47
Parts 0 to 19
Revised as of October 1, 2002

Telecommunication

Containing a codification of documents
of general applicability and future effect

As of October 1, 2002

With Ancillaries

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Administration

A Special Edition of the Federal Register
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To cite the regulations in this volume use title, part and section number. Thus, 47 CFR 0.1 refers to title 47, part 0, section 1.
Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

- Title 1 through Title 16..............................................................as of January 1
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The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, October 1, 2002), consult the “List of CFR Sections Affected (LSA),” which is issued monthly, and the “Cumulative List of Parts Affected,” which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

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Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cutoff date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires Federal agencies to display an OMB control number with their information collection request.
Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

OBSOLETE PROVISIONS


INCORPORATION BY REFERENCE

What is incorporation by reference? Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (§ U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.

What is a proper incorporation by reference? The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR part 51 are met. Some of the elements on which approval is based are:

(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR part 51.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

What if the material incorporated by reference cannot be found? If you have any problem locating or obtaining a copy of material listed in the Finding Aids of this volume as an approved incorporation by reference, please contact the agency that issued the regulation containing that incorporation. If, after contacting the agency, you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Administration, Washington DC 20408, or call (202) 532–4534.

CFR INDEXES AND TABULAR GUIDES

A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I). A list of CFR titles, chapters, and parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of “Title 3—The President” is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the “Contents” entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.
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RAYMOND A. MOSLEY,
Director,
Office of the Federal Register.

October 1, 2002.
THIS TITLE

Title 47—TELECOMMUNICATION is composed of five volumes. The parts in these volumes are arranged in the following order: Parts 0–19, parts 20–39, parts 40–69, parts 70–79, and part 80 to end, chapter I—Federal Communications Commission. The last volume, part 80 to end, also includes chapter II—Office of Science and Technology Policy and National Security Council, and chapter III—National Telecommunications and Information Administration, Department of Commerce. The contents of these volumes represent all current regulations codified under this title of the CFR as of October 1, 2002.

Part 73 contains a numerical designation of FM broadcast channels (§73.201) and a table of FM allotments designated for use in communities in the United States, its territories, and possessions (§73.202). Part 73 also contains a numerical designation of television channels (§73.603) and a table of allotments which contain channels designated for the listed communities in the United States, its territories, and possessions (§73.606).

The OMB control numbers for the Federal Communications Commission, appear in §0.408 of chapter I. For the convenience of the user §0.408 is reprinted in the Finding Aids section of the second through fifth volumes.
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§ 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 Plans and Policy.
(5) Office of Media Relations.
(6) Office of Legislative Affairs.
(7) Office of Inