | 0 |
| Bright Green | 0 | 3 | 0 |
| Dark Blue | 0 | 0 | 1 |
| Blue | 0 | 0 | 2 |
| Bright Blue | 0 | 0 | 3 |
| Dark Yellow | 1 | 1 | 0 |
| Yellow | 2 | 2 | 0 |
| Bright Yellow | 3 | 3 | 0 |
| Dark Magenta | 1 | 0 | 1 |
| Magenta | 2 | 0 | 2 |
| Bright Magenta | 3 | 0 | 3 |
| Dark Cyan | 0 | 1 | 1 |
| Cyan | 0 | 2 | 2 |
| Bright Cyan | 0 | 3 | 3 |

(i) When a decoder supporting the Alternative Minimum Color List in Table 7 receives an RGB value not in the list (i.e., an RGB value whose non-zero elements are not the same value), it will map the received value to one of the values in the list via the following algorithm:

(A) For RGB values with all elements non-zero and different—e.g., (1,2,3), (3,2,1), and (2,1,3), the 1 value will be changed to 0, the 2 value will remain unchanged, and the 3 value will be changed to 2.

(B) For RGB values with all elements non-zero and with two common elements—e.g. (3,1,3), (2,1,2), and (2,2,3), if the common elements are 3 and the uncommon one is 1, then the 1 elements is changed to 0; e.g. (3,1,3) → (3,0,3). If the common elements are 1 and the uncommon element is 3, then the 1 elements are changed to 0, and the 3 element is changed to 2; e.g. (1,3,1) → (0,2,0). In all other cases, the uncommon element is changed to the common value; e.g., (2,2,3) → (2,2,2), (1,2,1) → (1,1,1), and (3,2,3) → (3,3,3).

(ii) All decoders not supporting either one of the two color lists described above, must support the full 64 possible RGB color value combinations.

(r) *Character rendition considerations.* In NTSC Closed Captioning, decoders were required to insert leading and trailing spaces on each caption row. There were two reasons for this requirement:

(1) To provide a buffer so that the first and last characters of a caption row do not fall outside the safe title area, and

(2) To provide a black border on each side of a character so that the ''white'' leading pixels of the first character on a row and the trailing ''white'' pixels of the last character on a row do not bleed into the underlying video.

(i) Since caption windows are required to reside in the safe title area of the DTV screen, reason 1 (above) is not applicable to DTVCC captions.

(ii) The attributes available in the SetPenAttributes command for character rendition (e.g., character background and edge attributes) provide unlimited flexibility to the caption provider when describing caption text in an ideal decoder implementation. However, manufacturers need not implement all pen attributes. Thus it is recommended that no matter what the level of implementation, decoder manufacturers should take into account the readability of all caption text against a variety of all video backgrounds, and should implement some

automatic character delineation when the individual control of character foreground, background and edge is not supported.

(s) *Service synchronization*. Service Input Buffers must be at least 128 bytes in size. Caption providers must keep this lower limit in mind when following Delay commands with other commands and window text. In other words, no more than 128 bytes of DTVCC commands and text should be transmitted (encoded) before a pending Delay command's delay interval expires.

(t) *Settings*. Decoders must include an option that permits a viewer to choose a setting that will display captions as intended by the caption provider (a default). Decoders must also include an option that allows a viewer's chosen settings to remain until the viewer chooses to alter these settings, including periods when the television is turned off.

[65 FR 58471, Sept. 29, 2000, as amended at 69 FR 2849, Jan. 21, 2004]

### § 15.123 Labeling of digital cable ready products.

(a) The requirements of this section shall apply to unidirectional digital cable products. Unidirectional digital cable products are one-way devices that accept a Point of Deployment module (POD) and which include, but are not limited to televisions, set-top-boxes and recording devices connected to digital cable systems. Unidirectional digital cable products do not include interactive two-way digital television products.

(b) A unidirectional digital cable product may not be labeled with or marketed using the term ''digital cable ready,'' or other terminology that describes the device as ''cable ready'' or ''cable compatible,'' or otherwise indicates that the device accepts a POD or conveys the impression that the device is compatible with digital cable service unless it implements at a minimum the following features:

(1) Tunes NTSC analog channels transmitted in-the-clear.

(2) Tunes digital channels that are transmitted in compliance with SCTE 40 2003 (formerly DVS 313): ''Digital Cable Network Interface Standard'' (incorporated by reference, *see* § 15.38), provided, however, that with respect to Table B.11 of that standard, the phase noise requirement shall be –86 dB/Hz including both in-the-clear channels and channels that are subject to conditional access.

(3) Allows navigation of channels based on channel information (virtual channel map and source names) provided through the cable system in compliance with ANSI/SCTE 65 2002 (formerly DVS 234): ''Service Information Delivered Out-of-Band for Digital Cable Television'' (incorporated by reference, *see* § 15.38), and/or PSIP-enabled navigation (ANSI/SCTE 54 2003 (formerly DVS 241): ''Digital Video Service Multiplex and Transport System Standard for Cable Television'' (incorporated by reference, *see* § 15.38)).

(4) Includes the POD-Host Interface specified in SCTE 28 2003 (formerly DVS 295): ''Host-POD Interface Standard'' (incorporated by reference, *see* § 15.38), and SCTE 41 2003 (formerly DVS 301): ''POD Copy Protection System'' (incorporated by reference, *see* § 15.38), or implementation of a more advanced POD-Host Interface based on successor standards. Support for Internet protocol flows is not required.

(5) Responds to emergency alerts that are transmitted in compliance with ANSI/SCTE 54 2003 (formerly DVS 241): ''Digital Video Service Multiplex and Transport System Standard for Cable Television'' (incorporated by reference, *see* § 15.38).

(6) In addition to the requirements of paragraphs (b)(1) through (5) of this section, a unidirectional digital cable television may not be labeled or marketed as digital cable ready or with other terminology as described in paragraph (b) of this section, unless it includes a DTV broadcast tuner as set forth in § 15.117(i) and employs at least one specified interface in accordance with the following schedule:

(i) For 480p grade unidirectional digital cable televisions, either a DVI/HDCP, HDMI/HDCP, or 480p Y,Pb,Pr interface:

(A) Models with screen sizes 36 inches and above: 50% of a manufacturer's or importer's models manufactured or imported after July 1, 2004; 100% of such

models manufactured or imported after July 1, 2005.

(B) Models with screen sizes 32 to 35 inches: 50% of a manufacturer's or importer's models manufactured or imported after July 1, 2005; 100% of such models manufactured or imported after July 1, 2006.

(ii) For 720p/1080i grade unidirectional digital cable televisions, either a DVI/HDCP or HDMI/HDCP interface:

(A) Models with screen sizes 36 inches and above: 50% of a manufacturer's or importer's models manufactured or imported after July 1, 2004; 100% of such models manufactured or imported after July 1, 2005.

(B) Models with screen sizes 25 to 35 inches: 50% of a manufacturer's or importer's models manufactured or imported after July 1, 2005; 100% of such models manufactured or imported after July 1, 2006.

(C) Models with screen sizes 13 to 24 inches: 100% of a manufacturer's or importer's models manufactured or imported after July 1, 2007.

(c) Before a manufacturer's or importer's first unidirectional digital cable product may be labeled or marketed as digital cable ready or with other terminology as described in paragraph (b) of this section, the manufacturer or importer shall verify the device as follows:

(1) The manufacturer or importer shall have a sample of its first model of a unidirectional digital cable product tested to show compliance with the procedures set forth in Uni-Dir-PICS–I01–030903: Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma (incorporated by reference, see §15.38) at a qualified test facility. If the model fails to comply, the manufacturer or importer shall have any modifications to the product to correct failures of the procedures in Uni–Dir–PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 3, 2003 (incorporated by reference, see §15.38) retested at a qualified test facility and the product must comply with Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 3, 2003 (incorporated by reference, see §15.38) in accordance with the test procedures set forth in Uni–Dir–ATP–I02–040225: ''Uni-Directional Receiving Device, Acceptance Test Plan,'' February 25, 2004 (incorporated by reference, see §15.38) or with M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38) in accordance with the test procedures set forth in TP–ATP–M–UDCP–I05–20080304, ''Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008 (incorporated by reference, see §15.38) before the product or any related model may be labeled or marketed. If the manufacturer or importer's first unidirectional digital cable product is not a television, then that manufacturer or importer's first model of a unidirectional digital cable product which is a television shall be tested pursuant to this subsection as though it were the first unidirectional digital cable product. A qualified test facility may only require compliance with the procedures set forth in Uni-Dir-PICS–I01–030903: Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma, September 3, 2003 (incorporated by reference, see §15.38). Compliance testing beyond those procedures shall be at the discretion of the manufacturer or importer.

(2) A qualified test facility is a testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States or an appropriately qualified independent laboratory with adequate equipment and competent personnel knowledgeable with respect to Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 03, 2003 (incorporated by reference, see §15.38); Uni–Dir–ATP–I02–040225: ''Uni-Directional Receiving Device, Acceptance Test Plan,'' February 25, 2004 (incorporated by reference, see §15.38); M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38); and TP–ATP–M–UDCP–I05–20080304, ''Uni-

Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008 (incorporated by reference, see §15.38). For any independent testing laboratory to be qualified hereunder such laboratory must ensure that all its decisions are impartial and have a documented structure which safeguards impartiality of the operations of the testing laboratory. In addition, any independent testing laboratory qualified hereunder must not supply or design products of the type it tests, nor provide any other products or services that could compromise confidentiality, objectivity or impartiality of the testing laboratory's testing process and decisions.

(3) Subsequent to the testing of its initial unidirectional digital cable product model, a manufacturer or importer is not required to have other models of unidirectional digital cable products tested at a qualified test facility for compliance with the procedures of Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 03, 2003 (incorporated by reference, see §15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in §15.123(c)(1). The manufacturer or importer shall ensure that all subsequent models of unidirectional digital cable products comply with the procedures in the Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 03, 2003 (incorporated by reference, see §15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with the verification procedure requirements in part 2, subpart J of this chapter. The manufacturer or importer shall further submit documentation verifying compliance with the procedures in the Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 03, 2003 (incorporated by reference, see §15.38) to the qualified test facility.

(4) Unidirectional digital cable product models must be tested for compliance with Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 3, 2003 (incorporated by reference, see §15.38) in accordance with Uni–Dir–ATP–I02–040225: ''Uni-Directional Receiving Device Acceptance Test Plan,'' February 25, 2004, (incorporated by reference, see §15.38) or an equivalent test procedure that produces identical pass/fail test results. In the event of any dispute over the applicable results under an equivalent test procedure, the results under Uni–Dir–ATP–I02–040225: ''Uni-Directional Receiving Device Acceptance Test Plan,'' February 25, 2004 (incorporated by reference, see §15.38) shall govern.

(5) This paragraph applies to unidirectional digital cable product models which utilize Point-of-Deployment modules (PODs) in multi-stream mode (M–UDCPs).

(i) The manufacturer or importer shall have a sample of its first model of a M–UDCP tested at a qualified test facility to show compliance with M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38) as specified in the procedures set forth in TP–ATP–M–UDCP–I05–20080304, ''Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008 (both references incorporated by reference, see §15.38). If the model fails to comply, the manufacturer or importer shall have retested, at a qualified test facility, a product that complies with Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 03, 2003 (incorporated by reference, see §15.38) in accordance with Uni–Dir–ATP–I02–040225: ''Uni-Directional Receiving Device Acceptance Test Plan,'' February 25, 2004, (incorporated by reference, see §15.38) or an equivalent test procedure that produces identical pass/fail test results before any product or related model may be labeled or marketed. If the manufacturer or importer's first M–UDCP is not a television, then that manufacturer or importer's first model of a M–UDCP which is a television shall be tested pursuant to this

subsection as though it were the first M–UDCP.

(ii) A qualified test facility is a testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States or an appropriately qualified independent laboratory with adequate equipment and competent personnel knowledgeable with Uni-Dir-PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,'' September 03, 2003 (incorporated by reference, see §15.38); Uni–Dir–ATP–I02–040225: ''Uni-Directional Receiving Device, Acceptance Test Plan,'' February 25, 2004 (incorporated by reference, see §15.38); M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38); and TP–ATP–M–UDCP–I05–20080304, ''Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008 (incorporated by reference, see §15.38). For any independent testing laboratory to be qualified hereunder such laboratory must ensure that all its decisions are impartial and have a documented structure which safeguards impartiality of the operations of the testing laboratory. In addition, any independent testing laboratory qualified hereunder must not supply or design products of the type it tests, nor provide any other products or services that could compromise confidentiality, objectivity or impartiality of the testing laboratory's testing process and decisions.

(iii) Subsequent to the successful testing of its initial M–UDCP, a manufacturer or importer is not required to have other M–UDCP models tested at a qualified test facility for compliance with M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in §15.123(c)(5)(i). The manufacturer or importer shall ensure that all subsequent models of M–UDCPs comply with M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with the verification procedure requirements in part 2, subpart J of this chapter. For each M–UDCP model, the manufacturer or importer shall further submit documentation verifying compliance with M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38) to the qualified test facility.

(iv) M–UDCPs must be in compliance with M–UDCP–PICS–I04–080225, ''Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,'' February 25, 2008 (incorporated by reference, see §15.38) in accordance with the procedures set forth in TP–ATP–M–UDCP–I05–20080304, ''Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008 (incorporated by reference, see §15.38) or an equivalent test procedure that produces identical pass/fail test results. In the event of any dispute over the applicable results under an equivalent test procedure, the results under TP–ATP–M–UDCP–I05–20080304, ''Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,'' March 4, 2008 (incorporated by reference, see §15.38) shall govern.

(d) Manufacturers and importers shall provide in appropriate post-sale material that describes the features and functionality of the product, such as the owner's guide, the following language: ''This digital television is capable of receiving analog basic, digital basic and digital premium cable television programming by direct connection to a cable system providing such programming. A security card provided by your cable operator is required to view encrypted digital programming.

Certain advanced and interactive digital cable services such as video-on-demand, a cable operator's enhanced program guide and data-enhanced television services may require the use of a set-top box. For more information call your local cable operator.''

[68 FR 66733, Nov. 28, 2003, as amended at 76 FR 40277, July 8, 2011]

### § 15.124 DTV transition notices by manufacturers of televisions and related devices.

(a) Television receivers and related devices manufactured between April 1, 2009, and June 30, 2009, must include notices about the digital television (DTV) transition. Related devices covered by this requirement: All television broadcast receivers as defined in § 15.3(w); TV interface devices as defined in § 15.3(y); devices that record and/or display signals received from television broadcast receivers; and set-top boxes available for sale at retail that receive video programming provided by multi-channel video programming distributors.

(b) The notices required under paragraph (a) of this section must:

(1) Be in clear and conspicuous print;

(2) Convey at least the following information about the DTV transition:

(i) The nationwide switch to digital television broadcasting will be complete on June 12, 2009, but your local television stations may switch sooner. After the switch, analog-only television sets that receive TV programming through an antenna will need a converter box to continue to receive over-the-air TV. Watch your local stations to find out when they will turn off their analog signal and switch to digital-only broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

(ii) Information about the DTV transition is available from your local television stations, *http://www.DTV.gov*, or 1–888–CALL–FCC (TTY 1–888–TELL–FCC), and from *http://www.dtv2009.gov* or 1–888–DTV–2009 (TTY 1–877–530–2634) for information about subsidized coupons for digital-to-analog converter boxes; and

(3) Explain clearly what effect, if any, the DTV transition will have on the use of the receiver or related device, including any limitations or requirements associated with connecting a related device to a DTV receiver.

(c) This notice requirement applies to all responsible parties, as defined in § 2.909 of this chapter.

[73 FR 28732, May 19, 2008, as amended at 74 FR 8878, Feb. 27, 2009]

## Subpart C—Intentional Radiators

### § 15.201 Equipment authorization requirement.

(a) Intentional radiators operated as carrier current systems, devices operated under the provisions of §§ 15.211, 15.213, and 15.221, and devices operating below 490 kHz in which all emissions are at least 40 dB below the limits in § 15.209 shall be verified pursuant to the procedures in Subpart J of part 2 of this chapter prior to marketing.

(b) Except as otherwise exempted in paragraph (c) of this section and in § 15.23 of this part, all intentional radiators operating under the provisions of this part shall be certificated by the Commission pursuant to the procedures in subpart J of part 2 of this chapter prior to marketing.

(c) For devices such as perimeter protection systems which, in accordance with § 15.31(d), are required to be measured at the installation site, each application for certification must be accompanied by a statement indicating that the system has been tested at three installations and found to comply at each installation. Until such time as certification is granted, a given installation of a system that was measured for the submission for certification will be considered to be in compliance with the provisions of this chapter, including the marketing regulations in subpart I of part 2 of this chapter, if tests at that installation show the system to be in compliance with the relevant technical requirements. Similarly, where measurements must be performed on site for equipment subject to verification, a given installation that has been verified to demonstrate compliance with the applicable standards will be considered to be in compliance with the provisions of

this chapter, including the marketing regulations in subpart I of part 2 of this chapter.

(d) For perimeter protection systems operating in the frequency bands allocated to television broadcast stations operating under part 73 of this chapter, the holder of the grant of certification must test each installation prior to initiation of normal operation to verify compliance with the technical standards and must maintain a list of all installations and records of measurements. For perimeter protection systems operating outside of the frequency bands allocated to television broadcast stations, upon receipt of a grant of certification, further testing of the same or similar type of system or installation is not required.

[54 FR 17714, Apr. 25, 1989, as amended at 68 FR 68546, Dec. 9, 2003]

### § 15.202 Certified operating frequency range.

Client devices that operate in a master/client network may be certified if they have the capability of operating outside permissible part 15 frequency bands, provided they operate on only permissible part 15 frequencies under the control of the master device with which they communicate. Master devices marketed within the United States must be limited to operation on permissible part 15 frequencies. Client devices that can also act as master devices must meet the requirements of a master device. For the purposes of this section, a master device is defined as a device operating in a mode in which it has the capability to transmit without receiving an enabling signal. In this mode it is able to select a channel and initiate a network by sending enabling signals to other devices. A network always has at least one device operating in master mode. A client device is defined as a device operating in a mode in which the transmissions of the device are under control of the master. A device in client mode is not able to initiate a network.

[70 FR 23040, May 4, 2005]

### § 15.203 Antenna requirement.

An intentional radiator shall be designed to ensure that no antenna other than that furnished by the responsible party shall be used with the device. The use of a permanently attached antenna or of an antenna that uses a unique coupling to the intentional radiator shall be considered sufficient to comply with the provisions of this section. The manufacturer may design the unit so that a broken antenna can be replaced by the user, but the use of a standard antenna jack or electrical connector is prohibited. This requirement does not apply to carrier current devices or to devices operated under the provisions of § 15.211, § 15.213, § 15.217, § 15.219, or § 15.221. Further, this requirement does not apply to intentional radiators that must be professionally installed, such as perimeter protection systems and some field disturbance sensors, or to other intentional radiators which, in accordance with § 15.31(d), must be measured at the installation site. However, the installer shall be responsible for ensuring that the proper antenna is employed so that the limits in this part are not exceeded.

[54 FR 17714, Apr. 25, 1989, as amended at 55 FR 28762, July 13, 1990]

### § 15.204 External radio frequency power amplifiers and antenna modifications.

(a) Except as otherwise described in paragraphs (b) and (d) of this section, no person shall use, manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing, any external radio frequency power amplifier or amplifier kit intended for use with a part 15 intentional radiator.

(b) A transmission system consisting of an intentional radiator, an external radio frequency power amplifier, and an antenna, may be authorized, marketed and used under this part. Except as described otherwise in this section, when a transmission system is authorized as a system, it must always be marketed as a complete system and must always be used in the configuration in which it was authorized.

(c) An intentional radiator may be operated only with the antenna with which it is authorized. If an antenna is

marketed with the intentional radiator, it shall be of a type which is authorized with the intentional radiator. An intentional radiator may be authorized with multiple antenna types.

(1) The antenna type, as used in this paragraph, refers to antennas that have similar in-band and out-of-band radiation patterns.

(2) Compliance testing shall be performed using the highest gain antenna for each type of antenna to be certified with the intentional radiator. During this testing, the intentional radiator shall be operated at its maximum available output power level.

(3) Manufacturers shall supply a list of acceptable antenna types with the application for equipment authorization of the intentional radiator.

(4) Any antenna that is of the same type and of equal or less directional gain as an antenna that is authorized with the intentional radiator may be marketed with, and used with, that intentional radiator. No retesting of this system configuration is required. The marketing or use of a system configuration that employs an antenna of a different type, or that operates at a higher gain, than the antenna authorized with the intentional radiator is not permitted unless the procedures specified in § 2.1043 of this chapter are followed.

(d) Except as described in this paragraph, an external radio frequency power amplifier or amplifier kit shall be marketed only with the system configuration with which it was approved and not as a separate product.

(1) An external radio frequency power amplifier may be marketed for individual sale provided it is intended for use in conjunction with a transmitter that operates in the 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz bands pursuant to § 15.247 of this part or a transmitter that operates in the 5.725–5.825 GHz band pursuant to § 15.407 of this part. The amplifier must be of a design such that it can only be connected as part of a system in which it has been previously authorized. (The use of a non-standard connector or a form of electronic system identification is acceptable.) The output power of such an amplifier must not exceed the maximum permitted output power of its associated transmitter.

(2) The outside packaging and user manual for external radio frequency power amplifiers sold in accordance with paragraph (d)(1) of this section must include notification that the amplifier can be used only in a system which it has obtained authorization. Such a notice must identify the authorized system by FCC Identifier.

[69 FR 54034, Sept. 7, 2004]

### § 15.205 Restricted bands of operation.

(a) Except as shown in paragraph (d) of this section, only spurious emissions are permitted in any of the frequency bands listed below:

| MHz | MHz | MHz | GHz |
|---|---|---|---|
| 0.090–0.110 | 16.42–16.423 | 399.9–410 | 4.5–5.15 |
| [1] 0.495–0.505 | 16.69475–16.69525 | 608–614 | 5.35–5.46 |
| 2.1735–2.1905 | 16.80425–16.80475 | 960–1240 | 7.25–7.75 |
| 4.125–4.128 | 25.5–25.67 | 1300–1427 | 8.025–8.5 |
| 4.17725–4.17775 | 37.5–38.25 | 1435–1626.5 | 9.0–9.2 |
| 4.20725–4.20775 | 73–74.6 | 1645.5–1646.5 | 9.3–9.5 |
| 6.215–6.218 | 74.8–75.2 | 1660–1710 | 10.6–12.7 |
| 6.26775–6.26825 | 108–121.94 | 1718.8–1722.2 | 13.25–13.4 |
| 6.31175–6.31225 | 123–138 | 2200–2300 | 14.47–14.5 |
| 8.291–8.294 | 149.9–150.05 | 2310–2390 | 15.35–16.2 |
| 8.362–8.366 | 156.52475–156.52525 | 2483.5–2500 | 17.7–21.4 |
| 8.37625–8.38675 | 156.7–156.9 | 2690–2900 | 22.01–23.12 |
| 8.41425–8.41475 | 162.0125–167.17 | 3260–3267 | 23.6–24.0 |
| 12.29–12.293 | 167.72–173.2 | 3332–3339 | 31.2–31.8 |
| 12.51975–12.52025 | 240–285 | 3345.8–3358 | 36.43–36.5 |
| 12.57675–12.57725 | 322–335.4 | 3600–4400 | ([2]) |
| 13.36–13.41. | | | |

[1] Until February 1, 1999, this restricted band shall be 0.490–0.510 MHz.
[2] Above 38.6

(b) Except as provided in paragraphs (d) and (e) of this section, the field strength of emissions appearing within these frequency bands shall not exceed the limits shown in § 15.209. At frequencies equal to or less than 1000 MHz, compliance with the limits in § 15.209 shall be demonstrated using measurement instrumentation employing a CISPR quasi-peak detector. Above 1000 MHz, compliance with the emission limits in § 15.209 shall be demonstrated based on the average value of the measured emissions. The provisions in § 15.35 apply to these measurements.

(c) Except as provided in paragraphs (d) and (e) of this section, regardless of the field strength limits specified elsewhere in this subpart, the provisions of this section apply to emissions from any intentional radiator.

(d) The following devices are exempt from the requirements of this section:

(1) Swept frequency field disturbance sensors operating between 1.705 and 37 MHz provided their emissions only sweep through the bands listed in paragraph (a) of this section, the sweep is never stopped with the fundamental emission within the bands listed in paragraph (a) of this section, and the fundamental emission is outside of the bands listed in paragraph (a) of this section more than 99% of the time the device is actively transmitting, without compensation for duty cycle.

(2) Transmitters used to detect buried electronic markers at 101.4 kHz which are employed by telephone companies.

(3) Cable locating equipment operated pursuant to § 15.213.

(4) Any equipment operated under the provisions of §§ 15.253, 15.255 or 15.257.

(5) Biomedical telemetry devices operating under the provisions of § 15.242 of this part are not subject to the restricted band 608–614 MHz but are subject to compliance within the other restricted bands.

(6) Transmitters operating under the provisions of subparts D or F of this part.

(7) Devices operated pursuant to § 15.225 are exempt from complying with this section for the 13.36–13.41 MHz band only.

(8) Devices operated in the 24.075–24.175 GHz band under § 15.245 are exempt from complying with the requirements of this section for the 48.15–48.35 GHz and 72.225–72.525 GHz bands only, and shall not exceed the limits specified in § 15.245(b).

(9) Devices operated in the 24.0–24.25 GHz band under § 15.249 are exempt from complying with the requirements of this section for the 48.0–48.5 GHz and 72.0–72.75 GHz bands only, and shall not exceed the limits specified in § 15.249(a).

(e) Harmonic emissions appearing in the restricted bands above 17.7 GHz from field disturbance sensors operating under the provisions of § 15.245 shall not exceed the limits specified in § 15.245(b).

[54 FR 17714, Apr. 25, 1989, as amended at 55 FR 46791, Nov. 7, 1990; 56 FR 6288, Feb. 15, 1991; 57 FR 13048, Apr. 15, 1992; 58 FR 33774, June 21, 1993; 60 FR 28068, May 30, 1995; 61 FR 14503, Apr. 2, 1996; 62 FR 4655, Jan. 31, 1997; 62 FR 58658, Oct. 30, 1997; 67 FR 34855, May 16, 2002; 68 FR 68546, Dec. 9, 2003; 69 FR 3265, Jan. 23, 2004; 69 FR 72031, Dec. 10, 2004]

### § 15.207 Conducted limits.

(a) Except as shown in paragraphs (b) and (c) of this section, for an intentional radiator that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies, within the band 150 kHz to 30 MHz, shall not exceed the limits in the following table, as measured using a 50 μH/50 ohms line impedance stabilization network (LISN). Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal. The lower limit applies at the boundary between the frequency ranges.

| Frequency of emission (MHz) | Conducted limit (dBμV) | |
|---|---|---|
| | Quasi-peak | Average |
| 0.15–0.5 | 66 to 56* | 56 to 46* |
| 0.5–5 | 56 | 46 |
| 5–30 | 60 | 50 |

*Decreases with the logarithm of the frequency.

(b) The limit shown in paragraph (a) of this section shall not apply to carrier current systems operating as intentional radiators on frequencies

below 30 MHz. In lieu thereof, these carrier current systems shall be subject to the following standards:

(1) For carrier current system containing their fundamental emission within the frequency band 535–1705 kHz and intended to be received using a standard AM broadcast receiver: no limit on conducted emissions.

(2) For all other carrier current systems: 1000 μV within the frequency band 535–1705 kHz, as measured using a 50 μH/50 ohms LISN.

(3) Carrier current systems operating below 30 MHz are also subject to the radiated emission limits in §15.205, §15.209, §15.221, §15.223, or §15.227, as appropriate.

(c) Measurements to demonstrate compliance with the conducted limits are not required for devices which only employ battery power for operation and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Devices that include, or make provisions for, the use of battery chargers which permit operating while charging, AC adapters or battery eliminators or that connect to the AC power lines indirectly, obtainig their power through another device which is connected to the AC power lines, shall be tested to demonstrate compliance with the conducted limits.

[54 FR 17714, Apr. 25, 1989, as amended at 56 FR 373, Jan. 4, 1991; 57 FR 33448, July 29, 1992; 58 FR 51249, Oct. 1, 1993; 67 FR 45671, July 10, 2002]

### §15.209 Radiated emission limits; general requirements.

(a) Except as provided elsewhere in this subpart, the emissions from an intentional radiator shall not exceed the field strength levels specified in the following table:

| Frequency (MHz) | Field strength (microvolts/meter) | Measurement distance (meters) |
|---|---|---|
| 0.009–0.490 | 2400/F(kHz) | 300 |
| 0.490–1.705 | 24000/F(kHz) | 30 |
| 1.705–30.0 | 30 | 30 |
| 30–88 | 100** | 3 |
| 88–216 | 150** | 3 |
| 216–960 | 200** | 3 |
| Above 960 | 500 | 3 |

** Except as provided in paragraph (g), fundamental emissions from intentional radiators operating under this section shall not be located in the frequency bands 54–72 MHz, 76–88 MHz, 174–216 MHz or 470–806 MHz. However, operation within these frequency bands is permitted under other sections of this part, e.g., §§15.231 and 15.241.

(b) In the emission table above, the tighter limit applies at the band edges.

(c) The level of any unwanted emissions from an intentional radiator operating under these general provisions shall not exceed the level of the fundamental emission. For intentional radiators which operate under the provisions of other sections within this part and which are required to reduce their unwanted emissions to the limits specified in this table, the limits in this table are based on the frequency of the unwanted emission and not the fundamental frequency. However, the level of any unwanted emissions shall not exceed the level of the fundamental frequency.

(d) The emission limits shown in the above table are based on measurements employing a CISPR quasi-peak detector except for the frequency bands 9–90 kHz, 110–490 kHz and above 1000 MHz. Radiated emission limits in these three bands are based on measurements employing an average detector.

(e) The provisions in §§15.31, 15.33, and 15.35 for measuring emissions at distances other than the distances specified in the above table, determining the frequency range over which radiated emissions are to be measured, and limiting peak emissions apply to all devices operated under this part.

(f) In accordance with §15.33(a), in some cases the emissions from an intentional radiator must be measured to beyond the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator because of the incorporation of a digital device. If measurements above the tenth harmonic are so required, the radiated emissions above the tenth harmonic shall comply with the general radiated emission limits applicable to the incorporated digital device, as shown in §15.109 and as based on the

frequency of the emission being measured, or, except for emissions contained in the restricted frequency bands shown in § 15.205, the limit on spurious emissions specified for the intentional radiator, whichever is the higher limit. Emissions which must be measured above the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator and which fall within the restricted bands shall comply with the general radiated emission limits in § 15.109 that are applicable to the incorporated digital device.

(g) Perimeter protection systems may operate in the 54–72 MHz and 76–88 MHz bands under the provisions of this section. The use of such perimeter protection systems is limited to industrial, business and commercial applications.

[54 FR 17714, Apr. 25, 1989; 54 FR 32339, Aug. 7, 1989; 55 FR 18340, May 2, 1990; 62 FR 58658, Oct. 30, 1997]

### § 15.211 Tunnel radio systems.

An intentional radiator utilized as part of a tunnel radio system may operate on any frequency provided it meets all of the following conditions:

(a) Operation of a tunnel radio system (intentional radiator and all connecting wires) shall be contained solely within a tunnel, mine or other structure that provides attenuation to the radiated signal due to the presence of naturally surrounding earth and/or water.

(b) Any intentional or unintentional radiator external to the tunnel, mine or other structure, as described in paragraph (a) of this section, shall be subject to the other applicable regulations contained within this part.

(c) The total electromagnetic field from a tunnel radio system on any frequency or frequencies appearing outside of the tunnel, mine or other structure described in paragraph (a) of this section, shall not exceed the limits shown in § 15.209 when measured at the specified distance from the surrounding structure, including openings. Particular attention shall be paid to the emissions from any opening in the structure to the outside environment. When measurements are made from the openings, the distances shown in § 15.209 refer to the distance from the plane of reference which fits the entire perimeter of each above ground opening.

(d) The conducted limits in § 15.207 apply to the radiofrequency voltage on the public utility power lines outside of the tunnel.

### § 15.212 Modular transmitters.

(a) Single modular transmitters consist of a completely self-contained radiofrequency transmitter device that is typically incorporated into another product, host or device. Split modular transmitters consist of two components: a radio front end with antenna (or radio devices) and a transmitter control element (or specific hardware on which the software that controls the radio operation resides). All single or split modular transmitters are approved with an antenna. All of the following requirements apply, except as provided in paragraph (b) of this section.

(1) Single modular transmitters must meet the following requirements to obtain a modular transmitter approval.

(i) The radio elements of the modular transmitter must have their own shielding. The physical crystal and tuning capacitors may be located external to the shielded radio elements.

(ii) The modular transmitter must have buffered modulation/data inputs (if such inputs are provided) to ensure that the module will comply with part 15 requirements under conditions of excessive data rates or over-modulation.

(iii) The modular transmitter must have its own power supply regulation.

(iv) The modular transmitter must comply with the antenna and transmission system requirements of §§ 15.203, 15.204(b) and 15.204(c). The antenna must either be permanently attached or employ a ''unique'' antenna coupler (at all connections between the module and the antenna, including the cable). The ''professional installation'' provision of § 15.203 is not applicable to modules but can apply to limited modular approvals under paragraph (b) of this section.

(v) The modular transmitter must be tested in a stand-alone configuration,

*i.e.*, the module must not be inside another device during testing for compliance with part 15 requirements. Unless the transmitter module will be battery powered, it must comply with the AC line conducted requirements found in § 15.207. AC or DC power lines and data input/output lines connected to the module must not contain ferrites, unless they will be marketed with the module (see § 15.27(a)). The length of these lines shall be the length typical of actual use or, if that length is unknown, at least 10 centimeters to insure that there is no coupling between the case of the module and supporting equipment. Any accessories, peripherals, or support equipment connected to the module during testing shall be unmodified and commercially available (see § 15.31(i)).

(vi) The modular transmitter must be equipped with either a permanently affixed label or must be capable of electronically displaying its FCC identification number.

(A) If using a permanently affixed label, the modular transmitter must be labeled with its own FCC identification number, and, if the FCC identification number is not visible when the module is installed inside another device, then the outside of the device into which the module is installed must also display a label referring to the enclosed module. This exterior label can use wording such as the following: ''Contains Transmitter Module FCC ID: XYZMODEL1'' or ''Contains FCC ID: XYZMODEL1.'' Any similar wording that expresses the same meaning may be used. The Grantee may either provide such a label, an example of which must be included in the application for equipment authorization, or, must provide adequate instructions along with the module which explain this requirement. In the latter case, a copy of these instructions must be included in the application for equipment authorization.

(B) If the modular transmitter uses an electronic display of the FCC identification number, the information must be readily accessible and visible on the modular transmitter or on the device in which it is installed. If the module is installed inside another device, then the outside of the device into which the module is installed must display a label referring to the enclosed module. This exterior label can use wording such as the following: ''Contains FCC certified transmitter module(s).'' Any similar wording that expresses the same meaning may be used. The user manual must include instructions on how to access the electronic display. A copy of these instructions must be included in the application for equipment authorization.

(vii) The modular transmitter must comply with any specific rules or operating requirements that ordinarily apply to a complete transmitter and the manufacturer must provide adequate instructions along with the module to explain any such requirements. A copy of these instructions must be included in the application for equipment authorization.

(viii) The modular transmitter must comply with any applicable RF exposure requirements in its final configuration.

(2) Split modular transmitters must meet the requirements in paragraph (a)(1) of this section, excluding paragraphs (a)(1)(i) and (a)(1)(v), and the following additional requirements to obtain a modular transmitter approval.

(i) Only the radio front end must be shielded. The physical crystal and tuning capacitors may be located external to the shielded radio elements. The interface between the split sections of the modular system must be digital with a minimum signaling amplitude of 150 mV peak-to-peak.

(ii) Control information and other data may be exchanged between the transmitter control elements and radio front end.

(iii) The sections of a split modular transmitter must be tested installed in a host device(s) similar to that which is representative of the platform(s) intended for use.

(iv) Manufacturers must ensure that only transmitter control elements and radio front end components that have been approved together are capable of operating together. The transmitter module must not operate unless it has verified that the installed transmitter control elements and radio front end have been authorized together. Manufacturers may use means including, but not limited to, coding in hardware and

electronic signatures in software to meet these requirements, and must describe the methods in their application for equipment authorization.

(b) A limited modular approval may be granted for single or split modular transmitters that do not comply with all of the above requirements, *e.g.*, shielding, minimum signaling amplitude, buffered modulation/data inputs, or power supply regulation, if the manufacturer can demonstrate by alternative means in the application for equipment authorization that the modular transmitter meets all the applicable part 15 requirements under the operating conditions in which the transmitter will be used. Limited modular approval also may be granted in those instances where compliance with RF exposure rules is demonstrated only for particular product configurations. The applicant for certification must state how control of the end product into which the module will be installed will be maintained such that full compliance of the end product is always ensured.

[72 FR 28893, May 23, 2007]

### § 15.213 Cable locating equipment.

An intentional radiator used as cable locating equipment, as defined in § 15.3(d), may be operated on any frequency within the band 9–490 kHz, subject to the following limits: Within the frequency band 9 kHz, up to, but not including, 45 kHz, the peak output power from the cable locating equipment shall not exceed 10 watts; and, within the frequency band 45 kHz to 490 kHz, the peak output power from the cable locating equipment shall not exceed one watt. If provisions are made for connection of the cable locating equipment to the AC power lines, the conducted limits in § 15.207 also apply to this equipment.

### § 15.214 Cordless telephones.

(a) For equipment authorization, a single application form, FCC Form 731, may be filed for a cordless telephone system, provided the application clearly identifies and provides data for all parts of the system to show compliance with the applicable technical requirements. When a single application form is submitted, both the base station and the portable handset must carry the same FCC identifier. The application shall include a fee for certification of each type of transmitter and for certification, if appropriate, for each type of receiver included in the system.

(b) A cordless telephone that is intended to be connected to the public switched telephone network shall also comply with the applicable regulations in part 68 of this chapter. A separate procedure for approval under part 68 is required for such terminal equipment.

(c) The label required under subpart A of this part shall also contain the following statement: ''Privacy of communications may not be ensured when using this phone.''

(d) Cordless telephones shall incorporate circuitry which makes use of a digital security code to provide protection against unintentional access to the public switched telephone network by the base unit and unintentional ringing by the handset. These functions shall operate such that each access of the telephone network or ringing of the handset is preceded by the transmission of a code word. Access to the telephone network shall occur only if the code transmitted by the handset matches code set in the base unit. Similarly, ringing of the handset shall occur only if the code transmitted by the base unit matches the code set in the handset. The security code required by this section may also be employed to perform other communications functions, such as providing telephone billing information. This security code system is to operate in accordance with the following provisions.

(1) There must be provision for at least 256 possible discrete digital codes. Factory-set codes must be continuously varied over at least 256 possible codes as each telephone is manufactured. The codes may be varied either randomly, sequentially, or using another systematic procedure.

(2) Manufacturers must use one of the following approaches for facilitating variation in the geographic distribution of individual security codes:

(i) Provide a means for the user to readily select from among at least 256 possible discrete digital codes. The cordless telephone shall be either in a non-operable mode after manufacture

until the user selects a security code or the manufacturer must continuously vary the initial security code as each telephone is produced.

(ii) Provide a fixed code that is continuously varied among at least 256 discrete digital codes as each telephone is manufactured.

(iii) Provide a means for the cordless telephone to automatically select a different code from among at least 256 possible discrete digital codes each time it is activated.

(iv) It is permissible to provide combinations of fixed, automatic, and user-selectable coding provided the above criteria are met.

(3) A statement of the means and procedures used to achieve the required protection shall be provided in any application for equipment authorization of a cordless telephone.

[56 FR 3785, Jan. 31, 1991, as amended at 63 FR 36603, July 7, 1998; 66 FR 7580, Jan. 24, 2001]

RADIATED EMISSION LIMITS, ADDITIONAL PROVISIONS

### § 15.215 Additional provisions to the general radiated emission limitations.

(a) The regulations in §§ 15.217 through 15.257 provide alternatives to the general radiated emission limits for intentional radiators operating in specified frequency bands. Unless otherwise stated, there are no restrictions as to the types of operation permitted under these sections.

(b) In most cases, unwanted emissions outside of the frequency bands shown in these alternative provisions must be attenuated to the emission limits shown in § 15.209. In no case shall the level of the unwanted emissions from an intentional radiator operating under these additional provisions exceed the field strength of the fundamental emission.

(c) Intentional radiators operating under the alternative provisions to the general emission limits, as contained in §§ 15.217 through 15.257 and in Subpart E of this part, must be designed to ensure that the 20 dB bandwidth of the emission, or whatever bandwidth may otherwise be specified in the specific rule section under which the equipment operates, is contained within the frequency band designated in the rule section under which the equipment is operated. The requirement to contain the designated bandwidth of the emission within the specified frequency band includes the effects from frequency sweeping, frequency hopping and other modulation techniques that may be employed as well as the frequency stability of the transmitter over expected variations in temperature and supply voltage. If a frequency stability is not specified in the regulations, it is recommended that the fundamental emission be kept within at least the central 80% of the permitted band in order to minimize the possibility of out-of-band operation.

[54 FR 17714, Apr. 25, 1989, as amended at 62 FR 45333, Aug. 27, 1997; 67 FR 34855, May 16, 2002; 69 FR 3265, Jan. 23, 2004; 70 FR 6774, Feb. 9, 2005]

### § 15.216 Disclosure requirements for wireless microphones and other low power auxiliary stations capable of operating in the core TV bands.

(a) Any person who manufactures, sells, leases, or offers for sale or lease, low power auxiliary stations capable of operating in the core TV bands (channels 2–51, excluding channel 37) is subject to the following disclosure requirements: (1) Such persons must display the consumer disclosure text, as specified by the Wireless Telecommunications Bureau and the Consumer and Governmental Affairs Bureau, at the point of sale or lease of each such low power auxiliary station. The text must be displayed in a clear, conspicuous, and readily legible manner. One way to fulfill the requirement in this section is to display the consumer disclosure text in a prominent manner on the product box by using a label (either printed onto the box or otherwise affixed to the box), a sticker, or other means. Another way to fulfill this requirement is to display the text immediately adjacent to each low power auxiliary station offered for sale or lease and clearly associated with the model to which it pertains.

(2) If such persons offer such low power auxiliary stations via direct mail, catalog, or electronic means,

they shall prominently display the consumer disclosure text in close proximity to the images and descriptions of each such low power auxiliary station. The text should be in a size large enough to be clear, conspicuous, and readily legible, consistent with the dimensions of the advertisement or description.

(3) If such persons have Web sites pertaining to these low power auxiliary stations, the consumer disclosure text must be displayed there in a clear, conspicuous, and readily legible manner (even in the event such persons do not sell low power auxiliary stations directly to the public).

(b) The consumer disclosure text described in paragraph (a)(1) of this section is set out in an appendix to this section.

APPENDIX TO § 15.216—CONSUMER ALERT

*Consumer Alert*

Most users do not need a license to operate this wireless microphone system. Nevertheless, operating this microphone system without a license is subject to certain restrictions: The system may not cause harmful interference; it must operate at a low power level (not in excess of 50 milliwatts); and it has no protection from interference received from any other device. Purchasers should also be aware that the FCC is currently evaluating use of wireless microphone systems, and these rules are subject to change. For more information, call the FCC at 1–888–CALL–FCC (TTY: 1–888–TELL–FCC) or visit the FCC's wireless microphone Web site at *http://www.fcc.gov/cgb/wirelessmicrophones*.

[75 FR 3638, 3640, Jan. 22, 2010]

### § 15.217 Operation in the band 160–190 kHz.

(a) The total input power to the final radio frequency stage (exclusive of filament or heater power) shall not exceed one watt.

(b) The total length of the transmission line, antenna, and ground lead (if used) shall not exceed 15 meters.

(c) All emissions below 160 kHz or above 190 kHz shall be attenuated at least 20 dB below the level of the unmodulated carrier. Determination of compliance with the 20 dB attenuation specification may be based on measurements at the intentional radiator's antenna output terminal unless the intentional radiator uses a permanently attached antenna, in which case compliance shall be demonstrated by measuring the radiated emissions.

### § 15.219 Operation in the band 510–1705 kHz.

(a) The total input power to the final radio frequency stage (exclusive of filament or heater power) shall not exceed 100 milliwatts.

(b) The total length of the transmission line, antenna and ground lead (if used) shall not exceed 3 meters.

(c) All emissions below 510 kHz or above 1705 kHz shall be attenuated at least 20 dB below the level of the unmodulated carrier. Determination of compliance with the 20 dB attenuation specification may be based on measurements at the intentional radiator's antenna output terminal unless the intentional radiator uses a permanently attached antenna, in which case compliance shall be deomonstrated by measuring the radiated emissions.

### § 15.221 Operation in the band 525–1705 kHz.

(a) Carrier current systems and transmitters employing a leaky coaxial cable as the radiating antenna may operate in the band 525–1705 kHz provided the field strength levels of the radiated emissions do not exceed 15 uV/m, as measured at a distance of 47,715/(frequency in kHz) meters (equivalent to Lambda/2Pi) from the electric power line or the coaxial cable, respectively. The field strength levels of emissions outside this band shall not exceed the general radiated emission limits in § 15.209.

(b) As an alternative to the provisions in paragraph (a) of this section, intentional radiators used for the operation of an AM broadcast station on a college or university campus or on the campus of any other education institution may comply with the following:

(1) On the campus, the field strength of emissions appearing outside of this frequency band shall not exceed the general radiated emission limits shown

in § 15.209 as measured from the radiating source. There is no limit on the field strength of emissions appearing within this frequency band, except that the provisions of § 15.5 continue to comply.

(2) At the perimeter of the campus, the field strength of any emissions, including those within the frequency band 525–1705 kHz, shall not exceed the general radiated emission in § 15.209.

(3) The conducted limits specified in § 15.207 apply to the radio frequency voltage on the public utility power lines outside of the campus. Due to the large number of radio frequency devices which may be used on the campus, contributing to the conducted emissions, as an alternative to measuring conducted emissions outside of the campus, it is acceptable to demonstrate compliance with this provision by measuring each individual intentional radiator employed in the system at the point where it connects to the AC power lines.

(c) A grant of equipment authorization is not required for intentional radiators operated under the provisions of this section. In lieu thereof, the intentional radiator shall be verified for compliance with the regulations in accordance with subpart J of part 2 of this chapter. This data shall be kept on file at the location of the studio, office or control room associated with the transmitting equipment. In some cases, this may correspond to the location of the transmitting equipment.

(d) For the band 535–1705 kHz, the frequency of operation shall be chosen such that operation is not within the protected field strength contours of licensed AM stations.

[56 FR 373, Jan. 4, 1991]

### § 15.223 Operation in the band 1.705–10 MHz.

(a) The field strength of any emission within the band 1.705–10.0 MHz shall not exceed 100 microvolts/meter at a distance of 30 meters. However, if the bandwidth of the emission is less than 10% of the center frequency, the field strength shall not exceed 15 microvolts/meter or (the bandwidth of the device in kHz) divided by (the center frequency of the device in MHz) microvolts/meter at a distance of 30 meters, whichever is the higher level. For the purposes of this section, bandwidth is determined at the points 6 dB down from the modulated carrier. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35(b) for limiting peak emissions apply.

(b) The field strength of emissions outside of the band 1.705–10.0 MHz shall not exceed the general radiated emission limits in § 15.209.

### § 15.225 Operation within the band 13.110–14.010 MHz.

(a) The field strength of any emissions within the band 13.553–13.567 MHz shall not exceed 15,848 microvolts/meter at 30 meters.

(b) Within the bands 13.410–13.553 MHz and 13.567–13.710 MHz, the field strength of any emissions shall not exceed 334 microvolts/meter at 30 meters.

(c) Within the bands 13.110–13.410 MHz and 13.710–14.010 MHz the field strength of any emissions shall not exceed 106 microvolts/meter at 30 meters.

(d) The field strength of any emissions appearing outside of the 13.110–14.010 MHz band shall not exceed the general radiated emission limits in § 15.209.

(e) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency over a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(f) In the case of radio frequency powered tags designed to operate with a device authorized under this section, the tag may be approved with the device or be considered as a separate device subject to its own authorization. Powered tags approved with a device under a single application shall be labeled with the same identification number as the device.

[68 FR 68546, Dec. 9, 2003]

### § 15.227 Operation within the band 26.96–27.28 MHz.

(a) The field strength of any emission within this band shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(b) The field strength of any emissions which appear outside of this band shall not exceed the general radiated emission limits in § 15.209.

### § 15.229 Operation within the band 40.66–40.70 MHz.

(a) Unless operating pursuant to the provisions in § 15.231, the field strength of any emissions within this band shall not exceed 1,000 microvolts/meter at 3 meters.

(b) As an alternative to the limit in paragraph (a) of this section, perimeter protection systems may demonstrate compliance with the following: the field strength of any emissions within this band shall not exceed 500 microvolts/meter at 3 meters, as determined using measurement instrumentations employing an average detector. The provisions in § 15.35 for limiting peak emissions apply where compliance of these devices is demonstrated under this alternative emission limit.

(c) The field strength of any emissions appearing outside of this band shall not exceed the general radiated emission limits in § 15.209.

(d) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency over a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

[54 FR 17714, Apr. 25, 1989, as amended at 55 FR 33910, Aug. 20, 1990]

### § 15.231 Periodic operation in the band 40.66–40.70 MHz and above 70 MHz.

(a) The provisions of this section are restricted to periodic operation within the band 40.66–40.70 MHz and above 70 MHz. Except as shown in paragraph (e) of this section, the intentional radiator is restricted to the transmission of a control signal such as those used with alarm systems, door openers, remote switches, etc. Continuous transmissions, voice, video and the radio control of toys are not permitted. Data is permitted to be sent with a control signal. The following conditions shall be met to comply with the provisions for this periodic operation:

(1) A manually operated transmitter shall employ a switch that will automatically deactivate the transmitter within not more than 5 seconds of being released.

(2) A transmitter activated automatically shall cease transmission within 5 seconds after activation.

(3) Periodic transmissions at regular predetermined intervals are not permitted. However, polling or supervision transmissions, including data, to determine system integrity of transmitters used in security or safety applications are allowed if the total duration of transmissions does not exceed more than two seconds per hour for each transmitter. There is no limit on the number of individual transmissions, provided the total transmission time does not exceed two seconds per hour.

(4) Intentional radiators which are employed for radio control purposes during emergencies involving fire, security, and safety of life, when activated to signal an alarm, may operate during the pendency of the alarm condition

(5) Transmission of set-up information for security systems may exceed the transmission duration limits in paragraphs (a)(1) and (a)(2) of this section, provided such transmissions are under the control of a professional installer and do not exceed ten seconds after a manually operated switch is released or a transmitter is activated automatically. Such set-up information may include data.

(b) In addition to the provisions of § 15.205, the field strength of emissions from intentional radiators operated under this section shall not exceed the following:

| Fundamental frequency (MHz) | Field strength of fundamental (microvolts/meter) | Field strength of spurious emissions (microvolts/meter) |
|---|---|---|
| 40.66–40.70. | 2,250 | 225 |
| 70–130 | 1,250 | 125 |
| 130–174 | [1] 1,250 to 3,750 | [1] 125 to 375 |
| 174–260 | 3,750 | 375 |
| 260–470 | [1] 3,750 to 12,500 | [1] 375 to 1,250 |
| Above 470 | 12,500 | 1,250 |

[1] Linear interpolations.

(1) The above field strength limits are specified at a distance of 3 meters. The tighter limits apply at the band edges.

(2) Intentional radiators operating under the provisions of this section shall demonstrate compliance with the limits on the field strength of emissions, as shown in the above table, based on the average value of the measured emissions. As an alternative, compliance with the limits in the above table may be based on the use of measurement instrumentation with a CISPR quasi-peak detector. The specific method of measurement employed shall be specified in the application for equipment authorization. If average emission measurements are employed, the provisions in §15.35 for averaging pulsed emissions and for limiting peak emissions apply. Further, compliance with the provisions of §15.205 shall be demonstrated using the measurement instrumentation specified in that section.

(3) The limits on the field strength of the spurious emissions in the above table are based on the fundamental frequency of the intentional radiator. Spurious emissions shall be attenuated to the average (or, alternatively, CISPR quasi-peak) limits shown in this table or to the general limits shown in §15.209, whichever limit permits a higher field strength.

(c) The bandwidth of the emission shall be no wider than 0.25% of the center frequency for devices operating above 70 MHz and below 900 MHz. For devices operating above 900 MHz, the emission shall be no wider than 0.5% of the center frequency. Bandwidth is determined at the points 20 dB down from the modulated carrier.

(d) For devices operating within the frequency band 40.66–40.70 MHz, the bandwidth of the emission shall be confined within the band edges and the frequency tolerance of the carrier shall be ±0.01%. This frequency tolerance shall be maintained for a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(e) Intentional radiators may operate at a periodic rate exceeding that specified in paragraph (a) of this section and may be employed for any type of operation, including operation prohibited in paragraph (a) of this section, provided the intentional radiator complies with the provisions of paragraphs (b) through (d) of this section, except the field strength table in paragraph (b) of this section is replaced by the following:

| Fundamental frequency (MHz) | Field strength of fundamental (microvolts/meter) | Field strength of spurious emission (microvolts/meter) |
|---|---|---|
| 40.66–40.70. | 1,000 | 100 |
| 70–130 | 500 | 50 |
| 130–174 | 500 to 1,500 [1] | 50 to 150 [1] |
| 174–260 | 1,500 | 150 |
| 260–470 | 1,500 to 5,000 [1] | 150 to 500 [1] |
| Above 470 | 5,000 | 500 |

[1] Linear interpolations.

In addition, devices operated under the provisions of this paragraph shall be provided with a means for automatically limiting operation so that the duration of each transmission shall not be greater than one second and the silent period between transmissions shall be at least 30 times the duration of the transmission but in no case less than 10 seconds.

[54 FR 17714, Apr. 25, 1989; 54 FR 32340, Aug. 7, 1989, as amended at 68 FR 68546, Dec. 9, 2003; 69 FR 71383, Dec. 9, 2004]

### §15.233 Operation within the bands 43.71–44.49 MHz, 46.60–46.98 MHz, 48.75–49.51 MHz and 49.66–50.0 MHz.

(a) The provisions shown in this section are restricted to cordless telephones.

(b) An intentional radiator used as part of a cordless telephone system shall operate centered on one or more

of the following frequency pairs, subject to the following conditions:

(1) Frequencies shall be paired as shown below, except that channel pairing for channels one through fifteen may be accomplished by pairing any of the fifteen base transmitter frequencies with any of the fifteen handset transmitter frequencies.

(2) Cordless telephones operating on channels one through fifteen must:

(i) Incorporate an automatic channel selection mechanism that will prevent establishment of a link on any occupied frequency; and

(ii) The box or an instruction manual which is included within the box which the individual cordless telephone is to be marketed shall contain information indicating that some cordless telephones operate at frequencies that may cause interference to nearby TVs and VCRs; to minimize or prevent such interference, the base of the cordless telephone should not be placed near or on top of a TV or VCR; and, if interference is experienced, moving the cordless telephone farther away from the TV or VCR will often reduce or eliminate the interference. A statement describing the means and procedures used to achieve automatic channel selection shall be provided in any application for equipment authorization of a cordless telephone operating on channels one through fifteen.

| Channel | Base transmitter (MHz) | Handset transmitter (MHz) |
|---|---|---|
| 1 | 43.720 | 48.760 |
| 2 | 43.740 | 48.840 |
| 3 | 43.820 | 48.860 |
| 4 | 43.840 | 48.920 |
| 5 | 43.920 | 49.020 |
| 6 | 43.960 | 49.080 |
| 7 | 44.120 | 49.100 |
| 8 | 44.160 | 49.160 |
| 9 | 44.180 | 49.200 |
| 10 | 44.200 | 49.240 |
| 11 | 44.320 | 49.280 |
| 12 | 44.360 | 49.360 |
| 13 | 44.400 | 49.400 |
| 14 | 44.460 | 49.460 |
| 15 | 44.480 | 49.500 |
| 16 | 46.610 | 49.670 |
| 17 | 46.630 | 49.845 |
| 18 | 46.670 | 49.860 |
| 19 | 46.710 | 49.770 |
| 20 | 46.730 | 49.875 |
| 21 | 46.770 | 49.830 |
| 22 | 46.830 | 49.890 |
| 23 | 46.870 | 49.930 |
| 24 | 46.930 | 49.990 |
| 25 | 46.970 | 49.970 |

(c) The field strength of the fundamental emission shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in §15.35 for limiting peak emissions apply.

(d) The fundamental emission shall be confined within a 20 kHz band and shall be centered on a carrier frequency shown above, as adjusted by the frequency tolerance of the transmitter at the time testing is performed. Modulation products outside of this 20 kHz band shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in §15.209, whichever permits the higher emission levels. Emissions on any frequency more than 20 kHz removed from the center frequency shall consist solely of unwanted emissions and shall not exceed the general radiated emission limits in §15.209. Tests to determine compliance with these requirements shall be performed using an appropriate input signal as prescribed in §2.989 of this chapter.

(e) All emissions exceeding 20 microvolts/meter at 3 meters are to be reported in the application for certification.

(f) If the device provides for the connection of external accessories, including external electrical input signals, the device must be tested with the accessories attached. The emission tests shall be performed with the device and accessories configured in a manner which tends to produce the maximum level of emissions within the range of variations that can be expected under normal operating conditions.

(g) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency. The tolerance shall be maintained for a temperature variation of −20 degrees C to +50 degrees C at normal supply voltage, and for variation in the primary voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(h) For cordless telephones that do not comply with §15.214(d) of this part,

the box or other package in which the individual cordless telephone is to be marketed shall carry a statement in a prominent location, visible to the buyer before purchase, which reads as follows:

NOTICE: The base units of some cordless telephones may respond to other nearby units or to radio noise resulting in telephone calls being dialed through this unit without your knowledge and possibly calls being misbilled. In order to protect against such occurrences, this cordless telephone is provided with the following features: (to be completed by the responsible party).

An application for certification of a cordless telephone shall specify the complete text of the statement that will be carried on the package and indicate where, specifically, it will be located on the carton.

[54 FR 17714, Apr. 25, 1989; 54 FR 32340, Aug. 7, 1989, as amended at 56 FR 3785, Jan. 31, 1991; 56 FR 5659, Feb. 12, 1991; 60 FR 21985, May 4, 1995]

### § 15.235 Operation within the band 49.82–49.90 MHz.

(a) The field strength of any emission within this band shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(b) The field strength of any emissions appearing between the band edges and up to 10 kHz above and below the band edges shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in § 15.209, whichever permits the higher emission levels. The field strength of any emissions removed by more than 10 kHz from the band edges shall not exceed the general radiated emission limits in § 15.209. All signals exceeding 20 microvolts/meter at 3 meters shall be reported in the application for certification.

(c) For a home-built intentional radiator, as defined in § 15.23(a), operating within the band 49.82–49.90 MHz, the following standards may be employed:

(1) The RF carrier and modulation products shall be maintained within the band 49.82–49.90 MHz.

(2) The total input power to the device measured at the battery or the power line terminals shall not exceed 100 milliwatts under any condition of modulation.

(3) The antenna shall be a single element, one meter or less in length, permanently mounted on the enclosure containing the device.

(4) Emissions outside of this band shall be attenuated at least 20 dB below the level of the unmodulated carrier.

(5) The regulations contained in § 15.23 of this part apply to intentional radiators constructed under the provisions of this paragraph.

(d) Cordless telephones are not permitted to operate under the provisions of this section.

### § 15.237 Operation in the bands 72.0–73.0 MHz, 74.6–74.8 MHz and 75.2–76.0 MHz.

(a) The intentional radiator shall be restricted to use as an auditory assistance device.

(b) Emissions from the intentional radiator shall be confined within a band 200 kHz wide centered on the operating frequency. The 200 kHz band shall lie wholly within the above specified frequency ranges.

(c) The field strength of any emissions within the permitted 200 kHz band shall not exceed 80 millivolts/meter at 3 meters. The field strength of any emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed 1500 microvolts/meter at 3 meters. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

[54 FR 17714, Apr. 25, 1989, as amended at 57 FR 13048, Apr. 15, 1992]

### § 15.239 Operation in the band 88–108 MHz.

(a) Emissions from the intentional radiator shall be confined within a band 200 kHz wide centered on the operating frequency. The 200 kHz band shall lie wholly within the frequency range of 88–108 MHz.

(b) The field strength of any emissions within the permitted 200 kHz band shall not exceed 250 microvolts/

meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The field strength of any emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed the general radiated emission limits in § 15.209.

(d) A custom built telemetry intentional radiator operating in the frequency band 88–108 MHz and used for experimentation by an educational institute need not be certified provided the device complies with the standards in this part and the educational institution notifies the Engineer in Charge of the local FCC office, in writing, in advance of operation, providing the following information:

(1) The dates and places where the device will be operated;

(2) The purpose for which the device will be used;

(3) A description of the device, including the operating frequency, RF power output, and antenna; and,

(4) A statement that the device complies with the technical provisions of this part.

[54 FR 17714, Apr. 25, 1989; 54 FR 32340, Aug. 7, 1989]

### § 15.240 Operation in the band 433.5–434.5 MHz.

(a) Operation under the provisions of this section is restricted to devices that use radio frequency energy to identify the contents of commercial shipping containers. Operations must be limited to commercial and industrial areas such as ports, rail terminals and warehouses. Two-way operation is permitted to interrogate and to load data into devices. Devices operated pursuant to the provisions of this section shall not be used for voice communications.

(b) The field strength of any emissions radiated within the specified frequency band shall not exceed 11,000 microvolts per meter measured at a distance of 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The peak level of any emissions within the specified frequency band shall not exceed 55,000 microvolts per meter measured at a distance of 3 meters. Additionally, devices authorized under these provisions shall be provided with a means for automatically limiting operation so that the duration of each transmission shall not be greater than 60 seconds and be only permitted to reinitiate an interrogation in the case of a transmission error. Absent such a transmission error, the silent period between transmissions shall not be less than 10 seconds.

(c) The field strength of emissions radiated on any frequency outside of the specified band shall not exceed the general radiated emission limits in § 15.209.

(d) In the case of radio frequency powered tags designed to operate with a device authorized under this section, the tag may be approved with the device or be considered as a separate device subject to its own authorization. Powered tags approved with a device under a single application shall be labeled with the same identification number as the device.

(e) To prevent interference to Federal Government radar systems, operation under the provisions of this section is not permitted within 40 kilometers of the following locations:

| DoD Radar Site | Latitude | Longitude |
|---|---|---|
| Beale Air Force Base ..... | 39°08′10″ N | 121°21′04″ W |
| Cape Cod Air Force Station | 41°45′07″ N | 070°32′17″ W |
| Clear Air Force Station ..... | 64°55′16″ N | 143°05′02″ W |
| Cavalier Air Force Station .. | 48°43′12″ N | 097°54′00″ W |
| Eglin Air Force Base ..... | 30°43′12″ N | 086°12′36″ W |

(f) As a condition of the grant, the grantee of an equipment authorization for a device operating under the provisions of this section shall provide information to the user concerning compliance with the operational restrictions in paragraphs (a) and (e) of this section. As a further condition, the grantee shall provide information on the locations where the devices are installed to the FCC Office of Engineering and Technology, which shall provide this information to the Federal Government through the National Telecommunications and Information Administration. The user of the device shall be responsible for submitting updated information in the event the operating location or other information

changes after the initial registration. The grantee shall notify the user of this requirement. The information provided by the grantee or user to the Commission shall include the name, address, telephone number and e-mail address of the user, the address and geographic coordinates of the operating location, and the FCC identification number of the device. The material shall be submitted to the following address:

Experimental Licensing Branch, OET, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, ATTN: RFID Registration.

[69 FR 29464, May 24, 2004]

### § 15.241 Operation in the band 174–216 MHz.

(a) Operation under the provisions of this section is restricted to biomedical telemetry devices.

(b) Emissions from the device shall be confined within a 200 kHz band which shall lie wholly within the frequency range of 174–216 MHz.

(c) The field strength of any emissions radiated within the specified 200 kHz band shall not exceed 1500 microvolts/meter at 3 meters. The field strength of emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed 150 microvolts/meter at 3 meters. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

### § 15.242 Operation in the bands 174–216 MHz and 470–668 MHz.

(a) The marketing and operation of intentional radiators under the provisions of this section is restricted to biomedical telemetry devices employed solely on the premises of health care facilities.

(1) A health care facility includes hospitals and other establishments that offer services, facilities, and beds for use beyond 24 hours in rendering medical treatment and institutions and organizations regularly engaged in providing medical services through clinics, public health facilities, and similar establishments, including governmental entities and agencies for their own medical activities.

(2) This authority to operate does not extend to mobile vehicles, such as ambulances, even if those vehicles are associated with a health care facility.

(b) The fundamental emissions from a biomedical telemetry device operating under the provisions of this section shall be contained within a single television broadcast channel, as defined in part 73 of this chapter, under all conditions of operation and shall lie wholly within the frequency ranges of 174–216 MHz and 470–668 MHz.

(c) The field strength of the fundamental emissions shall not exceed 200 mV/m, as measured at a distance of 3 meters using a quasi-peak detector. Manufacturers should note that a quasi-peak detector function indicates field strength per 120 kHz of bandwidth ±20 kHz. Accordingly, the total signal level over the band of operation may be higher than 200 mV/m. The field strength of emissions radiated on any frequency outside of the television broadcast channel within which the fundamental is contained shall not exceed the general limits in § 15.209.

(d) The user and the installer of a biomedical telemetry device operating within the frequency range 174–216 MHz, 470–608 MHz or 614–668 MHz shall ensure that the following minimum separation distances are maintained between the biomedical telemetry device and the authorized radio services operating on the same frequencies:

(1) At least 10.3 km outside of the Grade B field strength contour (56 dBuV/m) of a TV broadcast station or an associated TV booster station operating within the band 174–216 MHz.

(2) At least 5.5 km outside of the Grade B field strength contour (64 dBuV/m) of a TV broadcast station or an associated TV booster station operating within the bands 470–608 MHz or 614–668 MHz.

(3) At least 5.1 km outside of the 68 dBuV/m field strength contour of a low power TV or a TV translator station operating within the band 174–216 MHz.

(4) At least 3.1 km outside of the 74 dBuV/m field strength contour of a low power TV or a TV translator station operating within the bands 470–608 MHz or 614–668 MHz.

(5) Whatever distance is necessary to protect other authorized users within these bands.

(e) The user and the installer of a biomedical telemetry device operating within the frequency range 608–614 MHz and that will be located within 32 km of the very long baseline array (VLBA) stations or within 80 km of any of the other radio astronomy observatories noted in footnote US 311 of Section 2.106 of this chapter must coordinate with, and obtain the written concurrence of, the director of the affected radio astronomy observatory before the equipment can be installed or operated. The National Science Foundation point of contact for coordination is: Spectrum Manager, Division of Astronomical Sciences, NSF Rm 1045, 4201 Wilson Blvd., Arlington, VA 22230; tel: (703) 306–1823.

(f) Biomedical telemetry devices must not cause harmful interference to licensed TV broadcast stations or to other authorized radio services, such as operations on the broadcast frequencies under subparts G and H of part 74 of this chapter, land mobile stations operating under part 90 of this chapter in the 470–512 MHz band, and radio astronomy operation in the 608–614 MHz band. (See § 15.5.) If harmful interference occurs, the interference must either be corrected or the device must immediately cease operation on the occupied frequency. Further, the operator of the biomedical telemetry device must accept whatever level of interference is received from other radio operations. The operator, *i.e.*, the health care facility, is responsible for resolving any interference that occurs subsequent to the installation of these devices.

(g) The manufacturers, installers, and users of biomedical telemetry devices are reminded that they must ensure that biomedical telemetry transmitters operating under the provisions of this section avoid operating in close proximity to authorized services using this spectrum. Sufficient separation distance, necessary to avoid causing or receiving harmful interference, must be maintained from co-channel operations. These parties are reminded that the frequencies of the authorized services are subject to change, especially during the implementation of the digital television services. The operating frequencies of the part 15 devices may need to be changed, as necessary and in accordance with the permissive change requirements of this chapter, to accommodate changes in the operating frequencies of the authorized services.

(h) The manufacturers, installers and users of biomedical telemetry devices are cautioned that the operation of this equipment could result in harmful interference to other nearby medical devices.

[62 FR 58658, Oct. 30, 1997]

### § 15.243 Operation in the band 890–940 MHz.

(a) Operation under the provisions of this section is restricted to devices that use radio frequency energy to measure the characteristics of a material. Devices operated pursuant to the provisions of this section shall not be used for voice communications or the transmission of any other type of message.

(b) The field strength of any emissions radiated within the specified frequency band shall not exceed 500 microvolts/meter at 30 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The field strength of emissions radiated on any frequency outside of the specified band shall not exceed the general radiated emission limits in § 15.209.

(d) The device shall be self-contained with no external or readily accessible controls which may be adjusted to permit operation in a manner inconsistent with the provisions in this section. Any antenna that may be used with the device shall be permanently attached thereto and shall not be readily modifiable by the user.

### § 15.245 Operation within the bands 902–928 MHz, 2435–2465 MHz, 5785–5815 MHz, 10500–10550 MHz, and 24075–24175 MHz.

(a) Operation under the provisions of this section is limited to intentional radiators used as field disturbance sensors, excluding perimeter protection systems.

(b) The field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

| Fundamental frequency (MHz) | Field strength of fundamental (millivolts/meter) | Field strength of harmonics (millivolts/meter) |
|---|---|---|
| 902–928 | 500 | 1.6 |
| 2435–2465 | 500 | 1.6 |
| 5785–5815 | 500 | 1.6 |
| 10500–10550 | 2500 | 25.0 |
| 24075–24175 | 2500 | 25.0 |

(1) Regardless of the limits shown in the above table, harmonic emissions in the restricted bands below 17.7 GHz, as specified in §15.205, shall not exceed the field strength limits shown in §15.209. Harmonic emissions in the restricted bands at and above 17.7 GHz shall not exceed the following field strength limits:

(i) For the second and third harmonics of field disturbance sensors operating in the 24075–24175 MHz band and for other field disturbance sensors designed for use only within a building or to open building doors, 25.0 mV/m.

(ii) For all other field disturbance sensors, 7.5 mV/m.

(iii) Field disturbance sensors designed to be used in motor vehicles or aircraft must include features to prevent continuous operation unless their emissions in the restricted bands, other than the second and third harmonics from devices operating in the 24075–24175 MHz band, fully comply with the limits given in §15.209. Continuous operation of field disturbance sensors designed to be used in farm equipment, vehicles such as fork lifts that are intended primarily for use indoors or for very specialized operations, or railroad locomotives, railroad cars and other equipment which travels on fixed tracks is permitted. A field disturbance sensor will be considered not to be operating in a continuous mode if its operation is limited to specific activities of limited duration (e.g., putting a vehicle into reverse gear, activating a turn signal, etc.).

(2) Field strength limits are specified at a distance of 3 meters.

(3) Emissions radiated outside of the specified frequency bands, except for harmonics, shall be attenuated by at least 50 dB below the level of the fundamental or to the general radiated emission limits in §15.209, whichever is the lesser attenuation.

(4) The emission limits shown above are based on measurement instrumentation employing an average detector. The provisions in §15.35 for limiting peak emissions apply.

[54 FR 17714, Apr. 25, 1989, as amended at 55 FR 46792, Nov. 7, 1990; 61 FR 42558, Aug. 16, 1996; 68 FR 68547, Dec. 9, 2003]

### §15.247 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz.

(a) Operation under the provisions of this Section is limited to frequency hopping and digitally modulated intentional radiators that comply with the following provisions:

(1) Frequency hopping systems shall have hopping channel carrier frequencies separated by a minimum of 25 kHz or the 20 dB bandwidth of the hopping channel, whichever is greater. Alternatively, frequency hopping systems operating in the 2400–2483.5 MHz band may have hopping channel carrier frequencies that are separated by 25 kHz or two-thirds of the 20 dB bandwidth of the hopping channel, whichever is greater, provided the systems operate with an output power no greater than 125 mW. The system shall hop to channel frequencies that are selected at the system hopping rate from a pseudo randomly ordered list of hopping frequencies. Each frequency must be used equally on the average by each transmitter. The system receivers shall have input bandwidths that match the hopping channel bandwidths of their corresponding transmitters and shall shift frequencies in synchronization with the transmitted signals.

(i) For frequency hopping systems operating in the 902–928 MHz band: if the 20 dB bandwidth of the hopping channel is less than 250 kHz, the system shall use at least 50 hopping frequencies and the average time of occupancy on any frequency shall not be greater than 0.4 seconds within a 20 second period; if the 20 dB bandwidth of the hopping channel is 250 kHz or greater, the system shall use at least 25 hopping frequencies and the average time of occupancy on any frequency shall not be

greater than 0.4 seconds within a 10 second period. The maximum allowed 20 dB bandwidth of the hopping channel is 500 kHz.

(ii) Frequency hopping systems operating in the 5725–5850 MHz band shall use at least 75 hopping frequencies. The maximum 20 dB bandwidth of the hopping channel is 1 MHz. The average time of occupancy on any frequency shall not be greater than 0.4 seconds within a 30 second period.

(iii) Frequency hopping systems in the 2400–2483.5 MHz band shall use at least 15 channels. The average time of occupancy on any channel shall not be greater than 0.4 seconds within a period of 0.4 seconds multiplied by the number of hopping channels employed. Frequency hopping systems may avoid or suppress transmissions on a particular hopping frequency provided that a minimum of 15 channels are used.

(2) Systems using digital modulation techniques may operate in the 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz bands. The minimum 6 dB bandwidth shall be at least 500 kHz.

(b) The maximum peak conducted output power of the intentional radiator shall not exceed the following:

(1) For frequency hopping systems operating in the 2400–2483.5 MHz band employing at least 75 non-overlapping hopping channels, and all frequency hopping systems in the 5725–5850 MHz band: 1 watt. For all other frequency hopping systems in the 2400–2483.5 MHz band: 0.125 watts.

(2) For frequency hopping systems operating in the 902–928 MHz band: 1 watt for systems employing at least 50 hopping channels; and, 0.25 watts for systems employing less than 50 hopping channels, but at least 25 hopping channels, as permitted under paragraph (a)(1)(i) of this section.

(3) For systems using digital modulation in the 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz bands: 1 Watt. As an alternative to a peak power measurement, compliance with the one Watt limit can be based on a measurement of the maximum conducted output power. Maximum Conducted Output Power is defined as the total transmit power delivered to all antennas and antenna elements averaged across all symbols in the signaling alphabet when the transmitter is operating at its maximum power control level. Power must be summed across all antennas and antenna elements. The average must not include any time intervals during which the transmitter is off or is transmitting at a reduced power level. If multiple modes of operation are possible (e.g., alternative modulation methods), the *maximum conducted output power* is the highest total transmit power occurring in any mode.

(4) The conducted output power limit specified in paragraph (b) of this section is based on the use of antennas with directional gains that do not exceed 6 dBi. Except as shown in paragraph (c) of this section, if transmitting antennas of directional gain greater than 6 dBi are used, the conducted output power from the intentional radiator shall be reduced below the stated values in paragraphs (b)(1), (b)(2), and (b)(3) of this section, as appropriate, by the amount in dB that the directional gain of the antenna exceeds 6 dBi.

(i) Systems operating in the 2400–2483.5 MHz band that are used exclusively for fixed, point-to-point operations may employ transmitting antennas with directional gain greater than 6 dBi provided the maximum peak output power of the intentional radiator is reduced by 1 dB for every 3 dB that the directional gain of the antenna exceeds 6 dBi.

(ii) Systems operating in the 5725–5850 MHz band that are used exclusively for fixed, point-to-point operations may employ transmitting antennas with directional gain greater than 6 dBi without any corresponding reduction in transmitter peak output power.

(iii) Fixed, point-to-point operation, as used in paragraphs (b)(3)(i) and (b)(3)(ii) of this section, excludes the use of point-to-multipoint systems, omnidirectional applications, and multiple co-located intentional radiators transmitting the same information. The operator of the spread spectrum intentional radiator or, if the equipment is professionally installed, the installer is responsible for ensuring that the system is used exclusively for fixed, point-to-point operations. The

instruction manual furnished with the intentional radiator shall contain language in the installation instructions informing the operator and the installer of this responsibility.

(c) Operation with directional antenna gains greater than 6 dBi.

(1) Fixed point-to-point operation:

(i) Systems operating in the 2400–2483.5 MHz band that are used exclusively for fixed, point-to-point operations may employ transmitting antennas with directional gain greater than 6 dBi provided the maximum conducted output power of the intentional radiator is reduced by 1 dB for every 3 dB that the directional gain of the antenna exceeds 6 dBi.

(ii) Systems operating in the 5725–5850 MHz band that are used exclusively for fixed, point-to-point operations may employ transmitting antennas with directional gain greater than 6 dBi without any corresponding reduction in transmitter conducted output power.

(iii) Fixed, point-to-point operation, as used in paragraphs (c)(1)(i) and (c)(1)(ii) of this section, excludes the use of point-to-multipoint systems, omnidirectional applications, and multiple co-located intentional radiators transmitting the same information. The operator of the spread spectrum or digitally modulated intentional radiator or, if the equipment is professionally installed, the installer is responsible for ensuring that the system is used exclusively for fixed, point-to-point operations. The instruction manual furnished with the intentional radiator shall contain language in the installation instructions informing the operator and the installer of this responsibility.

(2) In addition to the provisions in paragraphs (b)(1), (b)(3), (b)(4) and (c)(1)(i) of this section, transmitters operating in the 2400–2483.5 MHz band that emit multiple directional beams, simultaneously or sequentially, for the purpose of directing signals to individual receivers or to groups of receivers provided the emissions comply with the following:

(i) Different information must be transmitted to each receiver.

(ii) If the transmitter employs an antenna system that emits multiple directional beams but does not do emit multiple directional beams simultaneously, the total output power conducted to the array or arrays that comprise the device, i.e., the sum of the power supplied to all antennas, antenna elements, staves, etc. and summed across all carriers or frequency channels, shall not exceed the limit specified in paragraph (b)(1) or (b)(3) of this section, as applicable. However, the total conducted output power shall be reduced by 1 dB below the specified limits for each 3 dB that the directional gain of the antenna/antenna array exceeds 6 dBi. The directional antenna gain shall be computed as follows:

(A) The directional gain shall be calculated as the sum of 10 log (number of array elements or staves) plus the directional gain of the element or stave having the highest gain.

(B) A lower value for the directional gain than that calculated in paragraph (c)(2)(ii)(A) of this section will be accepted if sufficient evidence is presented, e.g., due to shading of the array or coherence loss in the beamforming.

(iii) If a transmitter employs an antenna that operates simultaneously on multiple directional beams using the same or different frequency channels, the power supplied to each emission beam is subject to the power limit specified in paragraph (c)(2)(ii) of this section. If transmitted beams overlap, the power shall be reduced to ensure that their aggregate power does not exceed the limit specified in paragraph (c)(2)(ii) of this section. In addition, the aggregate power transmitted simultaneously on all beams shall not exceed the limit specified in paragraph (c)(2)(ii) of this section by more than 8 dB.

(iv) Transmitters that emit a single directional beam shall operate under the provisions of paragraph (c)(1) of this section.

(d) In any 100 kHz bandwidth outside the frequency band in which the spread spectrum or digitally modulated intentional radiator is operating, the radio frequency power that is produced by the intentional radiator shall be at least 20 dB below that in the 100 kHz bandwidth within the band that contains the highest level of the desired

power, based on either an RF conducted or a radiated measurement, provided the transmitter demonstrates compliance with the peak conducted power limits. If the transmitter complies with the conducted power limits based on the use of RMS averaging over a time interval, as permitted under paragraph (b)(3) of this section, the attenuation required under this paragraph shall be 30 dB instead of 20 dB. Attenuation below the general limits specified in §15.209(a) is not required. In addition, radiated emissions which fall in the restricted bands, as defined in §15.205(a), must also comply with the radiated emission limits specified in §15.209(a) (see §15.205(c)).

(e) For digitally modulated systems, the power spectral density conducted from the intentional radiator to the antenna shall not be greater than 8 dBm in any 3 kHz band during any time interval of continuous transmission. This power spectral density shall be determined in accordance with the provisions of paragraph (b) of this section. The same method of determining the conducted output power shall be used to determine the power spectral density.

(f) For the purposes of this section, hybrid systems are those that employ a combination of both frequency hopping and digital modulation techniques. The frequency hopping operation of the hybrid system, with the direct sequence or digital modulation operation turned off, shall have an average time of occupancy on any frequency not to exceed 0.4 seconds within a time period in seconds equal to the number of hopping frequencies employed multiplied by 0.4. The digital modulation operation of the hybrid system, with the frequency hopping operation turned off, shall comply with the power density requirements of paragraph (d) of this section.

(g) Frequency hopping spread spectrum systems are not required to employ all available hopping channels during each transmission. However, the system, consisting of both the transmitter and the receiver, must be designed to comply with all of the regulations in this section should the transmitter be presented with a continuous data (or information) stream. In addition, a system employing short transmission bursts must comply with the definition of a frequency hopping system and must distribute its transmissions over the minimum number of hopping channels specified in this section.

(h) The incorporation of intelligence within a frequency hopping spread spectrum system that permits the system to recognize other users within the spectrum band so that it individually and independently chooses and adapts its hopsets to avoid hopping on occupied channels is permitted. The coordination of frequency hopping systems in any other manner for the express purpose of avoiding the simultaneous occupancy of individual hopping frequencies by multiple transmitters is not permitted.

NOTE: Spread spectrum systems are sharing these bands on a noninterference basis with systems supporting critical Government requirements that have been allocated the usage of these bands, secondary only to ISM equipment operated under the provisions of part 18 of this chapter. Many of these Government systems are airborne radiolocation systems that emit a high EIRP which can cause interference to other users. Also, investigations of the effect of spread spectrum interference to U. S. Government operations in the 902–928 MHz band may require a future decrease in the power limits allowed for spread spectrum operation.

(i) Systems operating under the provisions of this section shall be operated in a manner that ensures that the public is not exposed to radio frequency energy levels in excess of the Commission's guidelines. *See* §1.1307(b)(1) of this chapter.

[54 FR 17714, Apr. 25, 1989, as amended at 55 FR 28762, July 13, 1990; 62 FR 26242, May 13, 1997; 65 FR 57561, Sept. 25, 2000; 67 FR 42734, June 25, 2002; 69 FR 54035, Sept. 7, 2004; 72 FR 5632, Feb. 7, 2007]

### §15.249 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, 5725–5875 MHZ, and 24.0–24.25 GHz.

(a) Except as provided in paragraph (b) of this section, the field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

| Fundamental frequency | Field strength of fundamental (millivolts/meter) | Field strength of harmonics (microvolts/meter) |
|---|---|---|
| 902–928 MHz | 50 | 500 |
| 2400–2483.5 MHz | 50 | 500 |
| 5725–5875 MHz | 50 | 500 |
| 24.0–24.25 GHz | 250 | 2500 |

(b) Fixed, point-to-point operation as referred to in this paragraph shall be limited to systems employing a fixed transmitter transmitting to a fixed remote location. Point-to-multipoint systems, omnidirectional applications, and multiple co-located intentional radiators transmitting the same information are not allowed. Fixed, point-to-point operation is permitted in the 24.05–24.25 GHz band subject to the following conditions:

(1) The field strength of emissions in this band shall not exceed 2500 millivolts/meter.

(2) The frequency tolerance of the carrier signal shall be maintained within ±0.001% of the operating frequency over a temperature variation of -20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(3) Antenna gain must be at least 33 dBi. Alternatively, the main lobe beamwidth must not exceed 3.5 degrees. The beamwidth limit shall apply to both the azimuth and elevation planes. At antenna gains over 33 dBi or beamwidths narrower than 3.5 degrees, power must be reduced to ensure that the field strength does not exceed 2500 millivolts/meter.

(c) Field strength limits are specified at a distance of 3 meters.

(d) Emissions radiated outside of the specified frequency bands, except for harmonics, shall be attenuated by at least 50 dB below the level of the fundamental or to the general radiated emission limits in § 15.209, whichever is the lesser attenuation.

(e) As shown in § 15.35(b), for frequencies above 1000 MHz, the field strength limits in paragraphs (a) and (b) of this section are based on average limits. However, the peak field strength of any emission shall not exceed the maximum permitted average limits specified above by more than 20 dB under any condition of modulation. For point-to-point operation under paragraph (b) of this section, the peak field strength shall not exceed 2500 millivolts/meter at 3 meters along the antenna azimuth.

(f) Parties considering the manufacture, importation, marketing or operation of equipment under this section should also note the requirement in § 15.37(d).

[54 FR 17714, Apr. 25, 1989, as amended at 55 FR 25095, June 20, 1990; 67 FR 1625, Jan. 14, 2002]

### § 15.250 Operation of wideband systems within the band 5925–7250 MHz.

(a) The −10 dB bandwidth of a device operating under the provisions of this section must be contained within the 5925–7250 MHz band under all conditions of operation including the effects from stepped frequency, frequency hopping or other modulation techniques that may be employed as well as the frequency stability of the transmitter over expected variations in temperature and supply voltage.

(b) The −10 dB bandwidth of the fundamental emission shall be at least 50 MHz. For transmitters that employ frequency hopping, stepped frequency or similar modulation types, measurement of the −10 dB minimum bandwidth specified in this paragraph shall be made with the frequency hop or step function disabled and with the transmitter operating continuously at a fundamental frequency following the provisions of § 15.31(m).

(c) Operation on board an aircraft or a satellite is prohibited. Devices operating under this section may not be employed for the operation of toys. Except for operation onboard a ship or a terrestrial transportation vehicle, the use of a fixed outdoor infrastructure is prohibited. A fixed infrastructure includes antennas mounted on outdoor structures, *e.g.*, antennas mounted on the outside of a building or on a telephone pole.

(d) Emissions from a transmitter operating under this section shall not exceed the following equivalent

isotropically radiated power (EIRP) density levels:

(1) The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following RMS average limits based on measurements using a 1 MHz resolution bandwidth:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −75.3 |
| 1610–1990 | −63.3 |
| 1990–3100 | −61.3 |
| 3100–5925 | −51.3 |
| 5925–7250 | −41.3 |
| 7250–10600 | −51.3 |
| Above 10600 | −61.3 |

(2) In addition to the radiated emission limits specified in the table in paragraph (d)(1) of this section, transmitters operating under the provisions of this section shall not exceed the following RMS average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −85.3 |
| 1559–1610 | −85.3 |

(3) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs and this 50 MHz bandwidth must be contained within the 5925–7250 MHz band. The peak EIRP limit is 20 log (RBW/50) dBm where RBW is the resolution bandwidth in megahertz that is employed by the measurement instrument. RBW shall not be lower than 1 MHz or greater than 50 MHz. The video bandwidth of the measurement instrument shall not be less than RBW. If RBW is greater than 3 MHz, the application for certification filed with the Commission shall contain a detailed description of the test procedure, calibration of the test setup, and the instrumentation employed in the testing.

(4) Radiated emissions at or below 960 MHz shall not exceed the emission levels in § 15.209.

(5) Emissions from digital circuitry used to enable the operation of the transmitter may comply with the limits in § 15.209 provided it can be clearly demonstrated that those emissions are due solely to emissions from digital circuitry contained within the transmitter and the emissions are not intended to be radiated from the transmitter's antenna. Emissions from associated digital devices, as defined in § 15.3(k), *e.g.*, emissions from digital circuitry used to control additional functions or capabilities other than the operation of the transmitter, are subject to the limits contained in subpart B of this part. Emissisons from these digital circuits shall not be employed in determining the −10 dB bandwidth of the fundamental emission or the frequency at which the highest emission level occurs.

(e) Measurement procedures:

(1) All emissions at and below 960 MHz are based on measurements employing a CISPR quasi-peak detector. Unless otherwise specified, all RMS average emission levels specified in this section are to be measured utilizing a 1 MHz resolution bandwidth with a one millisecond dwell over each 1 MHz segment. The frequency span of the analyzer should equal the number of sampling bins times 1 MHz and the sweep rate of the analyzer should equal the number of sampling bins times one millisecond. The provision in § 15.35(c) that allows emissions to be averaged over a 100 millisecond period does not apply to devices operating under this section. The video bandwidth of the measurement instrument shall not be less than the resolution bandwidth and trace averaging shall not be employed. The RMS average emission measurement is to be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

(2) The peak emission measurement is to be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

(3) For transmitters that employ frequency hopping, stepped frequency or similar modulation types, the peak emission level measurement, the measurement of the RMS average emission levels, and the measurement to determine the frequency at which the highest level emission occurs shall be made with the frequency hop or step function active. Gated signals may be measured with the gating active. The provisions

of § 15.31(c) continue to apply to transmitters that employ swept frequency modulation.

(4) The −10 dB bandwidth is based on measurement using a peak detector, a 1 MHz resolution bandwidth, and a video bandwidth greater than or equal to the resolution bandwidth.

(5) Alternative measurement procedures may be considered by the Commission.

[70 FR 6774, Feb. 9, 2005]

### § 15.251 Operation within the bands 2.9–3.26 GHz, 3.267–3.332 GHz, 3.339–3.3458 GHz, and 3.358–3.6 GHz.

(a) Operation under the provisions of this section is limited to automatic vehicle identification systems (AVIS) which use swept frequency techniques for the purpose of automatically identifying transportation vehicles.

(b) The field strength anywhere within the frequency range swept by the signal shall not exceed 3000 microvolts/meter/MHz at 3 meters in any direction. Further, an AVIS, when in its operating position, shall not produce a field strength greater than 400 microvolts/meter/MHz at 3 meters in any direction within ±10 degrees of the horizontal plane. In addition to the provisions of § 15.205, the field strength of radiated emissions outside the frequency range swept by the signal shall be limited to a maximum of 100 microvolts/meter/MHz at 3 meters, measured from 30 MHz to 20 GHz for the complete system. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The minimum sweep repetition rate of the signal shall not be lower than 4000 sweeps per second, and the maximum sweep repetition rate of the signal shall not exceed 50,000 sweeps per second.

(d) An AVIS shall employ a horn antenna or other comparable directional antenna for signal emission.

(e) Provision shall be made so that signal emission from the AVIS shall occur only when the vehicle to be identified is within the radiated field of the system.

(f) In addition to the labelling requirements in § 15.19(a), the label attached to the AVIS transmitter shall contain a third statement regarding operational conditions, as follows:

* * * and, (3) during use this device (the antenna) may not be pointed within ±** degrees of the horizontal plane.

The double asterisks in condition three (**) shall be replaced by the responsible party with the angular pointing restriction necessary to meet the horizontal emission limit specified in paragraph (b).

(g) In addition to the information required in subpart J of part 2, the application for certification shall contain:

(1) Measurements of field strength per MHz along with the intermediate frequency of the spectrum analyzer or equivalent measuring receiver;

(2) The angular separation between the direction at which maximum field strength occurs and the direction at which the field strength is reduced to 400 microvolts/meter/MHz at 3 meters;

(3) A photograph of the spectrum analyzer display showing the entire swept frequency signal and a calibrated scale for the vertical and horizontal axes; the spectrum analyzer settings that were used shall be labelled on the photograph; and,

(4) The results of the frequency search for spurious and sideband emissions from 30 MHz to 20 GHz, exclusive of the swept frequency band, with the measuring instrument as close as possible to the unit under test.

[54 FR 17714, Apr. 25, 1989; 54 FR 32340, Aug. 7, 1989]

### § 15.252 Operation of wideband vehicular radar systems within the bands 16.2–17.7 GHz and 23.12–29.0 GHz.

(a) Operation under this section is limited to field disturbance sensors that are mounted in terrestrial transportation vehicles. Terrestrial use is limited to earth surface-based, non-aviation applications. Operation within the 16.2–17.7 GHz band is limited to field disturbance sensors that are used only for back-up assistance and that operate only when the vehicle is engaged in reverse.

(1) The −10 dB bandwidth of the fundamental emission shall be located within the 16.2–17.7 GHz band or within the 23.12–29.0 GHz band, exclusive of the 23.6–24.0 GHz restricted band, as appropriate, under all conditions of operation including the effects from stepped frequency, frequency hopping or other modulation techniques that may be employed as well as the frequency stability of the transmitter over expected variations in temperature and supply voltage.

(2) The −10 dB bandwidth of the fundamental emission shall be 10 MHz or greater. For transmitters that employ frequency hopping, stepped frequency or similar modulation types, measurement of the −10 dB minimum bandwidth specified in this paragraph shall be made with the frequency hop or step function disabled and with the transmitter operating continuously at a fundamental frequency following the provisions of § 15.31(m).

(3) For systems operating in the 23.12–29.0 GHz band, the frequencies at which the highest average emission level and at which the highest peak level emission appear shall be greater than 24.075 GHz.

(4) These devices shall operate only when the vehicle is operating, *e.g.*, the engine is running. Operation shall occur only upon specific activation, such as upon starting the vehicle, changing gears, or engaging a turn signal. The operation of these devices shall be related to the proper functioning of the transportation vehicle, *e.g.*, collision avoidance.

(b) Emissions from a transmitter operating under this section shall not exceed the following equivalent isotropically radiated power (EIRP) density levels:

(1) For transmitters operating in the 16.2–17.7 GHz band, the RMS average radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following EIRP limits based on measurements using a 1 MHz resolution bandwidth:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −75.3 |
| 1610–16,200 | −61.3 |
| 16,200–17,700 | −41.3 |
| Above 17,700 | −61.3 |

(2) For transmitters operating in the 23.12–29.0 GHz band, the RMS average radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following EIRP limits based on measurements using a 1 MHz resolution bandwidth:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −75.3 |
| 1610–23,120 | −61.3 |
| 23,120–23,600 | −41.3 |
| 23,600–24,000 | −61.3 |
| 24,000–29,000 | −41.3 |
| Above 29,000 | —61.3 |

(3) In addition to the radiated emission limits specified in the tables in paragraphs (b)(1) and (b)(2) of this section, transmitters operating under the provisions of this section shall not exceed the following RMS average EIRP limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −85.3 |
| 1559–1610 | −85.3 |

(4) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs and this 50 MHz bandwidth must be contained within the 16.2–17.7 GHz band or the 24.05–29.0 GHz band, as appropriate. The peak EIRP limit is 20 log (RBW/50) dBm where RBW is the resolution bandwidth in MHz employed by the measurement instrument. RBW shall not be lower than 1 MHz or greater than 50 MHz. Further, RBW shall not be greater than the −10 dB bandwidth of the device under test. For transmitters that employ frequency hopping, stepped frequency or similar modulation types, measurement of the −10 dB minimum bandwidth specified in this paragraph shall be made with the frequency hop or step function disabled and with the transmitter operating continuously at a fundamental frequency. The video bandwidth of the measurement instrument

shall not be less than RBW. The limit on peak emissions applies to the 50 MHz bandwidth centered on the frequency at which the highest level radiated emission occurs. If RBW is greater than 3 MHz, the application for certification shall contain a detailed description of the test procedure, the instrumentation employed in the testing, and the calibration of the test setup.

(5) Radiated emissions at or below 960 MHz shall not exceed the emission levels in § 15.209.

(6) Emissions from digital circuitry used to enable the operation of the transmitter may comply with the limits in § 15.209 provided it can be clearly demonstrated that those emissions are due solely to emissions from digital circuitry contained within the transmitter and the emissions are not intended to be radiated from the transmitter's antenna. Emissions from associated digital devices, as defined in § 15.3(k) , *e.g.*, emissions from digital circuitry used to control additional functions or capabilities other than the operation of the transmitter, are subject to the limits contained in subpart B of this part. Emissions from these digital circuits shall not be employed in determining the −10 dB bandwidth of the fundamental emission or the frequency at which the highest emission level occurs.

(c) Measurement procedures:

(1) All emissions at and below 960 MHz are based on measurements employing a CISPR quasi-peak detector. Unless otherwise specified, all RMS average emission levels specified in this section are to be measured utilizing a 1 MHz resolution bandwidth with a one millisecond dwell over each 1 MHz segment. The frequency span of the analyzer should equal the number of sampling bins times 1 MHz and the sweep rate of the analyzer should equal the number of sampling bins times one millisecond. The provision in § 15.35(c) that allows emissions to be averaged over a 100 millisecond period does not apply to devices operating under this section. The video bandwidth of the measurement instrument shall not be less than the resolution bandwidth and trace averaging shall not be employed. The RMS average emission measurement is to be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

(2) The peak emission measurement is to be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

(3) For transmitters that employ frequency hopping, stepped frequency or similar modulation types, the peak emission level measurement, the measurement of the RMS average emission levels, the measurement to determine the center frequency, and the measurement to determine the frequency at which the highest level emission occurs shall be made with the frequency hop or step function active. Gated signals may be measured with the gating active. The provisions of § 15.31(c) continue to apply to transmitters that employ swept frequency modulation.

(4) The −10 dB bandwidth is based on measurement using a peak detector, a 1 MHz resolution bandwidth, and a video bandwidth greater than or equal to the resolution bandwidth.

(5) Alternative measurement procedures may be considered by the Commission.

[70 FR 6775, Feb. 9, 2005]

### § 15.253 Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz.

(a) Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz is restricted to vehicle-mounted field disturbance sensors used as vehicle radar systems. The transmission of additional information, such as data, is permitted provided the primary mode of operation is as a vehicle-mounted field disturbance sensor. Operation under the provisions of this section is not permitted on aircraft or satellites.

(b) The radiated emission limits within the bands 46.7–46.9 GHz and 76.0–77.0 GHz are as follows:

(1) If the vehicle is not in motion, the power density of any emission within the bands specified in this section shall not exceed 200 nW/cm$^2$ at a distance of 3 meters from the exterior surface of the radiating structure.

(2) For forward-looking vehicle-mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands

specified in this section shall not exceed 60 μW/cm$^2$ at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For side-looking or rear-looking vehicle-mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands specified in this section shall not exceed 30 μW/cm$^2$ at a distance of 3 meters from the exterior surface of the radiating structure.

(c) The power density of any emissions outside the operating band shall consist solely of spurious emissions and shall not exceed the following:

(1) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(2) Radiated emissions outside the operating band and between 40 GHz and 200 GHz shall not exceed the following:

(i) For vehicle-mounted field disturbance sensors operating in the band 46.7–46.9 GHz: 2 pW/cm$^2$ at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) For forward-looking vehicle-mounted field disturbance sensors operating in the band 76–77 GHz: 600 pW/cm$^2$ at a distance of 3 meters from the exterior surface of the radiating structure.

(iii) For side-looking or rear-looking vehicle-mounted field disturbance sensors operating in the band 76–77 GHz: 300 pW/cm$^2$ at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For radiated emissions above 200 GHz from field disturbance sensors operating in the 76–77 GHz band: the power density of any emission shall not exceed 1000 pW/cm$^2$ at a distance of 3 meters from the exterior surface of the radiating structure.

(4) For field disturbance sensors operating in the 76–77 GHz band, the spectrum shall be investigated up to 231 GHz.

(d) The provisions in § 15.35 limiting peak emissions apply.

(e) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range −20 to +50 degrees celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(f) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

[61 FR 14503, Apr. 2, 1996, as amended at 61 FR 41018, Aug. 7, 1996; 63 FR 42279, Aug. 7, 1998]

### § 15.255 Operation within the band 57–64 GHz.

(a) Operation under the provisions of this section is not permitted for the following products:

(1) Equipment used on aircraft or satellites.

(2) Field disturbance sensors, including vehicle radar systems, unless the field disturbance sensors are employed for fixed operation. For the purposes of this section, the reference to fixed operation includes field disturbance sensors installed in fixed equipment, even if the sensor itself moves within the equipment.

(b) Within the 57–64 GHz band, emission levels shall not exceed the following:

(1) For products other than fixed field disturbance sensors, the average power density of any emission, measured during the transmit interval, shall not exceed 9 μW/cm$^2$, as measured 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 μW/cm$^2$, as measured 3 meters from the radiating structure.

(2) For fixed field disturbance sensors that occupy 500 MHz or less of bandwidth and that are contained wholly within the frequency band 61.0–61.5 GHz, the average power density of any emission, measured during the transmit interval, shall not exceed 9 μW/cm$^2$,

as measured 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 μW/cm², as measured 3 meters from the radiating structure. In addition, the average power density of any emission outside of the 61–61.5 GHz band, measured during the transmit interval, but still within the 57–64 GHz band, shall not exceed 9 nW/cm², as measured 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 nW/cm², as measured three meters from the radiating structure.

(3) For fixed field disturbance sensors other than those operating under the provisions of paragraph (b)(2) of this section, the peak transmitter output power shall not exceed 0.1 mW and the peak power density shall not exceed 9 nW/cm² at a distance of 3 meters.

(4) Peak power density shall be measured with an RF detector that has a detection bandwidth that encompasses the 57–64 GHz band and has a video bandwidth of at least 10 MHz, or using an equivalent measurement method.

(5) The average emission levels shall be calculated, based on the measured peak levels, over the actual time period during which transmission occurs.

(c) Limits on spurious emissions:

(1) The power density of any emissions outside the 57–64 GHz band shall consist solely of spurious emissions.

(2) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(3) Between 40 GHz and 200 GHz, the level of these emissions shall not exceed 90 pW/cm² at a distance of 3 meters.

(4) The levels of the spurious emissions shall not exceed the level of the fundamental emission.

(d) Only spurious emissions and transmissions related to a publicly-accessible coordination channel, whose purpose is to coordinate operation between diverse transmitters with a view towards reducing the probability of interference throughout the 57–64 GHz band, are permitted in the 57–57.05 GHz band.

NOTE TO PARAGRAPH (d): The 57–57.05 GHz is reserved exclusively for a publicly-accessible coordination channel. The development of standards for this channel shall be performed pursuant to authorizations issued under part 5 of this chapter.

(e) Except as specified elsewhere in this paragraph (e), the total peak transmitter output power shall not exceed 500 mW.

(1) Transmitters with an emission bandwidth of less than 100 MHz must limit their peak transmitter output power to the product of 500 mW times their emission bandwidth divided by 100 MHz. For the purposes of this paragraph (e)(1), emission bandwidth is defined as the instantaneous frequency range occupied by a steady state radiated signal with modulation, outside which the radiated power spectral density never exceeds 6 dB below the maximum radiated power spectral density in the band, as measured with a 100 kHz resolution bandwidth spectrum analyzer. The center frequency must be stationary during the measurement interval, even if not stationary during normal operation (e.g. for frequency hopping devices).

(2) Peak transmitter output power shall be measured with an RF detector that has a detection bandwidth that encompasses the 57–64 GHz band and that has a video bandwidth of at least 10 MHz, or using an equivalent measurement method.

(3) For purposes of demonstrating compliance with this paragraph (e), corrections to the transmitter output power may be made due to the antenna and circuit loss.

(f) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range −20 to +50 degrees celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(g) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this

section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(h) Any transmitter that has received the necessary FCC equipment authorization under the rules of this chapter may be mounted in a group installation for simultaneous operation with one or more other transmitter(s) that have received the necessary FCC equipment authorization, without any additional equipment authorization. However, no transmitter operating under the provisions of this section may be equipped with external phase-locking inputs that permit beam-forming arrays to be realized.

(i) For all transmissions that emanate from inside of a building, within any one second interval of signal transmission, each transmitter with a peak output power equal to or greater than 0.1 mW or a peak power density equal to or greater than 3 nW/cm$^2$, as measured 3 meters from the radiating structure, must transmit a transmitter identification at least once. Each application for equipment authorization for equipment that will be used inside of a building must declare that the equipment contains the required transmitter identification feature and must specify a method whereby interested parties can obtain sufficient information, at no cost, to enable them to fully detect and decode this transmitter identification information. Upon the completion of decoding, the transmitter identification data block must provide the following fields:

(1) FCC Identifier, which shall be programmed at the factory.

(2) Manufacturer's serial number, which shall be programmed at the factory.

(3) Provision for at least 24 bytes of data relevant to the specific device, which shall be field programmable. The grantee must implement a method that makes it possible for users to specify and update this data. The recommended content of this field is information to assist in contacting the operator.

[63 FR 42279, Aug. 7, 1998, as amended at 66 FR 7409, Jan. 23, 2001; 68 FR 68547, Dec. 9, 2003]

### § 15.257 Operation within the band 92–95 GHz.

(a) Operation of devices under the provisions of this section is limited to indoor use;

(1) Devices operating under the provisions of this section, by the nature of their design, must be capable of operation only indoors. The necessity to operate with a fixed indoor infrastructure, *e.g.*, a transmitter that must be connected to the AC power lines, may be considered sufficient to demonstrate this.

(2) The use of outdoor mounted antennas, *e.g.*, antennas mounted on the outside of a building or on a telephone pole, or any other outdoors infrastructure is prohibited.

(3) The emissions from equipment operated under this section shall not be intentionally directed outside of the building in which the equipment is located, such as through a window or a doorway.

(4) Devices operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device or in the instruction manual supplied with the device: ''This equipment may only be operated indoors. Operation outdoors is in violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties.''

(b) Operation under the provisions of this section is not permitted on aircraft or satellites.

(c) Within the 92–95 GHz bands, the emission levels shall not exceed the following:

(1) The average power density of any emission, measured during the transmit interval, shall not exceed 9 uW/sq. cm, as measured at 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 uW/sq. cm, as measured 3 meters from the radiating structure.

(2) Peak power density shall be measured with an RF detector that has a detection bandwidth that encompasses the band being used and has a video

bandwidth of at least 10 MHz, or uses an equivalent measurement method.

(3) The average emission limits shall be calculated based on the measured peak levels, over the actual time period during which transmission occurs.

(d) Limits on spurious emissions:

(1) The power density of any emissions outside the band being used shall consist solely of spurious emissions.

(2) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(3) Between 40 GHz and 200 GHz, the level of these emissions shall not exceed 90 pW/cm$^2$ at a distance of 3 meters.

(4) The levels of the spurious emissions shall not exceed the level of the fundamental emission.

(e) The total peak transmitter output power shall not exceed 500 mW.

(f) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range −20 to +50 degrees Celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(g) Regardless of the maximum EIRP and maximum power density levels permitted under this section, devices operating under the provisions of this section are subject to the radio-frequency radiation exposure requirements specified in 47 CFR 1.1307(b), 2.1091, and 2.1093, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(h) Any transmitter that has received the necessary FCC equipment authorization under the rules of this chapter may be mounted in a group installation for simultaneous operation with one or more other transmitter(s) that have received the necessary FCC equipment authorization, without any additional equipment authorization. However, no transmitter operating under the provisions of this section may be equipped with external phase-locking inputs that permit beam-forming arrays to be realized.

[69 FR 3265, Jan. 23, 2004]

## Subpart D—Unlicensed Personal Communications Service Devices

SOURCE: 58 FR 59180, Nov. 8, 1993, unless otherwise noted.

### § 15.301 Scope.

This subpart sets out the regulations for unlicensed personal communications services (PCS) devices operating in the 1920–1930 MHz band.

[69 FR 77949, Dec. 29, 2004]

### § 15.303 Definitions.

(a) *Asynchronous devices.* Devices that transmit RF energy at irregular time intervals, as typified by local area network data systems.

(b) *Coordinatable PCS device.* PCS devices whose geographical area of operation is sufficiently controlled either by necessity of operation with a fixed infrastructure or by disabling mechanisms to allow adequate coordination of their locations relative to incumbent fixed microwave facilities.

(c) *Emission bandwidth.* For purposes of this subpart the emission bandwidth shall be determined by measuring the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, that are 26 dB down relative to the maximum level of the modulated carrier. Compliance with the emissions limits is based on the use of measurement instrumentation employing a peak detector function with an instrument resolutions bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(d) *Isochronous devices.* Devices that transmit at a regular interval, typified by time-division voice systems.

(e) *Noncoordinatable PCS device.* A PCS device that is capable of randomly roaming and operating in geographic areas containing incumbent microwave facilities such that operation of the PCS device will potentially cause

harmful interference to the incumbent microwave facilities.

(f) *Peak transmit power*. The peak power output as measured over an interval of time equal to the frame rate or transmission burst of the device under all conditions of modulation. Usually this parameter is measured as a conducted emission by direct connection of a calibrated test instrument to the equipment under test. If the device cannot be connected directly, alternative techniques acceptable to the Commission may be used.

(g) *Personal Communications Services (PCS) Devices [Unlicensed]*. Intentional radiators operating in the frequency band 1920–1930 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses.

(h) *Spectrum window*. An amount of spectrum equal to the intended emission bandwidth in which operation is desired.

(i) *Sub-band*. For purposes of this subpart the term sub-band refers to the spectrum allocated for isochronous or asynchronous transmission.

(j) Thermal noise power. The noise power in watts defined by the formula N=kTB where N is the noise power in watts, K is Boltzmann's constant, T is the absolute temperature in degrees Kelvin (e.g., 295 °K) and B is the emission bandwidth of the device in hertz.

(k) *Time window*. An interval of time in which transmission is desired.

[58 FR 59180, Nov. 8, 1993, as amended at 59 FR 32852, June 24, 1994; 60 FR 13073, Mar. 10, 1995; 69 FR 62620, Oct. 27, 2004; 69 FR 77949, Dec. 29, 2004]

### § 15.305 Equipment authorization requirement.

PCS devices operating under this subpart shall be certified by the Commission under the procedures in subpart J of part 2 of this chapter before marketing. The application for certification must contain sufficient information to demonstrate compliance with the requirements of this subpart.

### § 15.307 Coordination with fixed microwave service.

(a) UTAM, Inc. is designated to coordinate and manage the transition of the 1910–1930 MHz band from the Private Operational-Fixed Microwave Service (OFS) operating under part 101 of this chapter to unlicensed PCS operations,

(b) Each application for certification of equipment operating under the provisions of this subpart must be accompanied by an affidavit from UTAM, Inc. certifying that the applicant is a participating member of UTAM, Inc. In the event a grantee fails to fulfill the obligations attendant to participation in UTAM, Inc., the Commission may invoke administrative sanctions as necessary to preclude continued marketing and installation of devices covered by the grant of certification, including but not limited to revoking certification.

(c) An application for certification of a PCS device that is deemed by UTAM, Inc. to be noncoordinatable will not be accepted until the Commission announces that a need for coordination no longer exists.

(d) A coordinatable PCS device is required to incorporate means that ensure that it cannot be activated until its location has been coordinated by UTAM, Inc. The application for certification shall contain an explanation of all measures taken to prevent unauthorized operation. This explanation shall include all procedural safeguards, such as the mandatory use of licensed technicians to install the equipment, and a complete description of all technical features controlling activation of the device.

(e) A coordinatable PCS device shall incorporate an automatic mechanism for disabling operation in the event it is moved outside the geographic area where its operation has been coordinated by UTAM, Inc. The application for certification shall contain a full description of the safeguards against unauthorized relocation and must satisfy the Commission that the safeguards cannot be easily defeated.

(f) At such time as the Commission deems that the need for coordination between unlicensed PCS operations and existing Part 101 Private Operational-Fixed Microwave Services ceases to exist, the disabling mechanism required by paragraph (e) of this section will no longer be required.

(g) Operations under the provisions of this subpart are required to protect systems in the Private Operational-Fixed Microwave Service operating within the 1850–1990 MHz band until the dates and conditions specified in §§ 101.69 through 101.73 of this chapter for termination of primary status. Interference protection is not required for part 101 stations in this band licensed on a secondary basis.

(h) The operator of a PCS device that is relocated from the coordinated area specified by UTAM, Inc., must cease operating the device until coordination for the new location is verified by UTAM, Inc.

[58 FR 59180, Nov. 8, 1993, as amended at 59 FR 32852, June 24, 1994; 60 FR 27425, May 24, 1995; 61 FR 29689, June 12, 1996]

### § 15.309 Cross reference.

(a) The provisions of subpart A of this part apply to unlicensed PCS devices, except where specific provisions are contained in subpart D.

(b) The requirements of subpart D apply only to the radio transmitter contained in the PCS device. Other aspects of the operation of a PCS device may be subject to requirements contained elsewhere in this chapter. In particular, a PCS device that includes digital circuitry not directly associated with the radio transmitter also is subject to the requirements for unintentional radiators in subpart B.

### § 15.311 Labeling requirements.

In addition to the labeling requirements of § 15.19(a)(3), all devices operating in the frequency band 1920–1930 MHz authorized under this subpart must bear a prominently located label with the following statement:

Installation of this equipment is subject to notification and coordination with UTAM, Inc. Any relocation of this equipment must be coordinated through, and approved by UTAM. UTAM may be contacted at 1–800–429–8826.

[69 FR 62620, Oct. 27, 2004]

### § 15.313 Measurement procedures.

Measurements must be made in accordance with subpart A, except where specific procedures are specified in subpart D. If no guidance is provided, the measurement procedure must be in accordance with good engineering practice.

### § 15.315 Conducted limits.

An unlicensed PCS device that is designed to be connected to the public utility (AC) power line must meet the limits specified in § 15.207.

### § 15.317 Antenna requirement.

An unlicensed PCS device must meet the antenna requirement of § 15.203.

### § 15.319 General technical requirements.

(a) [Reserved]

(b) All transmissions must use only digital modulation techniques.

(c) Peak transmit power shall not exceed 100 microwatts multiplied by the square root of the emission bandwidth in hertz. Peak transmit power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, etc., so as to obtain a true peak measurement for the emission in question over the full bandwidth of the channel.

(d) Power spectral density shall not exceed 3 milliwatts in any 3 kHz bandwidth as measured with a spectrum analyzer having a resolution bandwidth of 3 kHz.

(e) The peak transmit power shall be reduced by the amount in decibels that the maximum directional gain of the antenna exceeds 3 dBi.

(f) The device shall automatically discontinue transmission in case of either absence of information to transmit or operational failure. The provisions in this section are not intended to preclude transmission of control and signaling information or use of repetitive codes used by certain digital technologies to complete frame or burst intervals.

(g) Notwithstanding other technical requirements specified in this subpart, attenuation of emissions below the

general emission limits in § 15.209 is not required.

(h) Where there is a transition between limits, the tighter limit shall apply at the transition point.

(i) Unlicensed PCS devices are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, as appropriate. All equipment shall be considered to operate in a ''general population/uncontrolled'' environment. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

[58 FR 59180, Nov. 8, 1993, as amended at 59 FR 32852, June 24, 1994; 59 FR 40835, Aug. 10, 1994; 60 FR 13073, Mar. 10, 1995; 61 FR 41018, Aug. 7, 1996; 69 FR 62621, Oct. 27, 2004; 69 FR 77949, Dec. 29, 2004]

### § 15.321 [Reserved]

### § 15.323 Specific requirements for devices operating in the 1920–1930 MHz sub-band.

(a) Operation shall be contained within the 1920–1930 MHz band. The emission bandwidth shall be less then 2.5 MHz. The power level shall be as specified in § 15.319(c), but in no event shall the emission bandwidth be less than 50 kHz.

(b) [Reserved]

(c) Devices must incorporate a mechanism for monitoring the time and spectrum windows that its transmission is intended to occupy. The following criteria must be met:

(1) Immediately prior to initiating transmission, devices must monitor the combined time and spectrum windows in which they intend to transmit for a period of at least 10 milliseconds for systems designed to use a 10 milliseconds or shorter frame period or at least 20 milliseconds for systems designed to use a 20 milliseconds frame period.

(2) The monitoring threshold must not be more than 30 dB above the thermal noise power for a bandwidth equivalent to the emission bandwidth used by the device.

(3) If no signal above the threshold level is detected, transmission may commence and continue with the same emission bandwidth in the monitored time and spectrum windows without further monitoring. However, occupation of the same combined time and spectrum windows by a device or group of cooperating devices continuously over a period of time longer than 8 hours is not permitted without repeating the access criteria.

(4) Once access to specific combined time and spectrum windows is obtained an acknowledgment from a system participant must be received by the initiating transmitter within one second or transmission must cease. Periodic acknowledgments must be received at least every 30 seconds or transmission must cease. Channels used exclusively for control and signaling information may transmit continuously for 30 seconds without receiving an acknowledgment, at which time the access criteria must be repeated.

(5) If access to spectrum is not available as determined by the above, and a minimum of 40 duplex system access channels are defined for the system, the time and spectrum windows with the lowest power level below a monitoring threshold of 50 dB above the thermal noise power determined for the emission bandwidth may be accessed. A device utilizing the provisions of this paragraph must have monitored all access channels defined for its system within the last 10 seconds and must verify, within the 20 milliseconds (40 milliseconds for devices designed to use a 20 milliseconds frame period) immediately preceding actual channel access that the detected power of the selected time and spectrum windows is no higher than the previously detected value. The power measurement resolution for this comparison must be accurate to within 6 dB. No device or group of cooperating devices located within 1 meter of each other shall during any frame period occupy more than 6 MHz of aggregate bandwidth, or alternatively, more than one third of the time and spectrum windows defined by the system.

(6) If the selected combined time and spectrum windows are unavailable, the device may either monitor and select different windows or seek to use the same windows after waiting an amount of time, randomly chosen from a uniform random distribution between 10 and 150 milliseconds, commencing when the channel becomes available.

(7) The monitoring system bandwidth must be equal to or greater than the emission bandwidth of the intended transmission and have a maximum reaction time less than 50xSQRT (1.25/emission bandwidth in MHz) microseconds for signals at the applicable threshold level but shall not be required to be less than 50 microseconds. If a signal is detected that is 6 dB or more above the applicable threshold level, the maximum reaction time shall be 35xSQRT (1.25/emission bandwidth in MHz) microseconds but shall not be required to be less than 35 microseconds.

(8) The monitoring system shall use the same antenna used for transmission, or an antenna that yields equivalent reception at that location.

(9) Devices that have a power output lower than the maximum permitted under this subpart may increase their monitoring detection threshold by one decibel for each one decibel that the transmitter power is below the maximum permitted.

(10) An initiating device may attempt to establish a duplex connection by monitoring both its intended transmit and receive time and spectrum windows. If both the intended transmit and receive time and spectrum windows meet the access criteria, then the initiating device can initiate a transmission in the intended transmit time and spectrum window. If the power detected by the responding device can be decoded as a duplex connection signal from the initiating device, then the responding device may immediately begin transmitting on the receive time and spectrum window monitored by the initiating device.

(11) An initiating device that is prevented from monitoring during its intended transmit window due to monitoring system blocking from the transmissions of a co-located (within one meter) transmitter of the same system, may monitor the portions of the time and spectrum windows in which they intend to receive over a period of at least 10 milliseconds. The monitored time and spectrum window must total at least 50 percent of the 10 millisecond frame interval and the monitored spectrum must be within 1.25 MHz of the center frequency of channel(s) already occupied by that device or co-located co-operating devices. If the access criteria is met for the intended receive time and spectrum window under the above conditions, then transmission in the intended transmit window by the initiating device may commence.

(12) The provisions of (c)(10) or (c)(11) of this section shall not be used to extend the range of spectrum occupied over space or time for the purpose of denying fair access to spectrum to other devices.

(d) Emissions outside the sub-band shall be attenuated below a reference power of 112 milliwatts as follows: 30 dB between the sub-band and 1.25 MHz above or below the sub-band; 50 dB between 1.25 and 2.5 MHz above or below the sub-band; and 60 dB at 2.5 MHz or greater above or below the sub-band. Emissions inside the sub-band must comply with the following emission mask: In the bands between 1B and 2B measured from the center of the emission bandwidth the total power emitted by the device shall be at least 30 dB below the transmit power permitted for that device; in the bands between 2B and 3B measured from the center of the emission bandwidth the total power emitted by an intentional radiator shall be at least 50 dB below the transmit power permitted for that radiator; in the bands between 3B and the sub-band edge the total power emitted by an intentional radiator in the measurement bandwidth shall be at least 60 dB below the transmit power permitted for that radiator. ''B'' is defined as the emission bandwidth of the device in hertz. Compliance with the emission limits is based on the use of measurement instrumentation employing peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(e) The frame period (a set of consecutive time slots in which the position of each time slot can be identified by reference to a synchronizing source) of an intentional radiator operating in these sub-bands shall be 20 milliseconds or 10 milliseconds/X where X is a positive whole number. Each device that implements time division for the purposes of maintaining a duplex connection on a given frequency carrier shall maintain a frame repetition rate with a frequency stability of at least 50 parts per million (ppm). Each device which further divides access in time in order to support multiple communication links on a given frequency carrier shall maintain a frame repetition rate with a frequency stability of at least 10 ppm. The jitter (time-related, abrupt, spurious variations in the duration of the frame interval) introduced at the two ends of such a communication link shall not exceed 25 microseconds for any two consecutive transmissions. Transmissions shall be continuous in every time and spectrum window during the frame period defined for the device.

(f) The frequency stability of the carrier frequency of the intentional radiator shall be maintained within ±10 ppm over 1 hour or the interval between channel access monitoring, whichever is shorter. The frequency stability shall be maintained over a temperature variation of −20° to +50 °C at normal supply voltage, and over a variation in the primary supply voltage of 85 percent to 115 percent of the rated supply voltage at a temperature of 20 °C. For equipment that is capable only of operating from a battery, the frequency stability tests shall be performed using a new battery without any further requirement to vary supply voltage.

[58 FR 59180, Nov. 8, 1993; 59 FR 15269, Mar. 31, 1994. Redesignated at 59 FR 32852, June 24, 1994, as amended at 59 FR 32853, June 24, 1994; 59 FR 40835, Aug. 10, 1994; 59 FR 55373, Nov. 7, 1994; 60 FR 3303, Jan. 13, 1995; 69 FR 62621, Oct. 27, 2004]

## Subpart E—Unlicensed National Information Infrastructure Devices

### § 15.401 Scope.

This subpart sets out the regulations for unlicensed National Information Infrastructure (U-NII) devices operating in the 5.15–5.35 GHz, 5.47–5.725 GHz and 5.725–5.825 GHz bands.

[69 FR 2686, Jan. 20, 2004]

### § 15.403 Definitions.

(a) *Access Point (AP)*. A U-NII transceiver that operates either as a bridge in a peer-to-peer connection or as a connector between the wired and wireless segments of the network.

(b) *Available Channel*. A radio channel on which a *Channel Availability Check* has not identified the presence of a radar.

(c) *Average Symbol Envelope Power*. The average symbol envelope power is the average, taken over all symbols in the signaling alphabet, of the envelope power for each symbol.

(d) *Channel Availability Check*. A check during which the U-NII device listens on a particular radio channel to identify whether there is a radar operating on that radio channel.

(e) *Channel Move Time*. The time needed by a U-NII device to cease all transmissions on the current channel upon detection of a radar signal above the DFS detection threshold.

(f) *Digital modulation*. The process by which the characteristics of a carrier wave are varied among a set of predetermined discrete values in accordance with a digital modulating function as specified in document ANSI C63.17–1998.

(g) *Dynamic Frequency Selection (DFS)* is a mechanism that dynamically detects signals from other systems and avoids co-channel operation with these systems, notably radar systems.

(h) *DFS Detection Threshold*. The required detection level defined by detecting a received signal strength (RSS) that is greater than a threshold specified, within the U-NII device channel bandwidth.

(i) *Emission bandwidth*. For purposes of this subpart the emission bandwidth shall be determined by measuring the width of the signal between two points,

one below the carrier center frequency and one above the carrier center frequency, that are 26 dB down relative to the maximum level of the modulated carrier. Determination of the emissions bandwidth is based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(j) *In-Service Monitoring*. A mechanism to check a channel in use by the U-NII device for the presence of a radar.

(k) *Non-Occupancy Period*. The required period in which, once a channel has been recognized as containing a radar signal by a U-NII device, the channel will not be selected as an available channel.

(l) *Operating Channel*. Once a U-NII device starts to operate on an Available Channel then that channel becomes the Operating Channel.

(m) *Peak Power Spectral Density*. The peak power spectral density is the maximum power spectral density, within the specified measurement bandwidth, within the U-NII device operating band.

(n) *Maximum Conducted Output Power*. The total transmit power delivered to all antennas and antenna elements averaged across all symbols in the signaling alphabet when the transmitter is operating at its maximum power control level. Power must be summed across all antennas and antenna elements. The average must not include any time intervals during which the transmitter is off or is transmitting at a reduced power level. If multiple modes of operation are possible (*e.g.*, alternative modulation methods), the *maximum conducted output power* is the highest total transmit power occurring in any mode.

(o) *Power Spectral Density*. The power spectral density is the total energy output per unit bandwidth from a pulse or sequence of pulses for which the transmit power is at its peak or maximum level, divided by the total duration of the pulses. This total time does not include the time between pulses during which the transmit power is off or below its maximum level.

(p) *Pulse*. A pulse is a continuous transmission of a sequence of modulation symbols, during which the average symbol envelope power is constant.

(q) *RLAN*. Radio Local Area Network.

(r) *Transmit Power Control (TPC)*. A feature that enables a U-NII device to dynamically switch between several transmission power levels in the data transmission process.

(s) *U-NII devices*. Intentional radiators operating in the frequency bands 5.15–5.35 GHz and 5.470–5.825 GHz that use wideband digital modulation techniques and provide a wide array of high data rate mobile and fixed communications for individuals, businesses, and institutions.

[69 FR 2687, Jan. 20, 2004, as amended at 69 FR 54036, Sept. 7, 2004]

### § 15.405 Cross reference.

(a) The provisions of subparts A, B, and C of this part apply to unlicensed U-NII devices, except where specific provisions are contained in subpart E. Manufacturers should note that this includes the provisions of §§ 15.203 and 15.205.

(b) The requirements of subpart E apply only to the radio transmitter contained in the U-NII device. Other aspects of the operation of a U-NII device may be subject to requirements contained elsewhere in this chapter. In particular, a U-NII device that includes digital circuitry not directly associated with the radio transmitter also is subject to the requirements for unintentional radiators in subpart B.

[63 FR 40835, July 31, 1998]

### § 15.407 General technical requirements.

(a) *Power limits:*

(1) For the band 5.15–5.25 GHz, the maximum conducted output power over the frequency band of operation shall not exceed the lesser of 50 mW or 4 dBm + 10 log B, where B is the 26–dB emission bandwidth in MHz. In addition, the peak power spectral density shall not exceed 4 dBm in any 1–MHz band. If transmitting antennas of directional gain greater than 6 dBi are used, both the maximum conducted output power and the peak power spectral density shall be reduced by the

amount in dB that the directional gain of the antenna exceeds 6 dBi.

(2) For the 5.25–5.35 GHz and 5.47–5.725 GHz bands, the maximum conducted output power over the frequency bands of operation shall not exceed the lesser of 250 mW or 11 dBm + 10 log B, where B is the 26 dB emission bandwidth in megahertz. In addition, the peak power spectral density shall not exceed 11 dBm in any 1 megahertz band. If transmitting antennas of directional gain greater than 6 dBi are used, both the maximum conducted output power and the peak power spectral density shall be reduced by the amount in dB that the directional gain of the antenna exceeds 6 dBi.

(3) For the band 5.725–5.825 GHz, the maximum conducted output power over the frequency band of operation shall not exceed the lesser of 1 W or 17 dBm + 10 log B, where B is the 26-dB emission bandwidth in MHz. In addition, the peak power spectral density shall not exceed 17 dBm in any 1–MHz band. If transmitting antennas of directional gain greater than 6 dBi are used, both the maximum conducted output power and the peak power spectral density shall be reduced by the amount in dB that the directional gain of the antenna exceeds 6 dBi. However, fixed point-to-point U-NII devices operating in this band may employ transmitting antennas with directional gain up to 23 dBi without any corresponding reduction in the transmitter peak output power or peak power spectral density. For fixed, point-to-point U-NII transmitters that employ a directional antenna gain greater than 23 dBi, a 1 dB reduction in peak transmitter power and peak power spectral density for each 1 dB of antenna gain in excess of 23 dBi would be required. Fixed, point-to-point operations exclude the use of point-to-multipoint systems, omnidirectional applications, and multiple collocated transmitters transmitting the same information. The operator of the U-NII device, or if the equipment is professionally installed, the installer, is responsible for ensuring that systems employing high gain directional antennas are used exclusively for fixed, point-to-point operations.

NOTE TO PARAGRAPH (a)(3): The Commission strongly recommends that parties employing U-NII devices to provide critical communications services should determine if there are any nearby Government radar systems that could affect their operation.

(4) The maximum conducted output power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, etc., so as to obtain a true peak measurement conforming to the above definitions for the emission in question.

(5) The peak power spectral density is measured as a conducted emission by direct connection of a calibrated test instrument to the equipment under test. If the device cannot be connected directly, alternative techniques acceptable to the Commission may be used. Measurements are made over a bandwidth of 1 MHz or the 26 dB emission bandwidth of the device, whichever is less. A resolution bandwidth less than the measurement bandwidth can be used, provided that the measured power is integrated to show total power over the measurement bandwidth. If the resolution bandwidth is approximately equal to the measurement bandwidth, and much less than the emission bandwidth of the equipment under test, the measured results shall be corrected to account for any difference between the resolution bandwidth of the test instrument and its actual noise bandwidth.

(6) The ratio of the peak excursion of the modulation envelope (measured using a peak hold function) to the maximum conducted output power (measured as specified above) shall not exceed 13 dB across any 1 MHz bandwidth or the emission bandwidth whichever is less.

(b) *Undesirable emission limits:* Except as shown in paragraph (b)(6) of this section, the peak emissions outside of the frequency bands of operation shall be attenuated in accordance with the following limits:

(1) For transmitters operating in the 5.15–5.25 GHz band: all emissions outside of the 5.15–5.35 GHz band shall not exceed an EIRP of –27 dBm/MHz.

(2) For transmitters operating in the 5.25–5.35 GHz band: all emissions outside of the 5.15–5.35 GHz band shall not exceed an EIRP of –27 dBm/MHz. Devices operating in the 5.25–5.35 GHz band that generate emissions in the 5.15–5.25 GHz band must meet all applicable technical requirements for operation in the 5.15–5.25 GHz band (including indoor use) or alternatively meet an out-of-band emission EIRP limit of –27 dBm/MHz in the 5.15–5.25 GHz band.

(3) For transmitters operating in the 5.47–5.725 GHz band: all emissions outside of the 5.47–5.725 GHz band shall not exceed an EIRP of −27 dBm/MHz.

(4) For transmitters operating in the 5.725–5.825 GHz band: all emissions within the frequency range from the band edge to 10 MHz above or below the band edge shall not exceed an EIRP of –17 dBm/MHz; for frequencies 10 MHz or greater above or below the band edge, emissions shall not exceed an EIRP of –27 dBm/MHz.

(5) The emission measurements shall be performed using a minimum resolution bandwidth of 1 MHz. A lower resolution bandwidth may be employed near the band edge, when necessary, provided the measured energy is integrated to show the total power over 1 MHz.

(6) Unwanted emissions below 1 GHz must comply with the general field strength limits set forth in §15.209. Further, any U-NII devices using an AC power line are required to comply also with the conducted limits set forth in §15.207.

(7) The provisions of §15.205 apply to intentional radiators operating under this section.

(8) When measuring the emission limits, the nominal carrier frequency shall be adjusted as close to the upper and lower frequency block edges as the design of the equipment permits.

(c) The device shall automatically discontinue transmission in case of either absence of information to transmit or operational failure. These provisions are not intended to preclude the transmission of control or signalling information or the use of repetitive codes used by certain digital technologies to complete frame or burst intervals. Applicants shall include in their application for equipment authorization a description of how this requirement is met.

(d) [Reserved]

(e) Within the 5.15–5.25 GHz band, U-NII devices will be restricted to indoor operations to reduce any potential for harmful interference to co-channel MSS operations.

(f) U-NII devices are subject to the radio frequency radiation exposure requirements specified in §1.1307(b), §2.1091 and §2.1093 of this chapter, as appropriate. All equipment shall be considered to operate in a ''general population/uncontrolled'' environment. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(g) Manufacturers of U-NII devices are responsible for ensuring frequency stability such that an emission is maintained within the band of operation under all conditions of normal operation as specified in the users manual.

(h) Transmit Power Control (TPC) and Dynamic Frequency Selection (DFS).

(1) Transmit power control (TPC). U-NII devices operating in the 5.25–5.35 GHz band and the 5.47–5.725 GHz band shall employ a TPC mechanism. The U-NII device is required to have the capability to operate at least 6 dB below the mean EIRP value of 30 dBm. A TPC mechanism is not required for systems with an e.i.r.p. of less than 500 mW.

(2) Radar Detection Function of Dynamic Frequency Selection (DFS). U-NII devices operating in the 5.25–5.35 GHz and 5.47–5.725 GHz bands shall employ a DFS radar detection mechanism to detect the presence of radar systems and to avoid co-channel operation with radar systems. The minimum DFS detection threshold for devices with a maximum e.i.r.p. of 200 mW to 1 W is −64 dBm. For devices that operate

with less than 200 mW e.i.r.p. the minimum detection threshold is −62 dBm. The detection threshold is the received power averaged over 1 microsecond referenced to a 0 dBi antenna. The DFS process shall be required to provide a uniform spreading of the loading over all the available channels.

(i) Operational Modes. The DFS requirement applies to the following operational modes:

(A) The requirement for channel availability check time applies in the master operational mode.

(B) The requirement for channel move time applies in both the master and slave operational modes.

(ii) Channel Availability Check Time. A U-NII device shall check if there is a radar system already operating on the channel before it can initiate a transmission on a channel and when it has to move to a new channel. The U-NII device may start using the channel if no radar signal with a power level greater than the interference threshold values listed in paragraph (h)(2) of this part, is detected within 60 seconds.

(iii) Channel Move Time. After a radar's presence is detected, all transmissions shall cease on the operating channel within 10 seconds. Transmissions during this period shall consist of normal traffic for a maximum of 200 ms after detection of the radar signal. In addition, intermittent management and control signals can be sent during the remaining time to facilitate vacating the operating channel.

(iv) Non-occupancy Period. A channel that has been flagged as containing a radar system, either by a channel availability check or in-service monitoring, is subject to a non-occupancy period of at least 30 minutes. The non-occupancy period starts at the time when the radar system is detected.

[63 FR 40836, July 31, 1998, as amended at 69 FR 2687, Jan. 20, 2004; 69 FR 54036, Sept. 7, 2004]

## Subpart F—Ultra-Wideband Operation

SOURCE: 67 FR 34856, May 16, 2002, unless otherwise noted.

### § 15.501 Scope.

This subpart sets out the regulations for unlicensed ultra-wideband transmission systems.

### § 15.503 Definitions.

(a) *UWB bandwidth*. For the purpose of this subpart, the UWB bandwidth is the frequency band bounded by the points that are 10 dB below the highest radiated emission, as based on the complete transmission system including the antenna. The upper boundary is designated $f_H$ and the lower boundary is designated $f_L$. The frequency at which the highest radiated emission occurs is designated $f_M$.

(b) *Center frequency*. The center frequency, $f_C$, equals $(f_H + f_L)/2$.

(c) *Fractional bandwidth*. The fractional bandwidth equals $2(f_H - f_L)/(f_H + f_L)$.

(d) *Ultra-wideband (UWB) transmitter*. An intentional radiator that, at any point in time, has a fractional bandwidth equal to or greater than 0.20 or has a UWB bandwidth equal to or greater than 500 MHz, regardless of the fractional bandwidth.

(e) *Imaging system*. A general category consisting of ground penetrating radar systems, medical imaging systems, wall imaging systems through-wall imaging systems and surveillance systems. As used in this subpart, imaging systems do not include systems designed to detect the location of tags or systems used to transfer voice or data information.

(f) *Ground penetrating radar (GPR) system*. A field disturbance sensor that is designed to operate only when in contact with, or within one meter of, the ground for the purpose of detecting or obtaining the images of buried objects or determining the physical properties within the ground. The energy from the GPR is intentionally directed down into the ground for this purpose.

(g) *Medical imaging system*. A field disturbance sensor that is designed to detect the location or movement of objects within the body of a person or animal.

(h) *Wall imaging system*. A field disturbance sensor that is designed to detect the location of objects contained within a ''wall'' or to determine the physical properties within the ''wall.''

The ''wall'' is a concrete structure, the side of a bridge, the wall of a mine or another physical structure that is dense enough and thick enough to absorb the majority of the signal transmitted by the imaging system. This category of equipment does not include products such as ''stud locators'' that are designed to locate objects behind gypsum, plaster or similar walls that are not capable of absorbing the transmitted signal.

(i) *Through-wall imaging system.* A field disturbance sensor that is designed to detect the location or movement of persons or objects that are located on the other side of an opaque structure such as a wall or a ceiling. This category of equipment may include products such as ''stud locators'' that are designed to locate objects behind gypsum, plaster or similar walls that are not thick enough or dense enough to absorb the transmitted signal.

(j) *Surveillance system.* A field disturbance sensor used to establish a stationary RF perimeter field that is used for security purposes to detect the intrusion of persons or objects.

(k) *EIRP.* Equivalent isotropically radiated power, i.e., the product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna. The EIRP, in terms of dBm, can be converted to a field strength, in dBuV/m at 3 meters, by adding 95.2. As used in this subpart, EIRP refers to the highest signal strength measured in any direction and at any frequency from the UWB device, as tested in accordance with the procedures specified in §15.31(a) and 15.523 of this chapter.

(l) *Law enforcement, fire and emergency rescue organizations.* As used in this subpart, this refers to those parties eligible to obtain a license from the FCC under the eligibility requirements specified in §90.20(a)(1) of this chapter.

(m) *Hand held.* As used in this subpart, a hand held device is a portable device, such as a lap top computer or a PDA, that is primarily hand held while being operated and that does not employ a fixed infrastructure.

**§15.505 Cross reference.**

(a) Except where specifically stated otherwise within this subpart, the provisions of subparts A and B and of §§15.201 through 15.204 and 15.207 of subpart C of this part apply to unlicensed UWB intentional radiators. The provisions of §15.35(c) and 15.205 do not apply to devices operated under this subpart. The provisions of Footnote US 246 to the Table of Frequency Allocations contained in §2.106 of this chapter does not apply to devices operated under this subpart.

(b) The requirements of this subpart apply only to the radio transmitter, i.e., the intentional radiator, contained in the UWB device. Other aspects of the operation of a UWB device may be subject to requirements contained elsewhere in this chapter. In particular, a UWB device that contains digital circuitry not directly associated with the operation of the transmitter also is subject to the requirements for unintentional radiators in subpart B of this part. Similarly, an associated receiver that operates (tunes) within the frequency range 30 MHz to 960 MHz is subject to the requirements in subpart B of this part.

**§15.507 Marketing of UWB equipment.**

In some cases, the operation of UWB devices is limited to specific parties, e.g., law enforcement, fire and rescue organizations operating under the auspices of a state or local government. The marketing of UWB devices must be directed solely to parties eligible to operate the equipment. The responsible party, as defined in §2.909 of this chapter, is responsible for ensuring that the equipment is marketed only to eligible parties. Marketing of the equipment in any other manner may be considered grounds for revocation of the grant of certification issued for the equipment.

**§15.509 Technical requirements for ground penetrating radars and wall imaging systems.**

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be below 10.6 GHz.

(b) Operation under the provisions of this section is limited to GPRs and

wall imaging systems operated for purposes associated with law enforcement, fire fighting, emergency rescue, scientific research, commercial mining, or construction.

(1) Parties operating this equipment must be eligible for licensing under the provisions of part 90 of this chapter.

(2) The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) A GPR that is designed to be operated while being hand held and a wall imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In lieu of a switch located on the imaging system, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | –65.3 |
| 1610–1990 | –53.3 |
| 1990–3100 | –51.3 |
| 3100–10600 | –41.3 |
| Above 10600 | –51.3 |

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | –75.3 |
| 1559–1610 | –75.3 |

(f) For UWB devices where the frequency at which the highest radiated emission occurs, $f_M$, is above 960 MHz, there is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on $f_M$. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

[68 FR 19749, Apr. 22, 2003]

### § 15.510 Technical requirements for through D-wall imaging systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be below 960 MHz or the center frequency, $f_C$, and the frequency at which the highest radiated emission occurs, $f_M$, must be contained between 1990 MHz and 10600 MHz.

(b) Operation under the provisions of this section is limited to through-wall imaging systems operated by law enforcement, emergency rescue or firefighting organizations that are under the authority of a local or state government.

(c) For through-wall imaging systems operating with the UWB bandwidth below 960 MHz:

(1) Parties operating this equipment must be eligible for licensing under the provisions of part 90 of this chapter.

(2) The operation of these imaging systems requires coordination, as detailed in § 15.525.

(3) The imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In lieu of a switch located on the imaging system, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(4) The radiated emissions at or below 960 MHz shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | –65.3 |
| 1610–1990 | –53.3 |
| Above 1990 | –51.3 |

(5) In addition to the radiated emission limits specified in the table in paragraph (c)(4) of this section, emissions from these imaging systems shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −75.3 |
| 1559–1610 | −75.3 |

(d) For equipment operating with $f_C$ and $f_M$ between 1990 MHz and 10600 MHz:

(1) Parties operating this equipment must hold a license issued by the Federal Communications Commission to operate a transmitter in the Public Safety Radio Pool under part 90 of this chapter. The license may be held by the organization for which the UWB operator works on a paid or volunteer basis.

(2) This equipment may be operated only for law enforcement applications, the providing of emergency services, and necessary training operations.

(3) The radiated emissions at or below 960 MHz shall not exceed the emission levels in § 15.209 of this chapter. The radiated emissions above 960 MHz shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −46.3 |
| 1610–10600 | −41.3 |
| Above 10600 | −51.3 |

(4) In addition to the radiated emission limits specified in the paragraph (d)(3) of this section, emissions from these imaging systems shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −56.3 |
| 1559–1610 | −56.3 |

(5) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, $f_M$. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(e) Through-wall imaging systems operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device: ''Operation of this device is restricted to law enforcement, emergency rescue and firefighter personnel. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties.''

[68 FR 19750, Apr. 22, 2003]

### § 15.511 Technical requirements for surveillance systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be contained between 1990 MHz and 10,600 MHz.

(b) Operation under the provisions of this section is limited to fixed surveillance systems operated by law enforcement, fire or emergency rescue organizations or by manufacturers licensees, petroleum licensees or power licensees as defined in § 90.7 of this chapter.

(1) Parties operating under the provisions of this section must be eligible for licensing under the provisions of part 90 of this chapter.

(2) The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −53.3 |
| 1610–1990 | −51.3 |
| 1990–10600 | −41.3 |
| Above 10600 | −51.3 |

(d) In addition to the radiated emission limits specified in the table in paragraph (c) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when

measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −63.3 |
| 1559–1610 | −63.3 |

(e) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, $f_M$. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(f) Imaging systems operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device: ''Operation of this device is restricted to law enforcement, fire and rescue officials, public utilities, and industrial entities. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties.''

[68 FR 19750, Apr. 22, 2003]

### § 15.513 Technical requirements for medical imaging systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(b) Operation under the provisions of this section is limited to medical imaging systems used at the direction of, or under the supervision of, a licensed health care practitioner. The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) A medical imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In lieu of a switch located on the imaging system, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −65.3 |
| 1610–1990 | −53.3 |
| 011990–3100 | −51.3 |
| 3100–10600 | −41.3 |
| Above 10600 | −51.3 |

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −75.3 |
| 1559–1610 | −75.3 |

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, $f_M$. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

[68 FR 19751, Apr. 22, 2003, as amended at 72 FR 63823, Nov. 13, 2007]

### § 15.515 Technical requirements for vehicular radar systems.

(a) Operation under the provisions of this section is limited to UWB field disturbance sensors mounted in terrestrial transportation vehicles. These devices shall operate only when the vehicle is operating, e.g., the engine is running. Operation shall occur only upon specific activation, such as upon starting the vehicle, changing gears, or engaging a turn signal.

(b) The UWB bandwidth of a vehicular radar system operating under the provisions of this section shall be contained between 22 GHz and 29 GHz. In addition, the center frequency, $f_C$, and the frequency at which the highest level emission occurs, $f_M$, must be greater than 24.075 GHz.

(c) Following proper installation, vehicular radar systems shall attenuate any emissions within the 23.6–24.0 GHz band that appear 38 degrees or greater above the horizontal plane by 25 dB below the limit specified in paragraph (d) of this section. For equipment authorized, manufactured or imported on or after January 1, 2005, this level of attenuation shall be 25 dB for any emissions within the 23.6–24.0 GHz band that appear 30 degrees or greater above the horizontal plane. For equipment authorized, manufactured or imported on or after January 1, 2010, this level of attenuation shall be 30 dB for any emissions within the 23.6–24.0 GHz band that appear 30 degrees or greater above the horizontal plane. For equipment authorized, manufactured or imported on or after January 1, 2014, this level of attenuation shall be 35 dB for any emissions within the 23.6–24.0 GHz band that appear 30 degrees or greater above the horizontal plane. This level of attenuation can be achieved through the antenna directivity, through a reduction in output power or any other means.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −75.3 |
| 1610–22,000 | −61.3 |
| 22,000–29,000 | −41.3 |
| 29,000–31,000 | −51.3 |
| Above 31,000 | −61.3 |

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −85.3 |
| 1559–1610 | −85.3 |

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, $f_M$. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(g) The emission levels from devices operating under the provisions of this section that employ gated transmissions may be measured with the gating active. Measurements made in this manner shall be repeated over multiple sweeps with the analyzer set for maximum hold until the amplitude stabilizes.

[67 FR 34856, May 16, 2002, as amended at 70 FR 6776, Feb. 9, 2005]

### § 15.517 Technical requirements for indoor UWB systems.

(a) Operation under the provisions of this section is limited to UWB transmitters employed solely for indoor operation.

(1) Indoor UWB devices, by the nature of their design, must be capable of operation only indoors. The necessity to operate with a fixed indoor infrastructure, e.g., a transmitter that must be connected to the AC power lines, may be considered sufficient to demonstrate this.

(2) The emissions from equipment operated under this section shall not be intentionally directed outside of the building in which the equipment is located, such as through a window or a doorway, to perform an outside function, such as the detection of persons about to enter a building.

(3) The use of outdoor mounted antennas, e.g., antennas mounted on the outside of a building or on a telephone pole, or any other outdoors infrastructure is prohibited.

(4) Field disturbance sensors installed inside of metal or underground storage tanks are considered to operate indoors provided the emissions are directed towards the ground.

(5) A communications system shall transmit only when the intentional radiator is sending information to an associated receiver.

(b) The UWB bandwidth of a UWB system operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(c) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −75.3 |
| 1610–1990 | −53.3 |
| 1990–3100 | −51.3 |
| 3100–10600 | −41.3 |
| Above 10600 | −51.3 |

(d) In addition to the radiated emission limits specified in the table in paragraph (c) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −85.3 |
| 1559–1610 | −85.3 |

(e) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, $f_M$. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(f) UWB systems operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device or in the instruction manual supplied with the device:

"This equipment may only be operated indoors. Operation outdoors is in violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties."

[67 FR 34856, May 16, 2002; 67 FR 39632, June 10, 2002]

**§ 15.519 Technical requirements for hand held UWB systems.**

(a) UWB devices operating under the provisions of this section must be hand held, i.e., they are relatively small devices that are primarily hand held while being operated and do not employ a fixed infrastructure.

(1) A UWB device operating under the provisions of this section shall transmit only when it is sending information to an associated receiver. The UWB intentional radiator shall cease transmission within 10 seconds unless it receives an acknowledgement from the associated receiver that its transmission is being received. An acknowledgment of reception must continue to be received by the UWB intentional radiator at least every 10 seconds or the UWB device must cease transmitting.

(2) The use of antennas mounted on outdoor structures, e.g., antennas mounted on the outside of a building or on a telephone pole, or any fixed outdoors infrastructure is prohibited. Antennas may be mounted only on the hand held UWB device.

(3) UWB devices operating under the provisions of this section may operate indoors or outdoors.

(b) The UWB bandwidth of a device operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(c) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 960–1610 | −75.3 |
| 1610–1990 | −63.3 |
| 1990–3100 | −61.3 |
| 3100–10600 | −41.3 |
| Above 10600 | −61.3 |

(d) In addition to the radiated emission limits specified in the table in paragraph (c) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when

measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|---|---|
| 1164–1240 | −85.3 |
| 1559–1610 | −85.3 |

(e) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs, $f_M$. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

[67 FR 34856, May 16, 2002; 67 FR 39632, June 10, 2002]

### § 15.521 Technical requirements applicable to all UWB devices.

(a) UWB devices may not be employed for the operation of toys. Operation onboard an aircraft, a ship or a satellite is prohibited.

(b) Manufacturers and users are reminded of the provisions of §§ 15.203 and 15.204.

(c) Emissions from digital circuitry used to enable the operation of the UWB transmitter shall comply with the limits in § 15.209, rather than the limits specified in this subpart, provided it can be clearly demonstrated that those emissions from the UWB device are due solely to emissions from digital circuitry contained within the transmitter and that the emissions are not intended to be radiated from the transmitter's antenna. Emissions from associated digital devices, as defined in § 15.3(k), *e.g.*, emissions from digital circuitry used to control additional functions or capabilities other than the UWB transmission, are subject to the limits contained in Subpart B of this part.

(d) Within the tables in §§ 15.509, 15.511, 15.513, 15.515, 15.517, and 15.519, the tighter emission limit applies at the band edges. Radiated emission levels at and below 960 MHz are based on measurements employing a CISPR quasi-peak detector. Radiated emission levels above 960 MHz are based on RMS average measurements over a 1 MHz resolution bandwidth. The RMS average measurement is based on the use of a spectrum analyzer with a resolution bandwidth of 1 MHz, an RMS detector, and a 1 millisecond or less averaging time. Unless otherwise stated, if pulse gating is employed where the transmitter is quiescent for intervals that are long compared to the nominal pulse repetition interval, measurements shall be made with the pulse train gated on. Alternative measurement procedures may be considered by the Commission.

(e) The frequency at which the highest radiated emission occurs, $f_M$, must be contained within the UWB bandwidth.

(f) Imaging systems may be employed only for the type of information exchange described in their specific definitions contained in § 15.503. The detection of tags or the transfer or data or voice information is not permitted under the standards for imaging systems.

(g) When a peak measurement is required, it is acceptable to use a resolution bandwidth other than the 50 MHz specified in this subpart. This resolution bandwidth shall not be lower than 1 MHz or greater than 50 MHz, and the measurement shall be centered on the frequency at which the highest radiated emission occurs, $f_M$. If a resolution bandwidth other than 50 MHz is employed, the peak EIRP limit shall be 20 log (RBW/50) dBm where RBW is the resolution bandwidth in megahertz that is employed. This may be converted to a peak field strength level at 3 meters using E(dBuV/m) = P(dBm EIRP) + 95.2. If RBW is greater than 3 MHz, the application for certification filed with the Commission must contain a detailed description of the test procedure, calibration of the test setup, and the instrumentation employed in the testing.

(h) The highest frequency employed in § 15.33 to determine the frequency range over which radiated measurements are made shall be based on the center frequency, $f_C$, unless a higher frequency is generated within the UWB device. For measuring emission levels, the spectrum shall be investigated from the lowest frequency generated in the UWB transmitter, without going below 9 kHz, up to the frequency range shown in § 15.33(a) or up to $f_C$ + 3/(pulse

width in seconds), whichever is higher. There is no requirement to measure emissions beyond 40 GHz provided $f_C$ is less than 10 GHz; beyond 100 GHz if $f_C$ is at or above 10 GHz and below 30 GHz; or beyond 200 GHz if $f_C$ is at or above 30 GHz.

(i) The prohibition in § 2.201(f) and 15.5(d) of this chapter against Class B (damped wave) emissions does not apply to UWB devices operating under this subpart.

(j) Responsible parties are reminded of the other standards and requirements cross referenced in § 15.505, such as a limit on emissions conducted onto the AC power lines.

[67 FR 34856, May 16, 2002, as amended at 68 FR 19751, Apr. 22, 2003; 70 FR 6776, Feb. 9, 2005]

### § 15.523 Measurement procedures.

Measurements shall be made in accordance with the procedures specified by the Commission.

### § 15.525 Coordination requirements.

(a) UWB imaging systems require coordination through the FCC before the equipment may be used. The operator shall comply with any constraints on equipment usage resulting from this coordination.

(b) The users of UWB imaging devices shall supply operational areas to the FCC Office of Engineering and Technology, which shall coordinate this information with the Federal Government through the National Telecommunications and Information Administration. The information provided by the UWB operator shall include the name, address and other pertinent contact information of the user, the desired geographical area(s) of operation, and the FCC ID number and other nomenclature of the UWB device. If the imaging device is intended to be used for mobile applications, the geographical area(s) of operation may be the state(s) or county(ies) in which the equipment will be operated. The operator of an imaging system used for fixed operation shall supply a specific geographical location or the address at which the equipment will be operated. This material shall be submitted to Frequency Coordination Branch, OET, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554, Attn: UWB Coordination.

(c) The manufacturers, or their authorized sales agents, must inform purchasers and users of their systems of the requirement to undertake detailed coordination of operational areas with the FCC prior to the equipment being operated.

(d) Users of authorized, coordinated UWB systems may transfer them to other qualified users and to different locations upon coordination of change of ownership or location to the FCC and coordination with existing authorized operations.

(e) The FCC/NTIA coordination report shall identify those geographical areas within which the operation of an imaging system requires additional coordination or within which the operation of an imaging system is prohibited. If additional coordination is required for operation within specific geographical areas, a local coordination contact will be provided. Except for operation within these designated areas, once the information requested on the UWB imaging system is submitted to the FCC no additional coordination with the FCC is required provided the reported areas of operation do not change. If the area of operation changes, updated information shall be submitted to the FCC following the procedure in paragraph (b) of this section.

(f) The coordination of routine UWB operations shall not take longer than 15 business days from the receipt of the coordination request by NTIA. Special temporary operations may be handled with an expedited turn-around time when circumstances warrant. The operation of UWB systems in emergency situations involving the safety of life or property may occur without coordination provided a notification procedure, similar to that contained in § 2.405(a) through (e) of this chapter, is followed by the UWB equipment user.

[67 FR 34856, May 16, 2002, as amended at 68 FR 19751, Apr. 22, 2003]

## Subpart G—Access Broadband Over Power Line (Access BPL)

SOURCE: 70 FR 1374, Jan. 7, 2005, unless otherwise noted.

### § 15.601 Scope.

This subpart sets out the regulations for Access Broadband over Power Line (Access BPL) devices operating in the 1.705–80 MHz band over medium or low voltage lines.

### § 15.603 Definitions.

(a) *Excluded Band:* A band of frequencies within which Access BPL operations are not permitted.

(b) *Exclusion Zone:* A geographical area within which Access BPL operations are not permitted in certain frequency bands.

(c) *Consultation*. The process of communication between an entity operating Access BPL and a licensed public safety or other designated point of contact for the purpose of avoiding potential harmful interference.

(d) *Consultation area:* A designated geographical area within which consultation with public safety users or other designated point of contact is required before an Access BPL may be operated at designated frequencies.

(e) *Low Voltage power line*. A power line carrying low voltage, *e.g.*, 240/120 volts from a distribution transformer to a customer's premises.

(f) *Medium Voltage power line*. A power line carrying between 1,000 to 40,000 volts from a power substation to neighborhoods. Medium voltage lines may be overhead or underground, depending on the power grid network topology.

(g) *Access BPL Database*. A database operated by an industry-sponsored entity, recognized by the Federal Communications Commission and the National Telecommunications and Information Administration (NTIA), containing information regarding existing and planned Access BPL systems, as required in § 15.615(a) of this chapter.

### § 15.605 Cross reference.

(a) The provisions of subparts A and B of this part apply to Access BPL devices, except where specifically noted. The provisions of subparts C through F of this part do not apply to Access BPL devices except where specifically noted.

(b) The requirements of this subpart apply only to the radio circuitry that is used to provide carrier current operation for the Access BPL device. Other aspects of the operation of an Access BPL device may be subject to requirements contained elsewhere in this chapter. In particular, an Access BPL device that includes digital circuitry that is not used solely to enable the operation of the radio frequency circuitry used to provide carrier current operation also is subject to the requirements for unintentional radiators in subpart B of this part.

### § 15.607 Equipment authorization of Access BPL equipment.

Access BPL equipment shall be subject to Certification as specified in § 15.101.

### § 15.609 Marketing of Access BPL equipment.

The marketing of Access BPL equipment must be directed solely to parties eligible to operate the equipment. Eligible parties consist of AC power line public utilities, Access BPL service providers and associates of Access BPL service providers. The responsible party, as defined in § 2.909 of this chapter, is responsible for ensuring that the equipment is marketed only to eligible parties. Marketing of the equipment in any other manner may be considered grounds for revocation of the grant of certification issued for the equipment.

### § 15.611 General technical requirements.

(a) *Conducted emission limits*. Access BPL is not subject to the conducted emission limits of § 15.107.

(b) *Radiated emission limits*—(1) *Medium voltage power lines*. (i) Access BPL systems that operate in the frequency range of 1.705 kHz to 30 MHz over medium voltage power lines shall comply with the radiated emission limits for intentional radiators provided in § 15.209.

(ii) Access BPL systems that operate in the frequency range above 30 MHz over medium voltage power lines shall

comply with the radiated emission limits provided in § 15.109(b).

(2) *Low voltage power lines.* Access BPL systems that operate over low-voltage power lines, including those that operate over low-voltage lines that are connected to the in-building wiring, shall comply with the radiated emission limits provided in § 15.109(a) and (e).

(c) *Interference Mitigation and Avoidance.* (1) Access BPL systems shall incorporate adaptive interference mitigation techniques to remotely reduce power and adjust operating frequencies, in order to avoid site-specific, local use of the same spectrum by licensed services. These techniques may include adaptive or ''notch'' filtering, or complete avoidance of frequencies, or bands of frequencies, locally used by licensed radio operations.

(i) For frequencies below 30 MHz, when a notch filter is used to avoid interference to a specific frequency band, the Access BPL system shall be capable of attenuating emissions within that band to a level at least 20 dB below the applicable part 15 limits.

(ii) For frequencies above 30 MHz, when a notch filter is used to avoid interference to a specific frequency band, the Access BPL system shall be capable of attenuating emissions within that band to a level at least 10 dB below the applicable part 15 limits.

(iii) At locations where an Access BPL operator attenuates radiated emissions from its operations in accordance with the above required capabilities, we will not require that operator to take further actions to resolve complaints of harmful interference to mobile operations.

(2) Access BPL systems shall comply with applicable radiated emission limits upon power-up following a fault condition, or during a start-up operation after a shut-off procedure, by the use of a non-volatile memory, or some other method, to immediately restore previous settings with programmed notches and excluded bands, to avoid time delay caused by the need for manual re-programming during which protected services may be vulnerable.

(3) Access BPL systems shall incorporate a remote-controllable shutdown feature to deactivate, from a central location, any unit found to cause harmful interference, if other interference mitigation techniques do not resolve the interference problem.

[70 FR 1374, Jan. 7, 2005, as amended at 71 FR 49379, Aug. 23, 2006]

### § 15.613 Measurement procedures.

Compliance measurements for Access BPL shall be made in accordance with the Guidelines for Access BPL systems specified by the Commission.

### § 15.615 General administrative requirements.

(a) *Access BPL Database.* Entities operating Access BPL systems shall supply to an industry-recognized entity, information on all existing Access BPL systems and all proposed Access BPL systems for inclusion into a publicly available data base, within 30 days prior to initiation of service. Such information shall include the following:

(1) The name of the Access BPL provider.

(2) The frequencies of the Access BPL operation.

(3) The postal zip codes served by the specific Access BPL operation.

(4) The manufacturer and type of Access BPL equipment and its associated FCC ID number, or, in the case of Access BPL equipment that has been subject to verification, the Trade Name and Model Number, as specified on the equipment label.

(5) The contact information, including both phone number and e-mail address of a person at, or associated with, the BPL operator's company, to facilitate the resolution of any interference complaint.

(6) The proposed/or actual date of Access BPL operation.

(b) The Access BPL database manager shall enter this information into the publicly accessible database within three (3) business days of receipt.

(c) No notification to the Commission is required.

(d) A licensed spectrum user experiencing harmful interference that is suspected to be caused by an Access BPL system shall inform the local BPL operator's contact person designated in the Access BPL database. The investigation of the reported interference

and the resolution of confirmed harmful interference from the Access BPL system shall be successfully completed by the BPL operator within a reasonable time period according to a mutually acceptable schedule, after the receipt of an interference complaint, in order to avoid protracted disruptions to licensed services. The Access BPL operator shall respond to complaints of harmful interference from public safety users within 24 hours. With regard to public safety complaints, the BPL provider shall be required to immediately cease the operations causing such complaint if it fails to respond within 24 hours.

(e) *Consultation with public safety users.* An entity operating an Access BPL system shall notify and consult with the public safety users in the area where it plans to deploy Access BPL, at least 30 days prior to initiation of any operation or service. This entity shall design or implement the Access BPL system such that it does not cause harmful interference in those frequencies or bands used by the public safety agencies in the area served by the Access BPL system. The notification shall include, at a minimum, the information in paragraph (a) of this section.

(f) *Federal government spectrum users and other radio service users.* An entity operating an Access BPL system shall ensure that, within its Access BPL deployment area, its system does not operate on any frequencies designated as excluded bands or on identified frequencies within any designated exclusion zones.

(1) *Excluded Bands.* To protect Aeronautical (land) stations and aircraft receivers, Access BPL operations using overhead medium voltage power lines are prohibited in the frequency bands listed in Table 1. Specifically, such BPL systems shall not place carrier frequencies in these bands.

TABLE 1—EXCLUDED FREQUENCY BANDS

| Frequency band |
|---|
| 2,850–3,025 kHz |
| 3,400–3,500 kHz |
| 4,650–4,700 kHz |
| 5,450–5,680 kHz |
| 6,525–6,685 kHz |
| 8,815–8,965 kHz |
| 10,005–10,100 kHz |

TABLE 1—EXCLUDED FREQUENCY BANDS—Continued

| Frequency band |
|---|
| 11,275–11,400 kHz |
| 13,260–13,360 kHz |
| 17,900–17,970 kHz |
| 21,924–22,000 kHz |
| 74.8–75.2 MHz |

(2) *Exclusion zones.* Exclusion zones encompass the operation of any Access BPL system within 1km of the boundary of coast station facilities at the coordinates listed in Tables 2 and 2.1. Exclusion zones also encompass the operation of Access BPL systems using overhead medium voltage power lines within 65 km of the Very Large Array observatory located at the coordinate 34°04′43.50″; N, 107°37′03.82″ W. Exclusion zones further encompass the operation of Access BPL systems using overhead low voltage power lines or underground power lines within 47 km of the Very Large Array observatory located at the coordinate 34°04′43.50″; N, 107°37′ 03.82″ W. Within the exclusion zones for coast stations, Access BPL systems shall not use carrier frequencies within the band of 2173.5–2190.5 kHz. Within the exclusion zone for the Very Large Array radio astronomy observatory, Access BPL systems shall not use carrier frequencies within the 73.0–74.6 MHz band.

(i) *Existing coast station facilities.* Access BPL systems shall not operate in the frequency band 2,173.5–2,190.5 kHz, within 1 kilometer (km) of the boundary of coast station facilities at the coordinates listed in Tables 2 and 2.1. BPL operators planning to deploy Access BPL devices at these frequencies in areas within these exclusion zones as defined above shall consult with the appropriate point of contact for these coast stations to ensure harmful interference is prevented at these facilities.

Point of contact: Commandant (CG 622), U.S. Coast Guard, 2100 2nd Street, SW., Washington, DC 20593–0001, Telephone: (202) 267–2860, e-mail: *cgcomms@comdt.uscg.mil.*

TABLE 2—EXCLUSION ZONES FOR U.S. COAST GUARD COAST STATIONS

| Locale | Latitude | Longitude |
|---|---|---|
| Group Guam | 13°35′23″ N | 144°50′24″ E |
| GANTSEC | 18°18′00″ N | 65°46′59″ W |
| Puerto Rico | 18°28′11″ N | 66°07′47″ W |

TABLE 2—EXCLUSION ZONES FOR U.S. COAST GUARD COAST STATIONS—Continued

| Locale | Latitude | Longitude |
|---|---|---|
| Honolulu | 21°18′21″ N | 157°53′23″ W |
| Group Key West | 24°33′35″ N | 81°47′59″ W |
| Trumbo Point CG Base | 24°33′58″ N | 81°47′57″ W |
| Miami | 25°37′28″ N | 80°23′07″ W |
| Everglades Park | 25°50′10″ N | 81°23′13″ W |
| Group Saint Petersburg (Everglades). | 25°51′00″ N | 81°23′24″ W |
| Station Ft. Lauderdale | 26°05′21″ N | 80°06′40″ W |
| Station Ft. Myers Beach | 26°27′34″ N | 81°57′15″ W |
| Group Miami (Ft. Pierce) | 27°27′36″ N | 80°18′36″ W |
| Station Ft. Pierce | 27°27′50″ N | 80°18′27″ W |
| Group Corpus Christi | 27°42′01″ N | 97°16′11″ W |
| Group Corpus Christi | 27°42′06″ N | 97°16′45″ W |
| ESD Saint Petersburg | 27°45′21″ N | 82°37′32″ W |
| Group Saint Petersburg | 27°46′11″ N | 82°37′47″ W |
| Station Port O'Connor | 28°26′03″ N | 96°25′39″ W |
| S. Padre Island | 28°26′22″ N | 97°09′56″ W |
| Freeport | 28°55′59″ N | 95°16′59″ W |
| Group Galveston (Freeport). | 28°56′24″ N | 95°17′59″ W |
| Station YANKEETOWN | 29°01′51″ N | 82°43′39″ W |
| Station Ponce De Leon Inlet. | 29°03′50″ N | 81°55′01″ W |
| Group New Orleans (Grand Isle). | 29°15′53″ N | 89°57′26″ W |
| Galveston | 29°19′59″ N | 94°46′18″ W |
| Kapalan | 29°20′04″ N | 94°47′17″ W |
| Sabine | 29°43′42″ N | 93°52′14″ W |
| New Orleans | 30°01′17″ N | 90°07′24″ W |
| Panama City | 30°10′01″ N | 85°45′04″ W |
| Group Mobile (Panama City). | 30°10′12″ N | 85°45′36″ W |
| ANT Jacksonville Beach | 30°17′16″ N | 81°24′10″ W |
| Pensacola | 30°20′24″ N | 87°18′17″ W |
| Group Mayport | 30°23′10″ N | 81°26′01″ W |
| Group Mayport | 30°23′24″ N | 81°25′48″ W |
| Ft. Morgan | 30°39′07″ N | 88°03′12″ W |
| Tybee Lighthouse | 32°01′15″ N | 80°50′39″ W |
| Point Loma Lighthouse | 32°39′56″ N | 117°14′34″ W |
| Point Loma | 32°40′07″ N | 117°14′14″ W |
| Activities San Diego | 32°43′59″ N | 117°11′13″ W |
| Group Charleston (Sullivan's Island). | 32°45′00″ N | 79°49′47″ W |
| Sullivan's Island Lights | 32°45′02″ N | 79°50′03″ W |
| Group Charleston | 32°46′25″ N | 79°56′37″ W |
| Group San Diego | 32°52′48″ N | 118°26′23″ W |
| San Pedro | 33°45′00″ N | 118°15′58″ W |
| Group Fort Macon | 33°53′24″ N | 78°01′48″ W |
| Point Mugu | 33°59′32″ N | 119°07′18″ W |
| Group LA/Long Beach | 34°07′11″ N | 119°06′35″ W |
| Channel Island | 34°09′17″ N | 119°13′11″ W |
| Station Oxnard Channel Island. | 34°09′43″ N | 119°13′19″ W |
| Group Ft. Macon | 34°41′48″ N | 76°40′59″ W |
| Group Cape Hatteras | 35°13′59″ N | 75°31′59″ W |

TABLE 2—EXCLUSION ZONES FOR U.S. COAST GUARD COAST STATIONS—Continued

| Locale | Latitude | Longitude |
|---|---|---|
| Group Cape Hatteras | 35°15′35″ N | 75°31′48″ W |
| Morro Bay (Cambria) | 35°31′21″ N | 121°03′31″ W |
| San Clemente Island | 32°50′24″ N | 118°23′15″ W |
| Point Pinos | 36°38′12″ N | 121°56′06″ W |
| CAMSLANT | 36°43′47″ N | 76°01′11″ W |
| Group Hampton Roads | 36°53′01″ N | 76°21′10″ W |
| Point Montara | 37°31′23″ N | 122°30′47″ W |
| Point Montara Lighthouse | 37°32′09″ N | 122°31′08″ W |
| Group San Francisco | 37°32′23″ N | 122°31′11″ W |
| Group San Francisco | 37°48′34″ N | 122°21′55″ W |
| Point Bonita | 37°49′00″ N | 122°31′41″ W |
| Group Eastern Shores | 37°55′47″ N | 75°22′47″ W |
| Group Eastern Shore | 37°55′50″ N | 75°22′58″ W |
| CAMSPAC | 38°06′00″ N | 122°55′48″ W |
| Point Arena Lighthouse | 38°57′18″ N | 124°44′28″ W |
| Point Arena | 38°57′36″ N | 123°44′23″ W |
| Group Atlantic City | 39°20′59″ N | 74°27′42″ W |
| Activities New York | 40°36′06″ N | 74°03′36″ W |
| Activities New York | 40°37′11″ N | 74°04′11″ W |
| ESD Moriches Hut | 40°47′19″ N | 72°44′53″ W |
| Group Moriches | 40°47′23″ N | 72°45′00″ W |
| Group Humboldt Bay | 40°58′41″ N | 124°06′31″ W |
| Group Humboldt Bay | 40°58′47″ N | 124°06′35″ W |
| Trinidad Head | 41°03′15″ N | 124°09′02″ W |
| Group Long Island Sound | 41°16′12″ N | 72°54′00″ W |
| Station New Haven | 41°16′12″ N | 72°54′06″ W |
| Station Brant Point | 41°17′21″ N | 70°05′31″ W |
| Group Woods Hole | 41°17′23″ N | 70°04′47″ W |
| Station Castle Hill | 41°27′46″ N | 71°21′42″ W |
| Group Woods Hole | 41°17′29″ N | 70°401′07″ W |
| Boston Area | 41°40′12″ N | 70°31′48″ W |
| Station Provincetown | 42°01′48″ N | 70°12′42″ W |
| Eastern Point | 42°36′24″ N | 70°39′26″ W |
| Cape Blanco | 42°50′16″ N | 124°33′52″ W |
| Group North Bend | 43°24′16″ N | 124°13′22″ W |
| Group North Bend | 43°24′35″ N | 124°14′23″ W |
| Cape Elizabeth | 43°33′28″ N | 70°12′00″ W |
| Group South Portland | 43°38′24″ N | 70°15′00″ W |
| Group South Portland | 43°38′45″ N | 70°14′51″ W |
| Group SW Harbor | 44°16′19″ N | 68°18′27″ W |
| Group Southwest Harbor | 44°16′48″ N | 68°18′36″ W |
| Fort Stevens, Oregon | 46°09′14″ N | 123°53′07″ W |
| Group Astoria | 46°09′29″ N | 123°31′48″ W |
| Group Astoria | 46°09′35″ N | 123°53′24″ W |
| La Push | 47°49′00″ N | 124°37′59″ W |
| Station Quillayute River | 47°54′49″ N | 124°38′01″ W |
| Port Angeles | 48°07′59″ N | 123°25′59″ W |
| Group Port Angeles | 48°08′24″ N | 123°24′35″ W |
| Juneau (Sitka) | 57°05′24″ N | 135°15′35″ W |
| Kodiak | 57°40′47″ N | 152°28′47″ W |
| Valdez (Cape Hinchinbrook). | 60°26′23″ N | 146°25′48″ W |

**Note:** Systems of coordinates comply with NAD 83.

TABLE 2.1—EXCLUSION ZONES FOR MARITIME PUBLIC COAST STATIONS

[Points of Contact Are Identified in the Commission's License Database]

| Licensee name | Location | Latitude | Longitude |
|---|---|---|---|
| Shipcom LLC | Marina Del Ray, CA | 33°56′21″ N | 118°27′14″ W |
| Globe Wireless | Rio Vista, CA | 38°11′55″ N | 121°48′34″ W |
| Avalon Communications Corp | St. Thomas, VI | 18°21′19″ N | 64°56′48″ W |
| Globe Wireless | Bishopville, MD | 38°24′10″ N | 75°12′59″ W |
| Shipcom LLC | Mobile, AL | 30°40′07″ N | 88°10′23″ W |
| Shipcom LLC | Coden, AL | 30°22′35″ N | 88°12′20″ W |
| Globe Wireless | Pearl River, LA | 30°22′13″ N | 89°47′26″ W |
| Globe Wireless | Kahalelani, HI | 21°10′33″ N | 157°10′39″ W |
| Globe Wireless | Palo Alto, CA | 37°26′44″ N | 122°06′48″ W |

TABLE 2.1—EXCLUSION ZONES FOR MARITIME PUBLIC COAST STATIONS—Continued

[Points of Contact Are Identified in the Commission's License Database]

| Licensee name | Location | Latitude | Longitude |
|---|---|---|---|
| Globe Wireless | Agana, GU | 13°29′22″ N | 144°49′39″ E |

NOTE: Systems of coordinates comply with NAD 83.

(ii) *New or relocated Coast stations.* In the unlikely event that a new or relocated coast station is established for the 2.173.5–2.190.5 kHz band at a coordinate not specified in Table 2 or 2.1, Access BPL operations in that frequency band shall also be excluded within 1 km of the new coast station facility;

(3) *Consultation areas.* Access BPL operators shall provide notification to the appropriate point of contact specified regarding Access BPL operations at any frequencies of potential concern in the following consultation areas, at least 30 days prior to initiation of any operation or service. The notification shall include, at a minimum, the information in paragraph (a) of this section. We expect parties to consult in good faith to ensure that no harmful interference is caused to licensed operations and that any constraints on BPL deployments are minimized to those necessary to avoid harmful interference. In the unlikely event that a new or relocated aeronautical receive station is established for the 1.7–30 MHz band at a coordinate not specified in Table 3b, Access BPL operators are also required to coordinate with the appropriate point of contact regarding Access BPL operations at any frequencies of potential concern in the new or relocated consultation areas, and to adjust their system operating parameters to protect the new or relocated aeronautical receive station.

(i) For frequencies in the 1.7–30 MHz frequency range, the areas within 4 km of facilities located at the following coordinates:

(A) The Commission's protected field offices listed in 47 CFR 0.121, the point-of-contact for which is specified in that section;

(B) The aeronautical stations listed in Tables 3a and 3b;

(C) The land stations listed in Tables 4 and 5;

(ii) For frequencies in the 1.7–80.0 MHz frequency range, the areas within 4 km of facilities located at the coordinates specified for radio astronomy facilities in 47 CFR 2.106, Note U.S. 311.

*Point of contact:* Electromagnetic Spectrum Manager, National Science Foundation, Division of Astronomical Sciences, 4201 Wilson Blvd., Suite 1045, Arlington, VA 22230, (703) 292–4896, *esm@nsf.gov*.

(iii) For frequencies in the 1.7–80 MHz frequency range, the area within 1 km of the Table Mountain Radio Receiving Zone, the coordinates and point of contact for which are specified in 47 CFR 21.113(b).

(iv) For frequencies in the 1.7–30 MHz frequency range, the areas within 37 km of radar receiver facilities located at the coordinates specified in Table 6.

*Point of contact:* U.S. Coast Guard HQ, Division of Spectrum Management CG–622, 2100 Second St., SW., Rm. 6611, Washington, DC 20593, Tel: (202) 267–6036, Fax: (202) 267–4106, e-mail: *jtaboada@comdt.uscg.mil*.

TABLE 3a—CONSULTATION AREA COORDINATES FOR AERONAUTICAL (OR) STATIONS (1.7–30 MHz)

| Command name | Location | Latitude | Longitude |
|---|---|---|---|
| Washington | Arlington, VA | 38°51′07″ N | 77°02′15″ W |
| Cape Cod | Cape Cod, MA | 41°42′00″ N | 70°30′00″ W |
| Atlantic City | Atlantic City, NJ | 39°20′59″ N | 74°27′42″ W |
| Elizabeth City | Elizabeth City, NC | 36°15′53″ N | 76°10′32″ W |
| Savannah | Savannah, GA | 32°01′30″ N | 81°08′30″ W |
| Miami | Opa Locka, FL | 25°54′22″ N | 80°16′01″ W |
| Clearwater | Clearwater, FL | 27°54′27″ N | 82°41′ 29″ W |
| Borinquen | Aguadilla, PR | 18°18′36″ N | 67°04′ 48″ W |
| New Orleans | New Orleans, LA | 29°49′31″ N | 90°02′ 06″ W |
| Traverse City | Traverse City, MI | 44°44′24″ N | 85°34′54″ W |
| San Diego | San Diego, CA | 32°43′33″ N | 117°10′ 15″ W |

TABLE 3a—CONSULTATION AREA COORDINATES FOR AERONAUTICAL (OR) STATIONS (1.7–30 MHz)—Continued

| Command name | Location | Latitude | Longitude |
|---|---|---|---|
| Sacramento | McCllelan AFB, CA | 38°40′06″ N | 121°24′04″ W |
| Astoria | Warrenton, OR | 46°25′18″ N | 123°47′ 46″ W |
| North Bend | North Bend, OR | 43°24′39″ N | 124°14′35″ W |
| Barbers Point | Kapolei, HI | 21°18′01″ N | 158°04′15″ W |
| Kodiak | Kodiak, AK | 57°44′19″ N | 152°30′18″ W |
| Houston | Houston, TX | 29°45′00″ N | 95°22′00″ W |
| Detroit | Mt. Clemens, MI | 42°36′05″ N | 82°50′12″ W |
| San Francisco | San Francisco, CA | 37°37′58″ N | 122°23′20″ W |
| Los Angeles | Los Angeles, CA | 33°56′36″ N | 118°23′48″ W |
| Humboldt Bay | McKinleyville, CA | 40°58′39″ N | 124°06′45″ W |
| Port Angeles | Port Angeles, WA | 48°08′25″ N | 123°24′48″ W |
| Sitka | Sitka, AK | 57°05′50″ N | 135°21′58″ W |

NOTE: Systems of coordinates conform to NAD 83.

*Point of contact:* ARINC, 2551 Riva Road, Annapolis, MD 21401, Tel: 1–800–633–6882, Fax: (410) 266–2329, e-mail: *arincmkt@arinc.com*, *http://www.arinc.com*.

*Point of contact:* ARINC, 2551 Riva Road, Annapolis, MD 21401, Tel: 1–800–633–6882, Fax: 410–266–2329, e-mail: *bplnotifications@arinc.com*, *http://www.arinc.com*.

TABLE 3B—CONSULTATION AREA COORDINATES FOR AERONAUTICAL RECEIVE STATIONS (1.7–30 MHz)

| Locale | Latitude | Longitude |
|---|---|---|
| Southampton, NY | 40°55′15″ N | 72°23′41″ W |
| Molokai, HI | 21°12′23″ N | 157°12′30″ W |
| Oahu, HI | 21°22′27″ N | 158°05′56″ W |
| Half Moon Bay, CA | 37°39′64″ N | 122°24′44″ W |
| Pt. Reyes, CA | 38°06′00″ N | 122°56′00″ W |
| Barrow, AK | 71°17′24″ N | 156°40′12″; W |
| Guam | 13°28′12″ N | 144°48′0.0″ E (note: Eastern Hemisphere) |
| NY Comm Center, NY | 40°46′48″ N | 73°05′46″ W |
| Cedar Rapids, IA | 42°02′05.0″ N | 91°38′37.6″ W |
| Beaumont, CA | 33°54′27.1″ N | 116°59′49.1″ W |
| Fairfield, TX | 31°47′02.6″ N | 96°47′03.0″ W |
| Houston, TX | 29°36′35.8″ N | 95°16′54.8″ W |
| Miami, FL | 25°49′05″ N | 80°18′28″ W |

**Note:** Systems of coordinates conform to NAD 83.

Point of contact: U.S. Coast Guard HQ, Division of Spectrum Management CG–622, 2100 Second St., SW., Rm. 6611, Washington, DC 20593, Tel: (202) 267–6036, Fax: (202) 267–4106, e-mail: *jtaboada@comdt.uscg.mil*.

TABLE 4—CONSULTATION AREA COORDINATES FOR LAND STATIONS, SET 1 (1.7–30 MHz)

| Command name | Location | Latitude | Longitude |
|---|---|---|---|
| COMMSTA Boston | Maspee, MA | 41°24′00″ N | 70°18′57″ W |
| Camslant | Chesapeake, VA | 36°33′59″ N | 76°15′23″ W |
| COMMSTA Miami | Miami, FL | 25°36′58″ N | 80°23′04″ W |
| COMMSTA New Orleans | Belle Chasse, IA | 29°52′40″ N | 89°54′46″ W |
| Camspac | Pt. Reyes Sta, CA | 38°06′00″ N | 122°55′48″ W |
| COMMSTA Honolulu | Wahiawa, HI | 21°31′08″ N | 157°59′28″ W |
| COMMSTA Kodiak | Kodiak, AK | 57°04′26′ N | 152°28′20″ W |
| Guam | Finegayan, GU | 13°53′08″ N | 144°50′20″ E |

NOTE: Systems of coordinates conform to NAD 83.

Point of contact: COTHEN Technical Support Center, COTHEN Program Manager, Tel: (800) 829–6336.

TABLE 5—CONSULTATION AREA COORDINATES FOR LAND STATIONS, SET 2 (1.7–30 MHz)

| Site name | Latitude | Longitude |
|---|---|---|
| Albuquerque, NM | 35°05′02″ N | 105°34′23″ W |
| Arecibo, PR | 18°17′26″ N | 66°22′33″ W |
| Atlanta, GA | 32°33″06 N | 84°23′35″ W |
| Beaufort, SC | 34°34′22″ N | 76°09′48″ W |
| Cape Charles, VA | 37°05′37″ N | 75°58′06″ W |
| Cedar Rapids, IA | 42°00′09″ N | 91°17′39″ W |
| Denver, CO | 39°15′45″ N | 103°34′23″ W |
| Fort Myers, FL | 81°31′20″ N | 26°20′01″ W |
| Kansas City, MO | 38°22′10″ N | 93°21′48″ W |
| Las Vegas, NV | 36°21′15″ N | 114°17′33″ W |
| Lovelock, NV | 40°03′07″ N | 118°18′56″ W |
| Memphis, TN | 34°21′57″ N | 90°02′43″ W |
| Miami, FL | 25°46′20″ N | 80°28′48″ W |
| Morehead City, NC | 34°34′50″ N | 78°13′59″ W |
| Oklahoma City, OK | 34°30′52″ N | 97°30′52″ W |
| Orlando, FL | 28°31′30″ N | 80°48′58″ W |
| Reno, NV | 38°31′12″ N | 119°14′37″ W |
| Sarasota, FL | 27°12′41″ N | 81°31′20″ W |
| Wilmington, NC | 34°29′24″ N | 78°04′31″ W |

NOTE: Systems of coordinates conform to NAD 83.

Point Of Contact: ROTHR Deputy Program Manager, (540) 653–3624.

TABLE 6—CONSULTATION AREA COORDINATES FOR RADAR RECEIVER STATIONS (1.7–30 MHz)

| Latitude/Longitude |
|---|
| 18°01′ N/66°30′ W |
| 28°05′ N/98°43′ W |
| 36°34′ N/76°18′ W |

NOTE: Systems of coordinates conform to NAD 83.

[70 FR 1374, Jan. 7, 2005, as amended at 71 FR 49379, Aug. 23, 2006]

## Subpart H—Television Band Devices

SOURCE: 74 FR 7326, Feb. 17, 2009, unless otherwise noted.

### § 15.701 Scope.

This subpart sets forth the regulations for unlicensed Television Band Devices (TVBDs). These devices are unlicensed intentional radiators that operate on available TV channels in the broadcast television frequency bands at 54–60 MHz (TV channel 2), 76–88 MHz (TV channels 5 and 6), 174–216 MHz (TV channels 7–13), 470–608 MHz (TV channels 14–36) and 614–698 MHz (TV channels 38–51).

[75 FR 75835, Dec. 6, 2010]

### § 15.703 Definitions.

(a) *Available channel*. A six-megahertz television channel, as specified in § 73.603 of this chapter, which is not being used by an authorized service at or near the same geographic location as the TVBD and is acceptable for use by an unlicensed device under the provisions of this subpart.

(b) *Contact verification signal*. An encoded signal broadcast by a fixed or Mode II device for reception by Mode I devices to which the fixed or Mode II device has provided a list of available channels for operation. Such signal is for the purpose of establishing that the Mode I device is still within the reception range of the fixed or Mode II device for purposes of validating the list of available channels used by the Mode I device and shall be encoded to ensure that the signal originates from the device that provided the list of available channels. A Mode I device may respond only to a contact verification signal from the fixed or Mode II device that provided the list of available channels on which it operates. A fixed or Mode II device shall provide the information needed by a Mode I device to decode the contact verification signal at the same time it provides the list of available channels.

(c) *Fixed device*. A TVBD that transmits and/or receives radiocommunication signals at a specified fixed location. A fixed TVBD may select channels for operation itself from a list of available channels provided by a TV bands database, initiate and operate a network by sending enabling signals to one or more fixed TVBDs and/or personal/portable TVBDs. Fixed devices may provide to a Mode I personal/portable device a list of available channels on which the Mode I device may operate under the rules, including available channels above 512 MHz (above TV channel 20) on which the fixed TVBD also may operate and a supplemental list of available channels above 512 MHz (above TV channel 20) that are adjacent to occupied TV channels on which the Mode I device, but not the fixed device, may operate.

(d) *Geo-location capability*. The capability of a TVBD to determine its geographic coordinates within the level of

accuracy specified in § 15.711(b)(1), *i.e.* 50 meters. This capability is used with a TV bands database approved by the FCC to determine the availability of TV channels at a TVBD's location.

(e) *Mode I personal/portable device.* A personal/portable TVBD that does not use an internal geo-location capability and access to a TV bands database to obtain a list of available channels. A Mode I device must obtain a list of available channels on which it may operate from either a fixed TVBD or Mode II personal/portable TVBD. A Mode I device may not initiate a network of fixed and/or personal/portable TVBDs nor may it provide a list of available channels to another Mode I device for operation by such device.

(f) *Mode II personal/portable device.* A personal/portable TVBD that uses an internal geo-location capability and access to a TV bands database, either through a direct connection to the Internet or through an indirect connection to the Internet by way of fixed TVBD or another Mode II TVBD, to obtain a list of available channels. A Mode II device may select a channel itself and initiate and operate as part of a network of TVBDs, transmitting to and receiving from one or more fixed TVBDs or personal/portable TVBDs. A Mode II personal/portable device may provide its list of available channels to a Mode I personal/portable device for operation on by the Mode I device.

(g) *Network initiation.* The process by which a fixed or Mode II TVBD sends control signals to one or more fixed TVBDs or personal/portable TVBDs and allows them to begin communications.

(h) *Operating channel.* An available channel used by a TVBD for transmission and/or reception.

(i) *Personal/portable device.* A TVBD that transmits and/or receives radiocommunication signals at unspecified locations that may change. Personal/portable devices may only transmit on available channels in the frequency bands 512–608 MHz (TV channels 21–36) and 614–698 MHz (TV channels 38–51).

(j) *Receive site.* The location where the signal of a full service television station is received for rebroadcast by a television translator or low power TV station, including a Class A TV station, or for distribution by a Multiple Video Program Distributor (MVPD) as defined in 47 U.S.C. 602(13).

(k) *Sensing only device.* A personal/portable TVBD that uses spectrum sensing to determine a list of available channels. Sensing only devices may transmit on any available channels in the frequency bands 512–608 MHz (TV channels 21–36) and 614–698 MHz (TV channels 38–51).

(l) *Spectrum sensing.* A process whereby a TVBD monitors a television channel to detect whether the channel is occupied by a radio signal or signals from authorized services.

(m) *Television band device (TVBD).* Intentional radiators that operate on an unlicensed basis on available channels in the broadcast television frequency bands at 54–60 MHz (TV channel 2), 76–88 MHz (TV channels 5 and 6), 174–216 MHz (TV channels 7–13), 470–608 MHz (TV channels 14–36) and 614–698 MHz (TV channels 38–51).

(n) *TV bands database.* A database system that maintains records of all authorized services in the TV frequency bands, is capable of determining the available channels as a specific geographic location and provides lists of available channels to TVBDs that have been certified under the Commission's equipment authorization procedures. TV bands databases that provide lists of available channels to TVBDs must receive approval by the Commission.

[75 FR 75835, Dec. 6, 2010]

### § 15.705 Cross reference.

(a) The provisions of subparts A, B, and C of this part apply to TVBDs, except where specific provisions are contained in subpart H.

(b) The requirements of subpart H apply only to the radio transmitter contained in the TVBD. Other aspects of the operation of a TVBD may be subject to requirements contained elsewhere in this chapter. In particular, a TVBD that includes a receiver that tunes within the frequency range specified in § 15.101(b) contains digital circuitry not directly associated with the radio transmitter is also subject to the requirements for unintentional radiators in subpart B.

### § 15.706 Information to the user.

(a) In addition to the labeling requirements contained in § 15.19, the instructions furnished to the user of a TVBD shall include the following statement, placed in a prominent location in the text of the manual:

This equipment has been tested and found to comply with the rules for TV bands devices, pursuant to part 15 of the FCC rules. These rules are designed to provide reasonable protection against harmful interference. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

(1) Reorient or relocate the receiving antenna.

(2) Increase the separation between the equipment and receiver.

(3) Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.

(4) Consult the manufacturer, dealer or an experienced radio/TV technician for help.

(b) In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

[74 FR 7326, Feb. 17, 2009, as amended at 75 FR 75836, Dec. 6, 2010]

### § 15.707 Permissible channels of operation.

(a) All TVBDs are permitted to operate available channels in the frequency bands 512–608 MHz (TV channels 21–36) and 614–698 MHz (TV channels 38–51), subject to the interference protection requirements in §§ 15.711 and 15.712, except that operation of TVBDs is prohibited on the first channel above and the first channel below TV channel 37 (608–614 MHz) that are available, *i.e.*, not occupied by an authorized service. If a channel is not available both above and below channel 37, operation is prohibited on the first two channels nearest to channel 37. These channels will be identified and protected in the TV bands database(s).

(b) Operation on available channels in the bands 54–60 MHz (TV channel 2), 76–88 MHz (TV channels 5 and 6), 174–216 MHz (TV channels 7–13) and 470–512 MHz (TV channels 14–20), subject to the interference protection requirements in §§ 15.711 and 15.712, is permitted only for fixed TVBDs that communicate only with other fixed TVBDs.

(c) Fixed and Mode II TVBDs shall operate only on available channels as identified in paragraphs (a) and (b) of this section and as determined by a TV bands database in accordance with the interference avoidance mechanisms of §§ 15.711 and 15.712.

(d) Mode I TVBDs shall operate only on available channels as identified in paragraphs (a) and (b) of this section and provided from a fixed or Mode II TVBD in accordance with § 15.711(b)(3)(iv).

[75 FR 75836, Dec. 6, 2010]

### § 15.709 General technical requirements.

(a) *Power limits for TVBDs.* (1) For fixed TVBDs, the maximum power delivered to the transmitting antenna shall not exceed one watt per 6 megahertz of bandwidth on which the device operates. The power delivered to the transmitting antenna is the maximum conducted output power reduced by the signal loss experienced in the cable used to connect the transmitter to the transmit antenna. If transmitting antennas of directional gain greater than 6 dBi are used, the maximum conducted output power shall be reduced by the amount in dB that the directional gain of the antenna exceeds 6 dBi.

(2) For personal/portable TVBDs, the maximum EIRP shall not exceed 100 milliwatts (20 dBm) per 6 megahertz of bandwidth on which the device operates with the following exceptions; Mode II personal/portable TVBDs that do not meet the adjacent channel separation requirements in § 15.712(a) and Mode I personal/portable TVBDs that operate on available channels (provided by a Mode II TVBD) that do not meet the adjacent channel separation requirements of § 15.712(a) are limited to

a maximum EIRP of 40 milliwatts (16 dBm) per 6 megahertz of bandwidth on which the device operates.

(3) TVBDs shall incorporate transmit power control to limit their operating power to the minimum necessary for successful communication. Applicants for equipment certification shall include a description of a device's transmit power control feature mechanism.

(4) Maximum conducted output power is the total transmit power over the occupied bandwidth delivered to all antennas and antenna elements averaged across all symbols in the signaling alphabet when the transmitter is operating at its maximum power control level. Power must be summed across all antennas and antenna elements. The average must not include any time intervals during which the transmitter is off or is transmitting at a reduced power level. If multiple modes of operation are possible (e.g., alternative modulation methods), the maximum conducted output power is the highest total transmit power occurring in any mode.

(5) The power spectral density conducted from the TVBD to the antenna shall not be greater than the following values when measured in any 100 kHz band during any time interval of continuous transmission:

(i) Fixed devices: 12.2 dBm.

(ii) Personal/portable devices operating adjacent to occupied TV channels: −1.8 dBm.

(iii) Sensing-only devices: −0.8 dBm.

(iii) All other personal/portable devices: 2.2 dBm.

(6) TVBDs shall incorporate adequate security measures to prevent the TVBD from accessing databases not approved by the FCC and to ensure that unauthorized parties can not modify the TVBD or configure its control features to operate inconsistent with the rules and protection criteria set forth in this subpart.

(b) *Antenna requirements.* (1) All transmit and receive antenna(s) of personal/portable devices shall be permanently attached.

(2) The transmit antenna used with fixed devices may not be more than 30 meters above the ground. In addition, fixed devices may not be located at sites where the height above average terrain (HAAT) at ground level is more than 76 meters. The ground level HAAT is to be calculated by the TV bands database that the device contacts for available channels using computational software employing the methodology in § 73.684(d) of this chapter.

(3) For personal/portable TVBDs operating under § 15.717, the provisions of § 15.204(c)(4) do not apply to an antenna used for transmission and reception/spectrum sensing.

(4) For personal/portable TVBDs operating under § 15.717 that incorporate a separate sensing antenna, compliance testing shall be performed using the lowest gain antenna for each type of antenna to be certified.

(c) *Emission limits for TVBDs.* (1) In the television channels immediately adjacent to the channel in which a TVBD is operating, emissions from the TVBD shall be at least 72.8 dB below the highest average power in the TV channel in which the device is operating.

(2) Emission measurements in the channel of operation shall be performed over a reference bandwidth of 6 megahertz with an average detector. Emission measurements in the adjacent channels shall be performed using a minimum resolution bandwidth of 100 kHz with an average detector. A narrower resolution bandwidth may be employed near the band edge, when necessary, provided the measured energy is integrated to show the total power over 100 kHz.

(3) At frequencies beyond the television channels immediately adjacent to the channel in which the TVBD is operating, the radiated emissions from TVBDs shall meet the requirements of § 15.209.

(4) Emissions in the band 602–620 MHz must also comply with the following field strength limits at a distance of one meter.

| Frequency (MHz) | Field strength dBμV/meter/120 kHz |
|---|---|
| 602–607 | 120–5[F(MHz)–602] |
| 607–608 | 95 |
| 608–614 | 30 |
| 614–615 | 95 |
| 615–620 | 120–5[620–F(MHz)] |

(5) TVBDs connected to the AC power line are required to comply with the conducted limits set forth in § 15.207.

(d) Compliance with radio frequency exposure requirements. To ensure compliance with the Commission's radio frequency exposure requirements in §§1.1307(b), 2.1091 and 2.1093 of this chapter, fixed TVBDs shall be accompanied by instructions on measures to take to ensure that persons maintain a distance of at least 40 cm from the device, as well as any necessary hardware that may be needed to implement that protection. These instructions shall be submitted with the application for certification. Personal/portable TVBDs that meet the definition of portable devices under §2.1093 of this chapter and that operate with a source-based time-averaged output of less than 20 mW will not be subject to routine evaluation for compliance with the radio frequency exposure guidelines, while devices that operate with a source-based time-average output power greater than 20 mW will be subject to the routine evaluation requirements.

[74 FR 7326, Feb. 17, 2009, as amended at 75 FR 75836, Dec. 6, 2010]

### §15.711 Interference avoidance methods.

Except as provided in §15.717, television channel availability for a TVBD is determined based on the geo-location and database access method described in paragraphs (a) and (b) of this section.

(a) *Geo-location and database access.* A TVBD shall rely on the geo-location and database access mechanism to identify available television channels consistent with the interference protection requirements of §15.712. Such protection will be provided for the following authorized and unlicensed services: digital television stations, digital and analog Class A, low power, translator and booster stations; translator receive operations; fixed broadcast auxiliary service links; private land mobile service/commercial radio service (PLMRS/CMRS) operations; offshore radiotelephone service; low power auxiliary services authorized pursuant to §§74.801 through 74.882 of this chapter, including wireless microphones and MVPD receive sites; and unlicensed wireless microphones used by venues of large events and productions/shows as provided under §15.713(h)(8). In addition, protection shall be provided in border areas near Canada and Mexico in accordance with §15.712(g).

(b) *Geo-location and database access requirements.* (1) The geographic coordinates of a fixed TVBD shall be determined to an accuracy of ± 50 meters by either an incorporated geo-location capability or a professional installer. In the case of professional installation, the party who registers the fixed TVBD in the database will be responsible for assuring the accuracy of the entered coordinates. The geographic coordinates of a fixed TVBD shall be determined at the time of installation and first activation from a power-off condition, and this information may be stored internally in the TVBD. If the fixed TVBD is moved to another location or if its stored coordinates become altered, the operator shall re-establish the device's:

(i) Geographic location and store this information in the TVBD either by means of the device's incorporated geo-location capability or through the services of a professional installer; and

(ii) Registration with the database based on the device's new coordinates.

(2) A Mode II personal/portable device shall incorporate a geo-location capability to determine its geographic coordinates to an accuracy of ± 50 meters. A Mode II device must also re-establish its position each time it is activated from a power-off condition and use its geo-location capability to check its location at least once every 60 seconds while in operation, except while in sleep mode, i.e., in a mode in which the device is inactive but is not powered-down.

(3)(i) Fixed devices must access a TV bands database over the Internet to determine the TV channels that are available at their geographic coordinates, taking into consideration the fixed device's antenna height, prior to their initial service transmission at a given location. Operation is permitted only on channels that are indicated in the database as being available for such TVBDs. Fixed TVBDs shall access the database at least once a day to verify that the operating channels continue to remain available. Operation on a channel must cease immediately if

the database indicates that the channel is no longer available. Fixed TVBD must adjust their use of channels in accordance with channel availability schedule information provided by their database for the 48-hour period beginning at the time of the device last accessed the database for a list of available channels.

(ii) Mode II personal/portable devices must access a TV bands database over the Internet to determine the TV channels that are available at their geographic coordinates prior to their initial service transmission at a given location. Operation is permitted only on channels that are indicated in the database as being available for personal/portable TVBDs. A Mode II personal/portable device must access the database for a list of available channels each time it is activated from a power-off condition and re-check its location and the database for available channels if it changes location during operation by more than 100 meters from the location at which it last accessed the database. A Mode II personal/portable device that has been in a powered state shall re-check its location and access the database daily to verify that the operating channel(s) continue to be available. Mode II personal/portable devices must adjust their use of channels in accordance with channel availability schedule information provided by their database for the 48-hour period beginning at the time of the device last accessed the database for a list of available channels. A Mode II personal/portable device may load channel availability information for multiple locations around, *i.e.*, in the vicinity of, its current location and use that information in its operation. A Mode II TVBD may use such available channel information to define a geographic area within which it can operate on the same available channels at all locations, for example a Mode II TVBD could calculate a bounded area in which a channel or channels are available at all locations within the area and operate on a mobile basis within that area. A Mode II TVBD using such channel availability information for multiple locations must contact the database again if/when it moves beyond the boundary of the area where the channel availability data is valid, and must access the database daily even if it has not moved beyond that range to verify that the operating channel(s) continue to be available. Operation must cease immediately if the database indicates that the channel is no longer available.

(iii) If a fixed or Mode II personal/portable TVBD fails to successfully contact the TV bands database during any given day, it may continue to operate until 11:59 p.m. of the following day at which time it must cease operations until it re-establishes contact with the TV bands database and re-verifies its list of available channels.

(iv) A Mode I personal/portable TVBD may only transmit upon receiving a list of available channels from a fixed or Mode II TVBD that has contacted a database and verified that the FCC identifier (FCC ID) of the Mode I device is valid. The list of channels provided to the Mode I device must be the same as the list of channels that are available to the fixed or Mode II device, except that a Mode I device may operate only on channels that are permissible for its use under §15.707. A fixed device may also obtain from a database a separate list of available channels that includes adjacent channels that would be available to a Mode I personal/portable device and provide that list to the Mode I device. A fixed or Mode II device may provide a Mode I device with a list of available channels only after it contacts its database, provides the database the FCC Identifier (FCC ID) of the Mode I device requesting available channels, and receives verification that the FCC ID is valid for operation. To initiate contact with a fixed or Mode II device, a Mode I device may transmit on an available channel used by the fixed or Mode II TVBD or on a channel the fixed or Mode II TVBD indicates is available for use by a Mode I device on a signal seeking such contacts. At least once every 60 seconds, except when in sleep mode, *i.e.*, a mode in which the device is inactive but is not powered-down, a Mode I device must either receive a contact verification signal from the Mode II or fixed device that provided its current list of available channels or contact a Mode II or fixed device to re-verify/re-establish channel

availability. A Mode I device must cease operation immediately if it does not receive a contact verification signal or is not able to re-establish a list of available channels through contact with a fixed or Mode II device on this schedule. In addition, a Mode II device must re-check/reestablish contact with a fixed or Mode II device to obtain a list of available channels if they lose power. Collaterally, if a Mode II device loses power and obtains a new channel list, it must signal all Mode I devices it is serving to acquire new channel list.

(v) Device manufacturers and database administrators may implement a system that pushes updated channel availability information from the database to TVBDs. However, the use of such systems is not mandatory, and the requirements for TVBDs to validate the operating channel at least daily and to cease operation in accordance with paragraph (b)(3)(iii) of this section continue to apply if such a system is used.

(vi) TV bands devices shall incorporate adequate security measures to ensure that they are capable of communicating for purposes of obtaining lists of available channels only with databases operated by administrators authorized by the Commission, and to ensure that communications between TV bands devices and databases between TV bands devices are secure to prevent corruption or unauthorized interception of data. This requirement includes implementing security for communications between Mode I personal portable devices and fixed or Mode II devices for purposes of providing lists of available channels.

(4) All geographic coordinates shall be referenced to the North American Datum of 1983 (NAD 83).

(c) *Display of available channels.* A TVBD must incorporate the capability to display a list of identified available channels and its operating channels.

(d) *Identifying information.* Fixed TVBDs shall transmit identifying information. The identification signal must conform to a standard established by a recognized industry standards setting organization. The identification signal shall carry sufficient information to identify the device and its geographic coordinates.

(e) *Fixed devices without a direct connection to the Internet.* If a fixed TVBD does not have a direct connection to the Internet and has not yet been initialized and registered with the TV bands database consistent with §15.713, but can receive the transmissions of another fixed TVBD, the fixed TVBD needing initialization may transmit to that other fixed TVBD on either a channel that the other TVBD has transmitted on or on a channel which the other TVBD indicates is available for use to access the database to register its location and receive a list of channels that are available for it to use. Subsequently, the newly registered TVBD must only use the television channels that the database indicates are available for it to use. A fixed device may not obtain lists of available channels from another fixed device as provided by a TV bands database for such other device, *i.e.*, a fixed device may not simply operate on the list of available channels provided by a TV bands database for another fixed device with which it communicates but must contact a database to obtain a list of available channels on which it may operate.

(f) *Security.* (1) For purposes of obtaining a list of available channels and related matters, fixed and Mode II TVBDs shall only be capable of contacting databases operated by FCC designated administrators.

(2) Communications between TV bands devices and TV bands databases are to be transmitted using secure methods that ensure against corruption or unauthorized modification of the data; this requirement applies to communications of channel availability and other spectrum access information between fixed and Mode II devices (it is not necessary for TVBDs to apply security coding to channel availability and channel access information where they are not the originating or terminating device and that they simply pass through).

(3) Communications between a Mode I device and a fixed or Mode II device for purposes of obtaining a list of available channels shall employ secure methods that ensure against corruption or unauthorized modification of the data. When a Mode I device makes

a request to a fixed or Mode II device for a list of available channels the receiving device shall check with the TV bands database that the Mode I device has a valid FCC Identifier before providing a list of available channels. Contact verification signals transmitted for Mode I devices are to be encoded with encryption to secure the identity of the transmitting device. Mode I devices using contact verification signals shall accept as valid for authorization only the signals of the device from which they obtained their list of available channels.

(4) A TV bands database shall be protected from unauthorized data input or alteration of stored data. To provide this protection, the administrator of the TV bands database administrator shall establish communications authentication procedures that allow the fixed or Mode II devices to be assured that the data they receive is from an authorized source.

(5) Applications for certification of TV bands devices are to include a high level operational description of the technologies and measures that are incorporated in the device to comply with the security requirements of this section. In addition, applications for certification of fixed and Mode II devices are to identify at least one of the TV bands databases operated by a designated TV bands database administrator that the device will access for channel availability and affirm that the device will conform to the communications security methods used by that database.

(g) A personal/portable TVBD operating in Mode I may only transmit upon receiving the transmissions of fixed or Mode II TVBD. A personal/portable device operating in Mode I may transmit on either an operating channel of the fixed or Mode II TVBD or on a channel the fixed or Mode II TVBD indicates is available for use.

[74 FR 7326, Feb. 17, 2009, as amended at 75 FR 75837, Dec. 6, 2010]

### § 15.712 Interference protection requirements.

(a) Digital television stations, and digital and analog Class A TV, low power TV, TV translator and TV booster stations:

(1) *Protected contour*. TVBDs must protect digital and analog TV services within the contours shown in the following table. These contours are calculated using the methodology in § 73.684 of this chapter and the R–6602 curves contained in § 73.699 of this chapter.

| Type of station | Protected contour | | |
|---|---|---|---|
| | Channel | Contour (dBu) | Propagation curve |
| Analog: Class A TV, LPTV, translator and booster | Low VHF (2–6) | 47 | F(50,50) |
| | High VHF (7–13) | 56 | F(50,50) |
| | UHF (14–69) | 64 | F(50,50) |
| Digital: Full service TV, Class A TV, LPTV, translator and booster. | Low VHF (2–6) | 28 | F(50,90) |
| | High VHF (7–13) | 36 | F(50,90) |
| | UHF (14–51) | 41 | F(50,90) |

(2) *Required separation distance*. TVBDs must be located outside the contours indicated in paragraph (a)(1) of this section of co-channel and adjacent channel stations by at least the minimum distances specified in the following table. Personal/portable TVBDs operating in Mode II must comply with the separation distances specified for an unlicensed device with an antenna height of less than 3 meters. Alternatively, Mode II personal/portable TVBDs may operate at closer separation distances, including inside the contour of adjacent channel stations, provided the power level is reduced to 40 mW or less as specified in § 15.709(a)(2).

| Antenna height of unlicensed device | Required separation (km) from digital or analog TV (full service or low power) protected contour | |
|---|---|---|
| | Co-channel (km) | Adjacent channel (km) |
| Less than 3 meters | 6.0 | 0.1 |
| 3—Less than 10 meters | 8.0 | 0.1 |
| 10–30 meters | 14.4 | 0.74 |

(b) *TV translator, Low Power TV (including Class A) and Multi-channel Video Programming Distributor (MVPD) receive sites.* MVPD, TV translator station and low power TV (including Class A) station receive sites located outside the protected contour of the TV station(s) being received may be registered in the TV bands database if they are no farther than 80 km outside the nearest edge of the relevant contour(s). Only channels received over the air and used by the MVPD, TV translator station or low power/Class A TV station may be registered. TVBDs may not operate within an arc of ±/−30 degrees from a line between a registered receive site and the contour of the TV station being received in the direction of the station's transmitter at a distance of up to 80 km from the edge of the protected contour of the received TV station for co-channel operation and up to 20 km from the registered receive site for adjacent channel operation, except that the protection distance shall not exceed the distance from the receive site to the protected contour. Outside of this ±/−30 degree arc, TVBDs may not operate within 8 km from the receive site for co-channel operation and 2 km from the receive site for adjacent channel operation. For purposes of this section, a TV station being received may include a full power TV station, TV translator station or low power TV/Class A TV station.

(c) *Fixed Broadcast Auxiliary Service (BAS) Links.* For permanent BAS receive sites appearing in the Commission's Universal Licensing System or temporary BAS receive sites registered in the TV bands database, TVBDs may not operate within an arc of ±30 degrees from a line between the BAS receive site and its associated permanent transmitter within a distance of 80 km from the receive site for co-channel operation and 20 km for adjacent channel operation. Outside this ±30 degree arc, TVBDs may not operate within 8 km from the receive site for co-channel operation and 2 km from the receive site for adjacent channel operation.

(d) *PLMRS/CMRS operations:* TVBDs may not operate at distances less than 134 km for co-channel operations and 131 km for adjacent channel operations from the coordinates of the metropolitan areas and on the channels listed in § 90.303(a) of this chapter. For PLMRS/CMRS operations authorized by waiver outside of the metropolitan areas listed in § 90.303(a) of this chapter, co-channel and adjacent channel TVBDs may not operate closer than 54 km and 51 km, respectively from a base station.

(e) *Offshore Radiotelephone Service.* TVBDs may not operate on channels used by the Offshore Radio Service within the geographic areas specified in § 74.709(e) of this chapter.

(f) *Low power auxiliary services, including wireless microphones:* (1) Fixed TVBDs are not permitted to operate within 1 km, and personal/portable TVBDs will not be permitted to operate within 400 meters, of the coordinates of registered low power auxiliary station sites on the registered channels during the designated times they are used by low power auxiliary stations.

(2) TVBDs are not permitted to operate on the first channel on each side of TV channel 37 (608–614 MHz) that is not occupied by a licensed service.

(g) *Border areas near Canada and Mexico:* Fixed and personal/portable TVBDs shall comply with the required separation distances in § 15.712(a)(2) from the protected contours of TV stations in Canada and Mexico. TVBDs are not required to comply with these separation distances from portions of the protected contours of Canadian or Mexican TV stations that fall within the United States.

(h) *Radio astronomy services:* Operation of fixed and personal/portable TVBDs is prohibited on all channels within 2.4 kilometers at the following locations.

(1) The Naval Radio Research Observatory in Sugar Grove, West Virginia.

(2) The Table Mountain Radio Receiving Zone (TMRZ) at 40°07′50″ N and 105°15′40″ W.

(3) The following facilities:

| Observatory | Longitude (deg/min/sec) | Latitude (deg/min/sec) |
|---|---|---|
| Allen Telescope Array | 121 28 24 W | 40 49 04 N |
| Arecibo Observatory | 066 45 11 W | 18 20 46 N |
| Green Bank Telescope (GBT) | 079 50 24 W | 38 25 59 N |
| Very Large Array (VLA) | Rectangle between latitudes 33 58 22 N and 34 14 56 N, and longitudes 107 24 40 W and 107 48 22 W | |
| Very Long Baseline Array (VLBA) Stations: | | |
| Pie Town, AZ | 108 07 07 W | 34 18 04 N |
| Kitt Peak, AZ | 111 36 42 W | 31 57 22 N |
| Los Alamos, NM | 106 14 42 W | 35 46 30 N |
| Ft. Davis, TX | 103 56 39 W | 30 38 06 N |
| N. Liberty, IA | 091 34 26 W | 41 46 17 N |
| Brewster, WA | 119 40 55 W | 48 07 53 N |
| Owens Valley, CA | 118 16 34 W | 37 13 54 N |
| St. Croix, VI | 064 35 03 W | 17 45 31 N |
| Hancock, NH | 071 59 12 W | 42 56 01 N |
| Mauna Kea, HI | 155 27 29 W | 19 48 16 N |

[74 FR 7326, Feb. 17, 2009, as amended at 75 FR 75839, Dec. 6, 2010]

## § 15.713 TV bands database.

(a) *Purpose.* The TV bands database serves the following functions:

(1) To determine and provide to a TVBD, upon request, the available TV channels at the TVBD's location. Available channels are determined based on the interference protection requirements in § 15.712. A database must provide fixed and Mode II personal portable TVBDs with channel availability information that includes scheduled changes in channel availability over the course of the 48 hour period beginning at the time the TVBDs make a re-check contact. In making lists of available channels available to a TVBD, the TV bands database shall ensure that all communications and interactions between the TV bands database and the TVBD include adequate security measures such that unauthorized parties cannot access or alter the TV bands database or the list of available channels sent to TVBDs or otherwise affect the database system or TVBDs in performing their intended functions or in providing adequate interference protections to authorized services operating in the TV bands. In addition, a TV bands database must also verify that the FCC identifier (FCC ID) of a device seeking access to its services is valid; under this requirement the TV bands database must also verify that the FCC ID of a Mode I device provided by a fixed or Mode II device is valid. A list of devices with valid FCC IDs and the FCC IDs of those devices is to be obtained from the Commission's Equipment Authorization System.

(2) To register the identification information and location of fixed TVBDs.

(3) To register protected locations and channels as specified in paragraph (b)(2) of this section, that are not otherwise recorded in Commission licensing databases.

(b) *Information in the TV bands database.* (1) Facilities already recorded in Commission databases. Identifying and location information will come from the official Commission database. These services include:

(i) Digital television stations.

(ii) Class A television stations.

(iii) Low power television stations.

(iv) Television translator and booster stations.

(v) Broadcast Auxiliary Service stations (including receive only sites), except low power auxiliary stations.

(vi) Private land mobile radio service stations.

(vii) Commercial mobile radio service stations.

(viii) Offshore radiotelephone service stations.

(2) Facilities that are not recorded in Commission databases. Identifying and location information will be entered into the TV bands database in accordance with the procedures established by the TV bands database administrator(s). These include:

(i) MVPD receive sites.

(ii) Class A television station receive sites.

(iii) Low power television station receive sites.

(iv) Television translator station receive sites.

(v) Sites where low power auxiliary stations, including wireless microphones and wireless assist video devices, are used and their schedule for operation.

(vi) Fixed TVBD registrations.

(c) *Restrictions on registration.* (1) Television translator, low power TV and Class A station receive sites within the protected contour of the station being received are not eligible for registration in the database.

(2) MVPD receive sites within the protected contour or more than 80 kilometers from the nearest edge of the protected contour of a television station being received are not eligible to register that station's channel in the database.

(d) *Determination of available channels.* The TV bands database will determine the available channels at a location using the interference protection requirements of § 15.712, the location information supplied by a TVBD, and the data for protected stations/locations in the database.

(e) *TVBD initialization.* (1) Fixed and Mode II TVBDs must provide their location and required identifying information to the TV bands database in accordance with the provisions of this subpart.

(2) Fixed and Mode II TVBDs shall not transmit unless they receive, from the TV bands database, a list of available channels and may only transmit on the available channels on the list provided by the database.

(3) Fixed TVBDs register and receive a list of available channels from the database by connecting to the iInternet, either directly or through another fixed TVBD that has a direct connection to the Internet.

(4) Mode II TVBDs receive a list of available channels from the database by connecting to the Internet, either directly or through a fixed or Mode II TVBD that has a direct connection to the Internet.

(5) A fixed or Mode II TVBD that provides a list of available channels to a Mode I device shall notify the database of the FCC identifier of such Mode I device and receive verification that that FCC identifier is valid before providing the list of available channels to the Mode I device.

(6) A fixed device located at a site where the ground level height above average terrain (HAAT) is greater than 76 meters shall not be provided a list of available channels. The ground level HAAT of sites occupied by fixed TVBDs is to be calculated using computational software employing the methodology in § 73.684(d) of this chapter.

(f) *Fixed TVBD registration.* (1) Prior to operating for the first time or after changing location, a fixed TVBD must register with the TV bands database by providing the information listed in paragraph (f)(3) of this section.

(2) The party responsible for a fixed TVBD must ensure that the TVBD registration database has the most current, up-to-date information for that device.

(3) The TVBD registration database shall contain the following information for fixed TVBDs:

(i) FCC identifier (FCC ID) of the device;

(ii) Manufacturer's serial number of the device;

(iii) Device's geographic coordinates (latitude and longitude (NAD 83) accurate to ±/− 50 m);

(iv) Device's antenna height above ground level (meters);

(v) Name of the individual or business that owns the device;

(vi) Name of a contact person responsible for the device's operation;

(vii) Address for the contact person;

(viii) E-mail address for the contact person;

(ix) Phone number for the contact person.

(g) A personal/portable device operating in Mode II shall provide the database its FCC Identifier (as required by § 2.926 of this chapter), serial number as assigned by the manufacturer, and the device's geographic coordinates (latitude and longitude (NAD 83) accurate to ±50 m)

(h) *TV bands database information.* The TV bands database shall contain the listed information for each of the following:

(1) Digital television stations, digital and analog Class A, low power, translator and booster stations, including stations in Canada and Mexico that are within the border coordination areas as specified in § 73.1650 of this chapter (a TV bands database is to include only TV station information from station license or license application records. In cases where a station has records for both a license application and a license, a TV bands database should include the information from the license application rather than the license. In cases where there are multiple license application records or license records for the same station, the database is to include the most recent records, and again with license applications taking precedence over licenses.):

(i) Transmitter coordinates (latitude and longitude in NAD 83);

(ii) Effective radiated power (ERP);

(iii) Height above average terrain of the transmitting antenna (HAAT);

(iv) Horizontal transmit antenna pattern (if the antenna is directional);

(v) Amount of electrical and mechanical beam tilt (degrees depression below horizontal) and orientation of mechanical beam tilt (degrees azimuth clockwise from true north);

(vi) Channel number; and

(vii) Station call sign.

(2) Broadcast Auxiliary Service.

(i) Transmitter coordinates (latitude and longitude in NAD 83).

(ii) Receiver coordinates (latitude and longitude in NAD 83).

(iii) Channel number.

(iv) Call sign.

(3) Metropolitan areas listed in § 90.303(a) of this chapter.

(i) Region name.

(ii) Channel(s) reserved for use in the region.

(iii) Geographic center of the region (latitude and longitude in NAD 83).

(iv) Call sign.

(4) PLMRS/CMRS base station operations located more than 80 km from the geographic centers of the 13 metropolitan areas defined in § 90.303(a) of this chapter (*e.g.*, in accordance with a waiver).

(i) Transmitter location (latitude and longitude in NAD 83) or geographic area of operations.

(ii) Effective radiated power.

(iii) Transmitter height above average terrain (if specified).

(iv) Antenna height above ground level (if specified).

(v) Call sign.

(5) Offshore Radiotelephone Service. For each of the four regions where the Offshore Radiotelephone Service operates.

(i) Geographic boundaries of the region (latitude and longitude in NAD 83 for each point defining the boundary of the region.

(ii) Channel(s) used by the service in that region.

(6) MVPD receive sites. Registration for receive sites is limited to channels that are received over-the-air and are used as part of the MVPD service.

(i) Name and address of MVPD company;

(ii) Location of the MVPD receive site (latitude and longitude in NAD 83, accurate to ±/− 50 m);

(iii) Channel number of each television channel received, subject to the following condition: channels for which the MVPD receive site is located within the protected contour of that channel's transmitting station are not eligible for registration in the database;

(iv) Call sign of each television channel received and eligible for registration;

(v) Location (latitude and longitude) of the transmitter of each television channel received;

(7) Television translator, low power TV and Class A TV station receive sites. Registration for television translator, low power TV and Class A receive sites is limited to channels that are received over-the-air and are used as part of the station's service.

(i) Call sign of the TV translator station;

(ii) Location of the TV translator receive site (latitude and longitude in NAD 83, accurate to ±/− 50 m);

(iii) Channel number of the re-transmitted television station, subject to the following condition: a channel for which the television translator receive site is located within the protected contour of that channel's transmitting station is not eligible for registration in the database;

(iv) Call sign of the retransmitted television station; and

(v) Location (latitude and longitude) of the transmitter of the retransmitted television station.

(8) Licensed low power auxiliary stations, including wireless microphones and wireless assist video devices. Use of licensed low power auxiliary stations at well defined times and locations may be registered in the database. Multiple registrations that specify more than one point in the facility may be entered for very large sites. Registrations will be valid for no more than one year, after which they may be renewed. Registrations must include the following information:

(i) Name of the individual or business responsible for the low power auxiliary device(s);

(ii) An address for the contact person;

(iii) An email address for the contact person (optional);

(iv) A phone number for the contact person;

(v) Coordinates where the device(s) are used (latitude and longitude in NAD 83, accurate to ±/− 50 m);

(vi) Channels used by the low power auxiliary devices operated at the site;

(vii) Specific months, weeks, days of the week and times when the device(s) are used (on dates when microphones are not used the site will not be protected); and

(viii) The stations call sign.

(9) Unlicensed wireless microphones at venues of events and productions/shows that use large numbers of wireless microphones that cannot be accommodated in the two reserved channels and other channels that are not available for use by TVBDs at that location. Such sites of large events and productions/shows with significant wireless microphone use at well defined times and locations may be registered in the database. Entities responsible for eligible event venues registering their site with a TV bands data base are required to first make use of the two reserved channels and other channels that are not available for use by TVBDs at that location. As a benchmark, at least 6–8 wireless microphones should be operating in each channel used at such venues (both licensed and unlicensed wireless microphones used at the event may be counted to comply with this benchmark). Multiple registrations that specify more than one point in the facility may be entered for very large sites. Sites of eligible event venues using unlicensed wireless microphones must be registered with the Commission at least 30 days in advance and the Commission will provide this information to the data base managers. Parties responsible for eligible event venues filing registration requests must certify that they are making use of all TV channels not available to TV bands devices and on which wireless microphones can practicably be used, including channels 7–51 (except channel 37). The Commission will make requests for registration of sites that use unlicensed wireless microphones public and will provide an opportunity for public comment or objections. Registrations will be valid for one year, after which they may be renewed. The Commission will take actions against parties that file inaccurate or incomplete information, such as denial of registration in the database, removal of information from the database pursuant to paragraph (i) of this section, or other sanctions as appropriate to ensure compliance with the rules. Registrations must include the following information:

(i) Name of the individual or business that owns the unlicensed wireless microphones;

(ii) An address for the contact person;

(iii) An e-mail address for the contact person (optional);

(iv) A phone number for the contact person;

(v) Coordinates where the device(s) are used (latitude and longitude in NAD 83, accurate to ±/− 50 m);

(vi) Channels used by the wireless microphones operated at the site and the number of wireless microphones used in each channel. As a benchmark, least 6–8 wireless microphones must be used in each channel. Registration requests that do not meet this criteria will not be registered in the TV bands data bases;

(vii) Specific months, weeks, days of the week and times when the device(s) are used (on dates when microphones are not used the site will not be protected); and

(viii) The name of the venue.

(i) Commission requests for data. (1) A TV bands database administrator must provide to the Commission, upon request, any information contained in the database.

(2) A TV bands database administrator must remove information from the database, upon direction, in writing, by the Commission.

(j) *Security*. The TV bands database shall employ protocols and procedures to ensure that all communications and interactions between the TV bands database and TVBDs are accurate and secure and that unauthorized parties cannot access or alter the database or the list of available channels sent to a TVBD.

(1) Communications between TV bands devices and TV bands databases, and between different TV bands databases, shall be secure to prevent corruption or unauthorized interception of data. A TV bands database shall be protected from unauthorized data input or alteration of stored data.

(2) A TV bands database shall verify that the FCC identification number supplied by a fixed or personal/portable TV bands device is for a certified device and may not provide service to an uncertified device.

(3) A TV bands database must not provide lists of available channels to uncertified TV bands devices for purposes of operation (it is acceptable for a TV bands database to distribute lists of available channels by means other than contact with TVBDs to provide list of channels for operation). To implement this provision, a TV bands database administrator shall obtain a list of certified TVBDs from the FCC Equipment Authorization System.

[74 FR 7326, Feb. 17, 2009, as amended at 75 FR 75840, Dec. 6, 2010]

### § 15.714 TV bands database administration fees.

(a) A TV bands database administrator may charge a fee for provision of lists of available channels to fixed and personal/portable TVBDs and for registering fixed TVBDs.

(b) The Commission, upon request, will review the fees and can require changes in those fees if they are found to be excessive.

[74 FR 7326, Feb. 17, 2009, as amended at 75 FR 75842, Dec. 6, 2010]

### § 15.715 TV bands database administrator.

The Commission will designate one or more entities to administer the TV bands database(s). The Commission may, at its discretion, permit the functions of a TV bands database, such as a data repository, registration, and query services, to be divided among multiple entities; however, it will designate specific entities to be a database administrator responsible for coordination of the overall functioning of a database and providing services to TVBDs. Each database administrator designated by the Commission shall:

(a) Maintain a database that contains the information described in § 15.713.

(b) Establish a process for acquiring and storing in the database necessary and appropriate information from the Commission's databases and synchronizing the database with the current Commission databases at least once a week to include newly licensed facilities or any changes to licensed facilities.

(c) Establish a process for registering fixed TVBDs and registering and including in the database facilities entitled to protection but not contained in a Commission database, including MVPD and TV translator receive sites.

(d) Establish a process for registering facilities where part 74 low power auxiliary stations are used on a regular basis.

(e) Provide accurate lists of available channels to fixed and personal/portable

TVBDs that submit to it the information required under §§15.713(e), (f), and (g) based on their geographic location and provide accurate lists of available channels to fixed and Mode II devices requesting lists of available channels for Mode I devices. Database administrators may allow prospective operators of TV bands devices to query the database and determine whether there are vacant channels at a particular location.

(f) Establish protocols and procedures to ensure that all communications and interactions between the TV bands database and TVBDs are accurate and secure and that unauthorized parties cannot access or alter the database or the list of available channels sent to a TVBD consistent with the provisions of §15.713(i).

(g) Make its services available to all unlicensed TV band device users on a non-discriminatory basis.

(h) Provide service for a five-year term. This term can be renewed at the Commission's discretion.

(i) Respond in a timely manner to verify, correct and/or remove, as appropriate, data in the event that the Commission or a party brings claim of inaccuracies in the database to its attention. This requirement applies only to information that the Commission requires to be stored in the database.

(j) Transfer its database along with the IP addresses and URLs used to access the database and list of registered Fixed TVBDs, to another designated entity in the event it does not continue as the database administrator at the end of its term. It may charge a reasonable price for such conveyance.

(k) The database must have functionality such that upon request from the Commission it can indicate that no channels are available when queried by a specific TVBD or model of TVBDs.

(l) If more than one database is developed, the database administrators shall cooperate to develop a standardized process for providing on a daily basis or more often, as appropriate, the data collected for the facilities listed in §15.713(b)(2) to all other TV bands databases to ensure consistency in the records of protected facilities.

**§15.717 TVBDs that rely on spectrum sensing.**

(a) *Applications for certification.* Parties may submit applications for certification of TVBDs that rely solely on spectrum sensing to identify available channels. Devices authorized under this section must demonstrate with an extremely high degree of confidence that they will not cause harmful interference to incumbent radio services.

(1) In addition to the procedures in subpart J of part 2 of this chapter, applicants shall comply with the following.

(i) The application must include a full explanation of how the device will protect incumbent authorized services against interference.

(ii) Applicants must submit a pre-production device, identical to the device expected to be marketed.

(2) The Commission will follow the procedures below for processing applications pursuant to this section.

(i) Applications will be placed on public notice for a minimum of 30 days for comments and 15 days for reply comments. Applicants may request that portions of their application remain confidential in accordance with §0.459 of this chapter. This public notice will include proposed test procedures and methodologies.

(ii) The Commission will conduct laboratory and field tests of the pre-production device. This testing will be conducted to evaluate proof of performance of the device, including characterization of its sensing capability and its interference potential. The testing will be open to the public.

(iii) Subsequent to the completion of testing, the Commission will issue by public notice, a test report including recommendations. The public notice will specify a minimum of 30 days for comments and, if any objections are received, an additional 15 days for reply comments.

(b) *Power limit for devices that rely on sensing.* The TVBD shall meet the requirements for personal/portable devices in this subpart except that it will be limited to a maximum EIRP of 50 mW per 6 megahertz of bandwidth on which the device operates and it does not have to comply with the requirements for geo-location and database

access in §15.711(b). Compliance with the detection threshold for spectrum sensing in §15.717(c), although required, is not necessarily sufficient for demonstrating reliable interference avoidance. Once a device is certified, additional devices that are identical in electrical characteristics and antenna systems may be certified under the procedures of Part 2, Subpart J of this chapter.

(c) *Sensing requirements.*

(1) *Detection threshold.*

(i) The required detection thresholds are:

(A) ATSC digital TV signals: –114 dBm, averaged over a 6 MHz bandwidth;

(B) NTSC analog TV signals: –114 dBm, averaged over a 100 kHz bandwidth;

(C) Low power auxiliary, including wireless microphone, signals: –107 dBm, averaged over a 200 kHz bandwidth.

(ii) The detection thresholds are referenced to an omnidirectional receive antenna with a gain of 0 dBi. If a receive antenna with a minimum directional gain of less than 0 dBi is used, the detection threshold shall be reduced by the amount in dB that the minimum directional gain of the antenna is less than 0 dBi. Minimum directional gain shall be defined as the antenna gain in the direction and at the frequency that exhibits the least gain. Alternative approaches for the sensing antenna are permitted, e.g., electronically rotatable antennas, provided the applicant for equipment authorization can demonstrate that its sensing antenna provides at least the same performance as an omnidirectional antenna with 0 dBi gain.

(2) *Channel availability check time.* A TVBD may start operating on a TV channel if no TV, wireless microphone or other low power auxiliary device signals above the detection threshold are detected within a minimum time interval of 30 seconds.

(3) *In-service monitoring.* A TVBD must perform in-service monitoring of an operating channel at least once every 60 seconds. There is no minimum channel availability check time for in-service monitoring.

(4) *Channel move time.* After a TV, wireless microphone or other low power auxiliary device signal is detected on a TVBD operating channel, all transmissions by the TVBD must cease within two seconds.

[75 FR 75842, Dec. 6, 2010]

# PART 17—CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

## Subpart A—General Information

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17.58 Facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management.

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 309, 48 Stat. 1081, 1085 as amended; 47 U.S.C. 301, 309.

## Subpart A—General Information

### § 17.1 Basis and purpose.

(a) The rules in this part are issued pursuant to the authority contained in Title III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to issue licenses to radio stations when it is found that the public interest, convenience, and necessity would be served thereby, and to require the painting, and/or illumination of antenna structures if and when in its judgment such structures constitute, or there is reasonable possibility that they may constitute, a menace to air navigation.

(b) The purpose of this part is to prescribe certain procedures for antenna structure registration and standards with respect to the Commission's consideration of proposed antenna structures which will serve as a guide to antenna structure owners. The standards are referenced from two Federal Aviation Administration (FAA) Advisory Circulars.

[61 FR 4362, Feb. 6, 1996]

### § 17.2 Definitions.

(a) *Antenna structure*. The term antenna structure includes the radiating and/or receive system, its supporting structures and any appurtenances mounted thereon.

(b) An antenna farm area is defined as a geographical location, with established boundaries, designated by the Federal Communications Commission, in which antenna towers with a common impact on aviation may be grouped.

(c) *Antenna structure owner*. For the purposes of this part, an antenna structure owner is the individual or entity vested with ownership, equitable ownership, dominion, or title to the antenna structure. Notwithstanding any agreements made between the owner and any entity designated by the owner to maintain the antenna structure, the owner is ultimately responsible for compliance with the requirements of this part.

(d) *Antenna structure registration number*. A unique number, issued by the Commission during the registration process, which identifies an antenna structure. Once obtained, this number must be used in all filings related to this structure.

[32 FR 8813, June 21, 1967, and 32 FR 11268, Aug. 3, 1967, as amended at 39 FR 26157, July 17, 1974; 61 FR 4362, Feb. 6, 1996]

### § 17.4 Antenna structure registration.

(a) Effective July 1, 1996, the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration must register the structure with the Commission. This includes those structures used as part of stations licensed by the Commission for the transmission of radio energy, or to be used as part of a cable television head end system. If a Federal Government antenna structure is to be used by a Commission licensee, the structure must be registered with the Commission.

(1) For a proposed antenna structure or alteration of an existing antenna structure, the owner must register the structure prior to construction or alteration.

(2) For an existing antenna structure that had been assigned painting or lighting requirements prior to July 1, 1996, the owner must register the structure prior to July 1, 1998.

(3) For a structure that did not originally fall under the definition of ''antenna structure,'' the owner must register the structure prior to hosting a Commission licensee.

(b) Except as provided in paragraph (e) of this section, each owner must file FCC Form 854 with the Commission. Additionally, each owner of a proposed structure referred to in paragraphs (a)(1) or (a)(3) of this section must submit a valid FAA determination of ''no hazard.'' In order to be considered valid by the Commission, the FAA determination of ''no hazard'' must not have expired prior to the date on which FCC Form 854 is received by the Commission. The height of the structure will

include the highest point of the structure including any obstruction lighting or lighting arrester.

(c) If an Environmental Assessment is required under §1.1307 of this chapter, the Bureau will address the environmental concerns prior to processing the registration.

(d) If a final FAA determination of ''no hazard'' is not submitted along with FCC Form 854, processing of the registration may be delayed or disapproved.

(e) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of Federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first tenant licensee authorized to locate on the structure (excluding tenants that no longer occupy the structure) must register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing a copy of FCC Form 854R to all tenant licensees on the structure and for posting the registration number as required by paragraph (g) of this section.

(f) The Commission shall issue, to the registrant, FCC Form 854R, Antenna Structure Registration, which assigns a unique Antenna Structure Registration Number. The structure owner shall immediately provide a copy of Form 854R to each tenant licensee and permittee.

(g) Except as described in paragraph (h) of this section, the Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure.

(h) The owner is not required to post the Antenna Structure Registration Number in cases where a federal, state, or local government entity provides written notice to the owner that such a posting would detract from the appearance of a historic landmark. In this case, the owner must make the Antenna Structure Registration Number available to representatives of the Commission, the FAA, and the general public upon reasonable demand.

[61 FR 4362, Feb. 6, 1996]

### § 17.5 Commission consideration of applications for station authorization.

(a) Applications for station authorization, excluding services authorized on a geographic basis, are reviewed to determine whether there is a requirement that the antenna structure in question must be registered with the Commission.

(b) If registration is required, the registrant must supply the structure's registration number upon request by the Commission.

(c) If registration is not required, the application for authorization will be processed without further regard to this chapter.

[61 FR 4362, Feb. 6, 1996]

### § 17.6 Responsibility of Commission licensees and permittees.

(a) The antenna structure owner is responsible for maintaining the painting and lighting in accordance with this part. However, if a licensee or permittee authorized on an antenna structure is aware that the structure is not being maintained in accordance with the specifications set forth on the Antenna Structure Registration (FCC Form 854R) or the requirements of this part, or otherwise has reason to question whether the antenna structure owner is carrying out its responsibility under this part, the licensee or permittee must take immediate steps to ensure that the antenna structure is brought into compliance and remains in compliance. The licensee must:

(1) Immediately notify the structure owner;

(2) Immediately notify the site management company (if applicable);

(3) Immediately notify the Commission; and,

(4) Make a diligent effort to immediately bring the structure into compliance.

(b) In the event of non-compliance by the antenna structure owner, the Commission may require each licensee and permittee authorized on an antenna structure to maintain the structure, for an indefinite period, in accordance

with the Antenna Structure Registration (FCC Form 854R) and the requirements of this part.

(c) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of Federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first licensee authorized to locate on the structure must register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing a copy of FCC Form 854R to all tenant licensees on the structure and for posting the registration number as required by § 17.4(g).

[61 FR 4363, Feb. 6, 1996]

## Subpart B—Federal Aviation Administration Notification Criteria

### § 17.7 Antenna structures requiring notification to the FAA.

A notification to the Federal Aviation Administration is required, except as set forth in § 17.14, for any of the following construction or alteration:

(a) Any construction or alteration of more than 60.96 meters (200 feet) in height above ground level at its site.

(b) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(1) 100 to 1 for a horizontal distance of 6.10 kilometers (20,000 feet) from the nearest point of the nearest runway of each airport specified in paragraph (d) of this section with at least one runway more than 0.98 kilometers (3,200 feet) in actual length, excluding heliports.

(2) 50 to 1 for a horizontal distance of 3.05 kilometers (10,000 feet) from the nearest point of the nearest runway of each airport specified in paragraph (d) of this section with its longest runway no more than 0.98 kilometers (3,200 feet) in actual length, excluding heliports.

(3) 25 to 1 for a horizontal distance of 1.52 kilometers (5,000 feet) from the nearest point of the nearest landing and takeoff area of each heliport specified in paragraph (d) of this section.

(c) When requested by the FAA, any construction or alteration that would be in an instrument approach area (defined in the FAA standards governing instrument approach procedures) and available information indicates it might exceed an obstruction standard of the FAA.

(d) Any construction or alteration on any of the following airports (including heliports):

(1) An airport that is available for public use and is listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement.

(2) An airport under construction, that is the subject of a notice or proposal on file with the Federal Aviation Administration, and except for military airports, it is clearly indicated that the airport will be available for public use.

(3) An airport that is operated by an armed force of the United States.

NOTE: Consideration to aeronautical facilities not in existence at the time of the filing of the application for radio facilities will be given only when proposed airport construction or improvement plans are on file with the Federal Aviation Administration as of the filing date of the application for such radio facilities.

[39 FR 7581, Feb. 27, 1974, as amended at 39 FR 26157, July 17, 1974; 42 FR 54823, Oct. 11, 1977; 42 FR 57127, Nov. 1, 1977]

### § 17.8 Establishment of antenna farm areas.

(a) Each antenna farm area will be established by an appropriate rulemaking proceeding, which may be commenced by the Commission on its own motion after consultation with the FAA, upon request of the FAA, or as a result of a petition filed by any interested person. After receipt of a petition from an interested person disclosing sufficient reasons to justify institution of a rulemaking proceeding, the Commission will request the advice of the FAA with respect to the considerations of menace to air navigation in terms of air safety which may be presented by the proposal. The written communication received from the FAA in response to the Commission's request shall be

placed in the Commission's public rulemaking file containing the petition, and interested persons shall be allowed a period of 30 days within which to file statements with respect thereto. Such statements shall also be filed with the Administrator of the FAA with proof of such filing to be established in accordance with § 1.47 of this chapter. The Administrator of the FAA shall have a period of 15 days within which to file responses to such statements. If the Commission, upon consideration of the matters presented to it in accordance with the above procedure, is satisfied that establishment of the proposed antenna farm would constitute a menace to air navigation for reasons of air safety, rulemaking proceedings will not be instituted. If rulemaking proceedings are instituted, any person filing comments therein which concern the question of whether the proposed antenna farm will constitute a menace to air navigation shall file a copy of the comments with the Administrator of the FAA. Proof of such filing shall be established in accordance with § 1.47 of this chapter.

(b) Nothing in this subpart shall be construed to mean that only one antenna farm area will be designated for a community. The Commission will consider on a case-by-case basis whether or not more than one antenna farm area shall be designated for a particular community.

[32 FR 8813, June 21, 1967, as amended at 32 FR 13591, Sept. 28, 1967]

### § 17.9 Designated antenna farm areas.

The areas described in the following paragraphs of this section are established as antenna farm areas [appropriate paragraphs will be added as necessary].

[32 FR 8813, June 21, 1967]

### § 17.10 Antenna structures over 304.80 meters (1,000 feet) in height.

Where one or more antenna farm areas have been designated for a community or communities (see § 17.9), the Commission will not accept for filing an application to construct a new station or to increase height or change antenna location of an existing station proposing the erection of an antenna structure over 304.80 meters (1,000 feet) above ground unless:

(a) It is proposed to locate the antenna structure in a designated antenna farm area, or

(b) It is accompanied by a statement from the Federal Aviation Administration that the proposed structure will not constitute a menace to air navigation, or

(c) It is accompanied by a request for waiver setting forth reasons sufficient, if true, to justify such a waiver.

[32 FR 8813, June 21, 1967, as amended at 42 FR 54824, Oct. 11, 1977; 61 FR 4363, Feb. 6, 1996]

### § 17.14 Certain antenna structures exempt from notification to the FAA.

A notification to the Federal Aviation Administration is not required for any of the following construction or alteration:

(a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, *and* would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. Applicant claiming such exemption under § 17.14(a) shall submit a statement with their application to the FCC explaining basis in detail for their finding.

(b) Any antenna structure of 6.10 meters (20 feet) or less in height except one that would increase the height of another antenna structure.

(c) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the Federal Aviation Administration, the location and height of which is fixed by its functional purpose.

[32 FR 11269, Aug. 3, 1967, as amended at 39 FR 7581, Feb. 27, 1974; 42 FR 54824, Oct. 11, 1977; 61 FR 4363, Feb. 6, 1996]

### § 17.17 Existing structures.

(a) The requirements found in § 17.23 relating to painting and lighting of antenna structures shall not apply to those structures authorized prior to July 1, 1996. Previously authorized

structures may retain their present painting and lighting specifications, so long as the overall structure height or site coordinates do not change. The Antenna Structure Registration requirements found in § 17.5, however, shall apply to all antenna structures that have been assigned painting or lighting requirements by the Commission, regardless of prior authorization.

(b) No change in any of these criteria or relocation of airports shall at any time impose a new restriction upon any then existing or authorized antenna structure or structures.

[32 FR 11269, Aug. 3, 1967, as amended at 61 FR 4363, Feb. 6, 1996]

## Subpart C—Specifications for Obstruction Marking and Lighting of Antenna Structures

### § 17.21 Painting and lighting, when required.

Antenna structures shall be painted and lighted when:

(a) They exceed 60.96 meters (200 feet) in height above the ground or they require special aeronautical study.

(b) The Commission may modify the above requirement for painting and/or lighting of antenna structures, when it is shown by the applicant that the absence of such marking would not impair the safety of air navigation, or that a lesser marking requirement would insure the safety thereof.

[32 FR 11269, Aug. 3, 1967, as amended at 42 FR 54824, Oct. 11, 1977]

### § 17.22 Particular specifications to be used.

Whenever painting or lighting is required, the Commission will generally assign specifications in accordance with the FAA Advisory Circulars referenced in § 17.23. If an antenna installation is of such a nature that its painting and lighting in accordance with these specifications are confusing, or endanger rather than assist airmen, or are otherwise inadequate, the Commission will specify the type of painting and lighting or other marking to be used in the individual situation.

[32 FR 11269, Aug. 3, 1967, as amended at 61 FR 4363, Feb. 6, 1996]

### § 17.23 Specifications for painting and lighting antenna structures.

Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the FAA's painting and lighting recommendations set forth on the structure's FAA determination of ''no hazard,'' as referenced in the following FAA Advisory Circulars: AC 70/7460–1J, ''Obstruction Marking and Lighting,'' effective January 1, 1996, and AC 150/5345–43E, ''Specification for Obstruction Lighting Equipment,'' dated October 19, 1995. These documents are incorporated by reference in accordance with 5 U.S.C. 552(a). The documents contain FAA recommendations for painting and lighting structures which pose a potential hazard to air navigation. For purposes of this part, the specifications, standards, and general requirements stated in these documents are mandatory. The Advisory Circulars listed are available for inspection at the Commission Headquarters in Washington, DC, or may be obtained from Department of Transportation, Property Use and Storage Section, Subsequent Distribution Office, M483.6, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, MD 20785, telephone (301) 322–4961, facsimile (301) 386–5394. Copies are also available for public inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

[64 FR 27474, May 20, 1999, as amended at 69 FR 18803, Apr. 9, 2004]

AVIATION RED OBSTRUCTION LIGHTING [RESERVED]

### §§ 17.24–17.43 [Reserved]

### § 17.45 Temporary warning lights.

During construction of an antenna structure, for which red obstruction lighting is required, at least two 116- or 125-watt lamps (A21/TS) enclosed in aviation red obstruction light globes, shall be installed at the uppermost point of the structure. The intensity of

each lamp shall not be less than 32.5 candelas. In addition, as the height of the structure exceeds each level at which permanent obstruction lights will be required, two similar lights shall be installed at each such level. These temporary warning lights shall be displayed nightly from sunset to sunrise until the permanent obstruction lights have been installed and placed in operation, and shall be positioned so as to insure unobstructed visibility of at least one of the lights at any normal angle of approach. If practical, the permanent obstruction lights may be installed and operated at each required level as construction progresses.

[32 FR 11273, Aug. 3, 1967, as amended at 39 FR 26157, July 17, 1974; 42 FR 54826, Oct. 11, 1977]

### § 17.47 Inspection of antenna structure lights and associated control equipment.

The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part:

(a)(1) Shall make an observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or alternatively,

(2) Shall provide and properly maintain an automatic alarm system designed to detect any failure of such lights and to provide indication of such failure to the owner.

(b) Shall inspect at intervals not to exceed 3 months all automatic or mechanical control devices, indicators, and alarm systems associated with the antenna structure lighting to insure that such apparatus is functioning properly.

[61 FR 4363, Feb. 6, 1996]

### § 17.48 Notification of extinguishment or improper functioning of lights.

The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part:

(a) Shall report immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration any observed or otherwise known extinguishment or improper functioning of any top steady burning light or any flashing obstruction light, regardless of its position on the antenna structure, not corrected within 30 minutes. Such reports shall set forth the condition of the light or lights, the circumstances which caused the failure, the probable date for restoration of service, the FCC Antenna Structure Registration Number, the height of the structure (AGL and AMSL if known) and the name, title, address, and telephone number of the person making the report. Further notification by telephone or telegraph shall be given immediately upon resumption of normal operation of the light or lights.

(b) An extinguishment or improper functioning of a steady burning side intermediate light or lights, shall be corrected as soon as possible, but notification to the FAA of such extinguishment or improper functioning is not required.

[32 FR 11273, Aug. 3, 1967, as amended at 39 FR 26157, July 17, 1974; 40 FR 30267, July 18, 1975; 61 FR 4364, Feb. 6, 1996]

### § 17.49 Recording of antenna structure light inspections in the owner record.

The owner of each antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part must maintain a record of any observed or otherwise known extinguishment or improper functioning of a structure light and include the following information for each such event:

(a) The nature of such extinguishment or improper functioning.

(b) The date and time the extinguishment or improper operation was observed or otherwise noted.

(c) Date and time of FAA notification, if applicable.

(d) The date, time and nature of adjustments, repairs, or replacements made.

[48 FR 38477, Aug. 24, 1983, as amnded at 61 FR 4364, Feb. 6, 1996]

### § 17.50 Cleaning and repainting.

Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility.

[61 FR 4364, Feb. 6, 1996]

### § 17.51 Time when lights should be exhibited.

(a) All red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified.

(b) All high intensity and medium intensity obstruction lighting shall be exhibited continuously unless otherwise specified.

[40 FR 30267, July 18, 1975, as amended at 61 FR 4364, Feb. 6, 1996]

### § 17.53 Lighting equipment and paint.

The lighting equipment, color or filters, and shade of paint referred to in the specifications are further defined in the following government and/or Army-Navy aeronautical specifications, bulletins, and drawings (lamps are referred to by standard numbers):

| | |
|---|---|
| Outside white | TT-P-102 [1] (Color No. 17875, FS-595). |
| Aviation surface orange | TT-P-59 [1] (Color No. 12197, FS-595). |
| Aviation surface orange, enamel. | TT-E-489 [1] (Color No. 12197, FS-595). |
| Aviation red obstruction light—color. | MIL-C-25050 [2]. |
| Flashing beacons | CAA-446 [3] Code Beacons, 300 mm. |
| Do | MIL-6273 [2]. |
| Double and single obstruction light. | L-810 [3] (FAA AC No. 150/5345-2 [4]). |
| Do | MIL-L-7830 [2]. |
| High intensity white obstruction light. | FAA/DOD L-856 (FAA AC No. 150/5345-43B [4]). |
| 116-Watt lamp | No. 116 A21/TS (6,000 h). |
| 125-Watt lamp | No. 125 A21/TS (6,000 h). |
| 620-Watt lamp | No. 620 PS-40 (3,000 h). |
| 700-Watt lamp | No. 700 PS-40 (6,000 h). |

[1] Copies of this specification can be obtained from the Specification Activity, Building 197, Room 301, Naval Weapons Plant, 1st and N Streets, SE., Washington, D.C. 20407.

[2] Copies of Military specifications can be obtained by contacting the Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Ave., Attention: NPPC-105, Philadelphia, Pa. 19120.

[3] Copies of Federal Aviation Administration specifications may be obtained from the Chief, Configuration Control Branch, AAF–110, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

[4] Copies of Federal Aviation Administration advisory circulars may be obtained from the Department of Transportation, Publications Section, TAD–443.1, 400 7th St. SW., Washington, D.C. 20590.

[33 FR 11540, Aug. 14, 1968, as amended at 40 FR 30267, July 18, 1975]

### § 17.54 Rated lamp voltage.

To insure the necessary lumen output by obstruction lights, the rated voltage of incandescent lamps used shall correspond to be within 3 percent higher than the voltage across the lamp socket during the normal hours of operation.

[42 FR 54826, Oct. 11, 1977]

### § 17.56 Maintenance of lighting equipment.

(a) Replacing or repairing of lights, automatic indicators or automatic control or alarm systems shall be accomplished as soon as practicable.

(b) The flash tubes in a high intensity obstruction lighting system shall be replaced whenever the peak effective daytime intensity falls below 200,000 candelas.

[40 FR 30267, July 18, 1975]

### § 17.57 Report of radio transmitting antenna construction, alteration, and/or removal.

The owner of an antenna structure for which an Antenna Structure Registration Number has been obtained must notify the Commission within 24 hours of completion of construction (FCC Form 854–R) and/or dismantlement (FCC Form 854). The owner must also immediately notify the Commission using FCC Form 854 upon any change in structure height or change in ownership information.

[61 FR 4364, Feb. 6, 1996]

### § 17.58 Facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management.

Any application proposing new or modified transmitting facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management shall include a statement that the facilities will be so located, and the applicant shall comply with the requirements of § 1.70 of this chapter.

[32 FR 11274, Aug. 3, 1967]

# PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

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AUTHORITY: 47 U.S.C. 4, 301, 302, 303, 304, 307.

SOURCE: 50 FR 36067, Sept. 5, 1985, unless otherwise noted.

## Subpart A—General Information

### § 18.101 Basis and purpose.

The rules in this part, in accordance with the applicable treaties and agreements to which the United States is a party, are promulgated pursuant to section 302 of the Communications Act of 1934, as amended, vesting the Federal Communications Commission with authority to regulate industrial, scientific, and medical equipment (ISM) that emits electromagnetic energy on frequencies within the radio frequency spectrum in order to prevent harmful interference to authorized radio communication services. This part sets forth the conditions under which the equipment in question may be operated.

### § 18.107 Definitions.

(a) *Radio frequency (RF) energy*. Electromagnetic energy at any frequency in the radio spectrum from 9 kHz to 3 THz (3,000 GHz).

(b) *Harmful interference*. Interference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with this chapter.

(c) *Industrial, scientific, and medical (ISM) equipment*. Equipment or appliances designed to generate and use locally RF energy for industrial, scientific, medical, domestic or similar purposes, excluding applications in the field of telecommunication. Typical ISM applications are the production of physical, biological, or chemical effects such as heating, ionization of gases, mechanical vibrations, hair removal and acceleration of charged particles.

(d) *Industrial heating equipment*. A category of ISM equipment used for or in connection with industrial heating operations utilized in a manufacturing or production process.

(e) *Medical diathermy equipment*. A category of ISM equipment used for therapeutic purposes, not including surgical diathermy apparatus designed for intermittent operation with low power.

(f) *Ultrasonic equipment*. A category of ISM equipment in which the RF energy is used to excite or drive an electromechanical transducer for the production of sonic or ultrasonic mechanical energy for industrial, scientific, medical or other noncommunication purposes.

(g) *Consumer ISM equipment*. A category of ISM equipment used or intended to be used by the general public in a residential environment, notwithstanding use in other areas. Examples are domestic microwave ovens, jewelry cleaners for home use, ultrasonic humidifiers.

(h) *ISM frequency*. A frequency assigned by this part for the use of ISM equipment. A specified tolerance is associated with each ISM frequency. See § 18.301.

(i) *Marketing*. As used in this part, marketing shall include sale or lease, offer for sale or lease, advertising for

sale or lease, the import or shipment or other distribution for the purpose of sale or lease or offer for sale or lease. See subpart I of part 2 of this chapter.

(j) *Magnetic resonance equipment.* A category of ISM equipment in which RF energy is used to create images and data representing spatially resolved density of transient atomic resources within an object.

NOTE: In the foregoing, sale (or lease) shall mean sale (or lease) to the user or a vendor who in turn sells (or leases) to the user. Sale shall not be construed to apply to devices sold to a second party for manufacture or fabrication into a device which is subsequently sold (or leased) to the user.

[50 FR 36067, Sept. 5, 1985, as amended at 59 FR 39472, Aug. 3, 1994]

### § 18.109 General technical requirements.

ISM equipment shall be designed and constructed in accordance with good engineering practice with sufficient shielding and filtering to provide adequate suppression of emissions on frequencies outside the frequency bands specified in § 18.301.

### § 18.111 General operating conditions.

(a) Persons operating ISM equipment shall not be deemed to have any vested or recognizable right to the continued use of any given frequency, by virtue of any prior equipment authorization and/or compliance with the applicable rules.

(b) Subject to the exceptions in paragraphs (c) and (d) of this section and irrespective of whether the equipment otherwise complies with the rules in this part, the operator of ISM equipment that causes harmful interference to any authorized radio service shall promptly take whatever steps may be necessary to eliminate the interference.

(c) The provisions of paragraph (b) of this section shall not apply in the case of interference to an authorized radio station or a radiocommunication device operating in an ISM frequency band.

(d) The provisions of paragraph (b) of this section shall not apply in the case of interference to a receiver arising from direct intermediate frequency pickup by the receiver of the fundamental frequency emissions of ISM equipment operating in an ISM frequency band and otherwise complying with the requirements of this part.

### § 18.113 Inspection by Commission representatives.

Upon request by a representative of the Commission the manufacturer, owner, or operator of any ISM equipment shall make the equipment available for inspection and promptly furnish the Commission with such information as may be required to indicate that the equipment complies with this part.

### § 18.115 Elimination and investigation of harmful interference.

(a) The operator of ISM equipment that causes harmful interference to radio services shall promptly take appropriate measures to correct the problem.

(b) If the operator of ISM equipment is notified by the Commission's Engineer in Charge (EIC) that operation of such equipment is endangering the functioning of a radionavigation or safety service, the operator shall immediately cease operating the equipment. Operation may be resumed on a temporary basis only for the purpose of eliminating the harmful interference. Operation may be resumed on a regular basis only after the harmful interference has been eliminated and approval from the EIC obtained.

(c) When notified by the EIC that a particular installation is causing harmful interference, the operator or manufacturer shall arrange for an engineer skilled in techniques of interference measurement and control to make an investigation to ensure that the harmful interference has been eliminated. The EIC may require the engineer making the investigation to furnish proof of his or her qualifications.

### § 18.117 Report of interference investigation.

(a) An interim report on investigations and corrective measures taken pursuant to § 18.115 of this part shall be filed with the EIC of the local FCC office within 30 days of notification of harmful interference. The final report

shall be filed with the EIC within 60 days of notification.

(b) The date for filing the final report may be extended by the Engineer in Charge when additional time is required to put into effect the corrective measures or to complete the investigation. The request for extension of time shall be accompanied by a progress report showing what has been accomplished to date.

### § 18.121 Exemptions.

Non-consumer ultrasonic equipment, and non-consumer magnetic resonance equipment, that is used for medical diagnostic and monitoring applications is subject only to the provisions of §§ 18.105, 18.109 through 18.119, 18.301 and 18.303 of this part.

[59 FR 39472, Aug. 3, 1994; 60 FR 47302, Sept. 12, 1995]

### § 18.123 Transition provisions for compliance with the rules.

Consumer ISM devices, induction cooking ranges and ultrasonic equipment that are authorized under the certification, verification or declaration of conformity procedures on or after July 12, 2004 shall comply with the conducted limits specified in § 18.307. All such devices that are manufactured or imported on or after July 11, 2005 shall comply with the conducted limits specified in § 18.307. Equipment authorized, imported or manufactured prior to these dates shall comply with the conducted limits specified in § 18.307 or with the conducted limits that were in effect immediately prior to September 9, 2002.

[67 FR 45671, July 10, 2002]

## Subpart B—Applications and Authorizations

### § 18.201 Scope.

This subpart contains the procedures and requirements for authorization to market or operate ISM equipment under this part.

### § 18.203 Equipment authorization.

(a) Consumer ISM equipment, unless otherwise specified, must be authorized under either the Declaration of Conformity or certification procedure prior to use or marketing. An application for certification shall be filed with the Commission on an FCC Form 731, pursuant to the relevant sections in part 2, subpart J of this chapter and shall also be accompanied by:

(1) A description of measurement facilities pursuant to § 2.948, or reference to such information already on file with the Commission.

(2) A technical report pursuant to §§ 18.207 and 18.311.

(b) Consumer ultrasonic equipment generating less than 500 watts and operating below 90 kHz, and non-consumer ISM equipment shall be subject to verification, in accordance with the relevant sections of part 2, subpart J of this chapter.

(c) Grants of equipment authorization issued, as well as on-site certifications performed, before March 1, 1986, remain in effect and no further action is required.

[50 FR 36067, Sept. 5, 1985, as amended at 63 FR 36603 July 7, 1998]

### § 18.207 Technical report.

When required by the Commission a technical report shall include at least the following information:

(a) A description of the measurement facilities in accordance with § 2.948. If such a description is already on file with the Commission, it may be included by reference.

(b) A copy of the installation and operating instructions furnished to the user. A draft copy of such instructions may be submitted with the application, provided a copy of the actual document to be furnished to the user is submitted as soon as it is available, but no later than 60 days after the grant of the application.

(c) The full name and mailing address of the manufacturer of the device and/or applicant filing for the equipment authorization.

(d) The FCC Identifier, trade name(s), and/or model number(s) under which the equipment is or will be marketed.

(e) A statement of the rated technical parameters that includes:

(1) A block and schematic diagram of the circuitry.

(2) Nominal operating frequency.

(3) Maximum RF energy generated.

(4) Electrical power requirements of equipment.

(5) Any other pertinent operating characteristics.

(f) A report of measurements, including a list of the measuring equipment used, and a statement of the date when the measuring equipment was last calibrated and when the measurements were made. The frequency range that was investigated in obtaining the report of measurements shall be indicated. See also §§ 18.309 and 18.311.

[50 FR 36067, Sept. 5, 1985, as amended at 63 FR 36603, July 7, 1998]

### § 18.209 Identification of authorized equipment.

(a) Each device for which a grant of equipment authorization is issued under this part shall be identified pursuant to the applicable provisions of subpart J of part 2 of this chapter. Changes in the identification of authorized equipment may be made pursuant to § 2.933 of part 2 of this chapter. FCC Identifiers as described in §§ 2.925 and 2.926 of this chapter shall not be used on equipment subject to verification or Declaration of Conformity.

(b) Devices authorized under the Declaration of Conformity procedure shall be labelled with the logo shown below. The label shall not be a stick-on, paper label. It shall be permanently affixed to the product and shall be readily visible to the purchaser at the time of purchase, as described in § 2.925(d) of this chapter. *Permanently affixed* means that the label is etched, engraved, stamped, silkscreened, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment or on a nameplate of metal, plastic, or other material fastened to the equipment by welding, riveting, or a permanent adhesive. The label must be designed to last the expected lifetime of the equipment in the environment in which the equipment may be operated and must not be readily detachable. The logo follows:

[63 FR 36603, July 7, 1998]

### § 18.211 Multiple listing of equipment.

(a) When the same or essentially the same equipment will be marketed under more than one FCC Identifier, equipment authorization must be requested on an FCC Form 731 for each FCC Identifier.

(b) If equipment authorization for additional FCC Identifiers is requested in the initial application, a statement shall be included describing how these additional devices differ from the basic device which was measured and stating that the report of measurements submitted for the basic device applies also to the additional devices.

(c) If equipment authorization for additional FCC Identifiers is requested after a grant has been issued by the FCC for the basic device, the application may, in lieu of the report of measurements, be accompanied by a statement including:

(1) FCC Identifier of device for which measurements are on file with the FCC.

(2) Date when equipment authorization was granted for the device(s) listed under paragraph (c)(1) of this section and the file number of such grant.

(3) Description of the difference between the device listed under paragraph (c)(1) of this section and the additional device(s).

(4) A statement that the report of measurements filed for the device listed under paragraph (c)(1) of this section applies also to the additional device(s).

(5) Photographs pursuant to § 2.1033(c).

### § 18.212 Compliance information.

(a) Equipment authorized under the Declaration of Conformity procedure shall include the following compliance information in lieu of the information required by § 2.1077.

(1) Identification of the product, e.g., name and model number.

(2) A statement similar to the following:

*This device complies with Part 18 of the FCC Rules.*

(3) The name and address of the responsible party as defined in § 2.909 of the rules. This party must be located within the United States.

(b) The compliance information may be placed in the instruction manual, on a separate sheet, or on the packaging. There is no specific format for this information.

[63 FR 36603, July 7, 1998]

### § 18.213 Information to the user.

Information on the following matters shall be provided to the user in the instruction manual or on the packaging if an instruction manual is not provided for any type of ISM equipment:

(a) The interference potential of the device or system

(b) Maintenance of the system

(c) Simple measures that can be taken by the user to correct interference.

(d) Manufacturers of RF lighting devices must provide an advisory statement, either on the product packaging or with other user documentation, similar to the following: This product may cause interference to radio equipment and should not be installed near maritime safety communications equipment or other critical navigation or communication equipment operating between 0.45–30 MHz. Variations of this language are permitted provided all the points of the statement are addressed and may be presented in any legible font or text style.

[50 FR 36069, Sept. 5, 1985, as amended at 51 FR 17970, May 16, 1986; 64 FR 37419, July 12, 1999]

## Subpart C—Technical Standards

### § 18.301 Operating frequencies.

ISM equipment may be operated on any frequency above 9 kHz except as indicated in § 18.303. The following frequency bands, in accordance with § 2.106 of the rules, are allocated for use by ISM equipment:

| ISM frequency | Tolerance |
|---|---|
| 6.78 MHz | ±15.0 kHz |
| 13.56 MHz | ±7.0 kHz |
| 27.12 MHz | ±163.0 kHz |
| 40.68 MHz | ±20.0 kHz |
| 915 MHz | ±13.0 MHz |
| 2,450 MHz | ±50.0 MHz |
| 5,800 MHz | ±75.0 MHz |
| 24,125 MHz | ±125.0 MHz |
| 61.25 GHz | ±250.0 MHz |
| 122.50 GHz | ±500.0 MHz |
| 245.00 GHz | ±1.0 GHz |

NOTE: The use of the 6.78 MHz ±15 kHz frequency band is subject to the conditions of footnote 524 of the Table of Allocations. See § 2.106.

### § 18.303 Prohibited frequency bands.

Operation of ISM equipment within the following safety, search and rescue frequency bands is prohibited: 490–510 kHz, 2170–2194 kHz, 8354–8374 kHz, 121.4–121.6 MHz, 156.7–156.9 MHz, and 242.8–243.2 MHz.

### § 18.305 Field strength limits.

(a) ISM equipment operating on a frequency specified in § 18.301 is permitted unlimited radiated energy in the band specified for that frequency.

(b) The field strength levels of emissions which lie outside the bands specified in § 18.301, unless otherwise indicated, shall not exceed the following:

| Equipment | Operating frequency | RF Power generated by equipment (watts) | Field strength limit (uV/m) | Distance (meters) |
|---|---|---|---|---|
| Any type unless otherwise specified (miscellaneous). | Any ISM frequency | Below 500 | 25 | 300 |
| | | 500 or more | 25×SQRT(power/500) | [1]300 |
| | Any non-ISM frequency | Below 500 | 15 | 300 |
| | | 500 or more | 15×SQRT(power/500) | [1]300 |
| Industrial heaters and RF stabilized arc welders. | On or below 5,725 MHz | Any | 10 | 1,600 |
| | Above 5,725 MHz | Any | ([2]) | ([2]) |
| Medical diathermy | Any ISM frequency | Any | 25 | 300 |
| | Any non-ISM frequency | Any | 15 | 300 |
| Ultrasonic | Below 490 kHz | Below 500 | 2,400/F(kHz) | 300 |
| | | 500 or more | 2,400/F(kHz)× SQRT(power/500). | [3]300 |
| | 490 to 1,600 kHz | Any | 24,000/F(kHz) | 30 |
| | Above 1,600 kHz | Any | 15 | 30 |

| Equipment | Operating frequency | RF Power generated by equipment (watts) | Field strength limit (uV/m) | Distance (meters) |
|---|---|---|---|---|
| Induction cooking ranges | Below 90 kHz | Any | 1,500 | [4]30 |
| | On or above 90 kHz | Any | 300 | [4]30 |

[1] Field strength may not exceed 10 μV/m at 1600 meters. Consumer equipment operating below 1000 MHz is not permitted the increase in field strength otherwise permitted here for power over 500 watts.
[2] Reduced to the greatest extent possible.
[3] Field strength may not exceed 10 μV/m at 1600 meters. Consumer equipment is not permitted the increase in field strength otherwise permitted here for over 500 watts.
[4] Induction cooking ranges manufactured prior to February 1, 1980, shall be subject to the field strength limits for miscellaneous ISM equipment.

(c) The field strength limits for RF lighting devices shall be the following:

| Frequency (MHz) | Field strength limit at 30 meters (μV/m) |
|---|---|
| Non-consumer equipment: | |
| 30–88 | 30 |
| 88–216 | 50 |
| 216–1000 | 70 |
| Consumer equipment: | |
| 30–88 | 10 |
| 88–216 | 15 |
| 216–1000 | 20 |

NOTES

1. The tighter limit shall apply at the boundary between two frequency ranges.

2. Testing for compliance with these limits may be made at closer distances, provided a sufficient number of measurements are taken to plot the radiation pattern, to determine the major lobes of radiation, and to determine the expected field strength level at 30, 300, or 1600 meters. Alternatively, if measurements are made at only one closer fixed distance, then the permissible field strength limits shall be adjusted using 1/d as an attenuation factor.

[50 FR 36070, Sept. 5, 1985, as amended at 51 FR 17970, May 16, 1986; 52 FR 43197, Nov. 10, 1987]

### § 18.307 Conduction limits.

For the following equipment, when designed to be connected to the public utility (AC) power line the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies shall not exceed the limits in the following tables. Compliance with the provisions of this paragraph shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminal using a 50 μH/50 ohms line impedance stabilization network (LISN).

(a) All Induction cooking ranges and ultrasonic equipment:

| Frequency of emission (MHz) | Conducted limit (dBμV) | |
|---|---|---|
| | Quasi-peak | Average |
| 0.009–0.05 | 110 | — |
| 0.05–0.15 | 90–80* | — |
| 0.15–0.5 | 66 to 56* | 56 to 46* |
| 0.5–5 | 56 | 46 |
| 5–30 | 60 | 50 |

*Decreases with the logarithm of the frequency.

(b) All other part 18 consumer devices:

| Frequency of emission (MHz) | Conducted limit (dBμV) | |
|---|---|---|
| | Quasi-peak | Average |
| 0.15–0.5 | 66 to 56* | 56 to 46* |
| 0.5–5 | 56 | 46 |
| 5–30 | 60 | 50 |

*Decreases with the logarithm of the frequency.

(c) RF lighting devices:

| Frequency (MHz) | Maximum RF line voltage measured with a 50 uH/50 ohm LISN (uV) |
|---|---|
| Non-consumer equipment: | |
| 0.45 to 1.6 | 1,000 |
| 1.6 to 30 | 3,000 |
| Consumer equipment: | |
| 0.45 to 2.51 | 250 |
| 2.51 to 3.0 | 3,000 |
| 3.0 to 30 | 250 |

(d) If testing with a quasi-peak detector demonstrates that the equipment complies with the average limits specified in the appropriate table in this section, additional testing to demonstrate compliance using an average detector is not required.

(e) These conduction limits shall apply only outside of the frequency bands specified in § 18.301.

(f) For ultrasonic equipment, compliance with the conducted limits shall preclude the need to show compliance with the field strength limits below 30

MHz unless requested by the Commission.

(g) The tighter limits shall apply at the boundary between two frequency ranges.

[50 FR 36067, Sept. 5, 1985, as amended at 52 FR 43198, Nov. 10, 1987; 64 FR 37419, July 12, 1999; 67 FR 45671, July 10, 2002]

### § 18.309 Frequency range of measurements.

(a) For field strength measurements:

| Frequency band in which device operates (MHz) | Range of frequency measurements | |
|---|---|---|
| | Lowest frequency | Highest frequency |
| Below 1.705 | Lowest frequency generated in the device, but not lower than 9 kHz. | 30 MHz. |
| 1.705 to 30 | Lowest frequency generated in the device, but not lower than 9 kHz. | 400 MHz. |
| 30 to 500 | Lowest frequency generated in the device or 25 MHz, whichever is lower. | Tenth harmonic or 1,000 MHz, whichever is higher. |
| 500 to 1,000 | Lowest frequency generated in the device or 100 MHz, whichever is lower. | Tenth harmonic. |
| Above 1,000 | .....do | Tenth harmonic or highest detectable emission. |

(b) For conducted powerline measurements, the frequency range over which the limits are specified will be scanned.

[50 FR 36070, Sept. 5, 1985, as amended at 51 FR 17971, May 16 1986]

### § 18.311 Methods of measurements.

The measurement techniques which will be used by the FCC to determine compliance with the technical requirements of this part are set out in FCC Measurement Procedure MP–5, ''Methods of Measurements of Radio Noise Emissions from ISM equipment''. Although the procedures in MP–5 are not mandated, manufacturers are encouraged to follow the same techniques which will be used by the FCC.

# PART 19—EMPLOYEE RESPONSIBILITIES AND CONDUCT

## Subpart A—General Provisions

Sec.

19.735–101 Purpose.
19.735–102 Cross-reference to ethics and other conduct related regulations.
19.735–103 Definitions.
19.735–104 Delegations.
19.735–105 Availability of ethics and other conduct related regulations and statutes.
19.735–106 Interpretation and advisory service.
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## Subpart B—Employee Responsibilities and Conduct

19.735–201 Outside employment and other activity prohibited by the Communications Act.
19.735–202 Financial interests prohibited by the Communications Act.
19.735–203 Nonpublic information.

AUTHORITY: 5 U.S.C. 7301; 47 U.S.C. 154 (b), (i), (j), and 303(r).

SOURCE: 61 FR 56112, Oct. 31, 1996, unless otherwise noted.

## Subpart A—General Provisions

### § 19.735–101 Purpose.

The regulations in this part prescribe procedures and standards of conduct that are appropriate to the particular functions and activities of the Commission, and are issued by the Commission under authority independent of the uniform Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635 or otherwise in accordance with 5 CFR 2635.105(c).

### § 19.735–102 Cross-reference to ethics and other conduct related regulations.

In addition to the rules in this part, employees of the Federal Communications Commission (Commission) are subject to the Standards of Ethical

Conduct for Employees of the Executive Branch at 5 CFR part 2635 and the Commission's regulations at 5 CFR part 3901 which supplement the executive branch-wide standards, the executive branch financial disclosure regulations at 5 CFR part 2634 and the Commission's regulations at 5 CFR part 3902 which supplement the executive branch-wide financial disclosure regulations, and the employee responsibilities and conduct regulations at 5 CFR part 735.

### § 19.735–103 Definitions.

*Commission* means the Federal Communications Commission.

*Communications Act* means the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq*.

*Employee* means an officer or employee of the Commission including special Government employees within the meaning of 18 U.S.C. 202(a) and the Commissioners.

*Person* means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

### § 19.735–104 Delegations.

(a) The Commission has delegated to the Chairman responsibility for the detection and prevention of acts, short of criminal violations, which could bring discredit upon the Commission and the Federal service.

(b) *Approvals under 18 U.S.C. 205(e)*. (1) Commissioners may approve the representational activities permitted by 18 U.S.C. 205(e) by other employees in their immediate offices. The Designated Agency Ethics Official has delegated authority to grant such approvals for all other employees except Commissioners.

(2)(i) Requests for approval of the activities permitted by 18 U.S.C. 205(e) shall be in writing and submitted as follows:

(A) In the case of employees in the immediate offices of a Commissioner, to the Commissioner;

(B) In the case of Heads of Offices and Bureaus, to the Chairman; and

(C) In the case of all other employees except Commissioners, to the Head of the Office or Bureau to which the employee is assigned.

(ii) An official (other than the Chairman or another Commissioner) to whom a request for approval under 18 U.S.C. 205(e) is submitted shall forward it to the Designated Agency Ethics Official with the official's recommendation as to whether the request should be granted.

(3) Copies of all requests for approval under 18 U.S.C. 205(e) and the action taken thereon shall be maintained by the Designated Agency Ethics Official.

(c) *Waivers under 18 U.S.C. 208*. (1) Commissioners may waive the applicability of 18 U.S.C. 208(a), in accordance with 18 U.S.C. 208(b)(1) or 208(b)(3) and section 301(d) of Executive Order 12731, for other employees in their immediate offices. The Designated Agency Ethics Official has delegated authority to make such waiver determinations for all other employees except Commissioners.

(2)(i) Requests for waiver of the applicability of 18 U.S.C. 208(a) shall be in writing and submitted as follows:

(A) In the case of employees in the immediate offices of a Commissioner, to the Commissioner;

(B) In the case of Heads of Offices and Bureaus, to the Chairman; and

(C) In the case of all other employees except Commissioners, to the Head of the Office or Bureau to which the employee is assigned.

(ii) An official (other than the Chairman or another Commissioner) to whom a waiver request is submitted shall forward it to the Designated Agency Ethics Official with the official's recommendation as to whether the waiver should be granted.

(3) Copies of all requests for waivers and the action taken thereon shall be maintained by the Designated Agency Ethics Official.

### § 19.735–105 Availability of ethics and other conduct related regulations and statutes.

(a)(1) The Commission shall furnish each new employee, at the time of his or her entrance on duty, with a copy of:

(i) The Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635);

(ii) The Supplemental Standards of Ethical Conduct for Employees of the Federal Communications Commission (5 CFR part 3901); and

(iii) The Commission's Employee Responsibilities and Conduct regulations in this part.

(2) The Head of each Office and Bureau has the responsibility to secure from every person subject to his or her administrative supervision a statement indicating that the individual has read and is familiar with the contents of the regulations in this part, and the regulations at 5 CFR parts 2635 and 3901, and to advise the Designated Agency Ethics Official that all such persons have provided such statements. Each new employee shall execute a similar statement at the time of entrance on duty. Periodically, and at least once a year, the Designated Agency Ethics Official shall take appropriate action to ensure that the Head of each Office and Bureau shall remind employees subject to his or her administrative supervision of the content of the regulations in 5 CFR parts 2635 and 3901 and this part.

(b) Copies of pertinent provisions of the Communications Act of 1934; title 18 of the United States Code; the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635); the Commission's Supplemental Standards of Ethical Conduct (5 CFR part 3901); and the Commission's employee responsibilities and conduct regulations in this part shall be available in the office of the Designated Agency Ethics Official for review by employees.

### § 19.735–106 Interpretation and advisory service.

(a) Requests for interpretative rulings concerning the applicability of 5 CFR parts 2635 and 3901, and this part, may be submitted through the employee's supervisor to the General Counsel, who is the Commission's Designated Agency Ethics Official pursuant to the delegation of authority at 47 CFR 0.251(a).

(b) At the time of an employee's entrance on duty and at least once each calendar year thereafter, the Commission's employees shall be notified of the availability of counseling services on questions of conflict of interest and other matters covered by this part, and of how and where these services are available.

### § 19.735–107 Disciplinary and other remedial action.

(a) A violation of the regulations in this part by an employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) The Chairman will designate an officer or employee of the Commission who will promptly investigate all incidents or situations in which it appears that employees may have engaged in improper conduct. Such investigation will be initiated in all cases where complaints are brought to the attention of the Chairman, including: Adverse comment appearing in publications; complaints from members of Congress, private citizens, organizations, other Government employees or agencies; and formal complaints referred to the Chairman by the Designated Agency Ethics Official.

(c) The Inspector General will be promptly notified of all complaints or allegations of employee misconduct. The Inspector General will also be notified of the planned initiation of an investigation under this part. Such notification shall occur prior to the initiation of the investigation required by paragraph (a) of this section. The Inspector General may choose to conduct the investigation in accordance with the rules in this part. Should the Inspector General choose to conduct the investigation, he will promptly notify the Chairman. In such case, the Inspector General will serve as the designated officer and be solely responsible for the investigation. In carrying out this function, the Inspector General may obtain investigative services from other Commission offices, other governmental agencies or non governmental sources and use any other means available to him in accordance with Public Law 100–504 or the Inspector General Act of 1978, as amended, 5 U.S.C. Appendix. The Inspector General will be provided with the results of all investigations in which he chooses not to participate.

(d) The employee concerned shall be provided an opportunity to explain the alleged misconduct. When, after consideration of the employee's explanation, the Chairman decides that remedial action is required, he shall take remedial action. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestiture by the employee of his conflicting interest;

(3) Action under the Commission's Ethics Program resulting in one of the following actions:

(i) When investigation reveals that the charges are groundless, the person designated by the Chairman to assist in administration of the program may give a letter of clearance to the employee concerned, and the case will not be recorded in his Official Personnel Folder;

(ii) If, after investigation, the case investigator deems the act to be merely a minor indiscretion, he may resolve the situation by discussing it with the employee. The case will not be recorded in the employee's Official Personnel Folder;

(iii) If the case administrator considers the problem to be of sufficient importance, he may call it to the attention of the Chairman, who in turn may notify the employee of the seriousness of his act and warn him of the consequences of a repetition. The case will not be recorded in the employee's Official Personnel Folder, unless the employee requests it;

(iv) The Chairman may, when in his opinion circumstances warrant, establish a special review board to investigate the facts in a case and to make a full report thereon, including recommended action; or

(v)(A) If the Chairman decides that formal disciplinary action should be taken, he may prepare for Commission consideration a statement of facts and recommend one of the following:

(*1*) *Written reprimand*. A formal letter containing a complete statement of the offense and official censure;

(*2*) *Suspension*. A temporary non pay status and suspension from duty; or

(*3*) *Removal for cause*. Separation for cause in case of a serious offense.

(B) Only after a majority of the Commission approves formal disciplinary action will any record resulting from the administration of this program be placed in the employee's Official Personnel Folder; or

(4) Disqualification for a particular assignment.

(e) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

## Subpart B—Employee Responsibilities and Conduct

### § 19.735–201 Outside employment and other activity prohibited by the Communications Act.

Under section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(2)(A)(iv), no employee of the Commission may be in the employ of or hold any official relation to any person significantly regulated by the Commission under that Act. In addition, the Commissioners are prohibited by section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(4), from engaging in any other business, vocation, profession, or employment.

NOTE: Under the Supplemental Standards of Ethical Conduct for Employees of the Federal Communications Commission, at 5 CFR 3901.102, professional employees of the Commission must obtain approval before engaging in the private practice of the same profession as that of the employee's official position, whether or not for compensation.

### § 19.735–202 Financial interests prohibited by the Communications Act.

(a) No Commissioner shall have a pecuniary interest in any hearing or proceeding in which he participates. (47 U.S.C. 154(j).)

(b)(1) Section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(2)(A), provides:

No member of the Commission or person employed by the Commission shall:

(i) Be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) Be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

(iii) Be financially interested in any company or other entity which controls any

company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) Be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this act; except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(2) To determine whether an entity has a significant interest in communications related activities that are subject to Commission regulations, the Commission shall consider, without excluding other relevant factors, the criteria in section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(3). These criteria include:

(i) The revenues and efforts directed toward the telecommunications aspect of the business;

(ii) The extent of Commission regulation over the entity involved;

(iii) The potential economic impact of any Commission action on that particular entity; and

(iv) The public perception regarding the business activities of the company.

(3)(i) Section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(2)(B)(i), permits the Commission to waive the prohibitions at 47 U.S.C. 154(b)(2)(A). The Act's waiver provision at 47 U.S.C. 154(b)(2)(B)(i) provides:

The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) of section 4(b) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

(ii)(A) Requests for waiver of the provisions of 47 U.S.C. 154(b)(2)(A) may be submitted by an employee to the Head of the employee's Office or Bureau, who will endorse the request with an appropriate recommendation and forward the request to the Designated Agency Ethics Official. The Designated Agency Ethics Official has delegated authority to waive the applicability of 47 U.S.C. 154(b)(2)(A).

(B) All requests for waiver shall be in writing and in the required detail. The dollar value for the financial interest sought to be waived shall be expressed explicitly or in categories of value provided at 5 CFR 2634.301(d).

(C) Copies of all waiver requests and the action taken thereon shall be maintained by the Designated Agency Ethics Official. In any case in which the Commission exercises the waiver authority established in section 4(b) of the Communications Act, the Commission shall publish notice of such action in the FEDERAL REGISTER and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

**§ 19.735–203 Nonpublic information.**

(a) Except as authorized in writing by the Chairman pursuant to paragraph (b) of this section, or otherwise as authorized by the Commission or its rules, nonpublic information shall not be disclosed, directly or indirectly, to any person outside the Commission. Such information includes, but is not limited to, the following:

(1) The content of agenda items (except for compliance with the Government in the Sunshine Act, 5 U.S.C. 552b); or

(2) Actions or decisions made by the Commission at closed meetings or by circulation prior to the public release of such information by the Commission.

(b) An employee engaged in outside teaching, lecturing, or writing shall not use nonpublic information obtained as a result of his Government employment in connection with such teaching, lecturing, or writing except when the Chairman gives written authorization for the use of that nonpublic information on the basis that its use is in the public interest.

(c) This section does not prohibit the disclosure of an official Commission

meeting agenda listing titles and summaries of items for discussion at an open Commission meeting. Also, this section does not prohibit the disclosure of information about the scheduling of Commission agenda items.

(d) Any person regulated by or practicing before the Commission coming into possession of written nonpublic information (including written material transmitted in electronic form) as described in paragraph (a) of this section under circumstances where it appears that its release was inadvertent or otherwise unauthorized shall promptly return the written information to the Commission's Office of the Inspector General without further distribution or use of the written nonpublic information. Any person regulated by or practicing before the Commission who willfully violates this section by failing to promptly notify the Commission's Office of the Inspector General of the receipt of written nonpublic information (including written material transmitted in electronic form) that he knew or should have known was released inadvertently or in any otherwise unauthorized manner may be subject to appropriate sanctions by the Commission. In the case of attorneys practicing before the Commission, such sanctions may include disciplinary action under the provisions of §1.24 of this chapter.

NOTE: Employees also should refer to the provisions of the Standards of Ethical Conduct for Employees of the Executive Branch, at 5 CFR 2635.703, on the use of nonpublic information. Additionally, employees should refer to §19.735–107 of this part, which provides that employees of the Commission who violate this part may be subject to disciplinary action which may be in addition to any other penalty prescribed by law. As is the case with section 2635.703, this part is intended only to cover knowing unauthorized disclosures of nonpublic information.

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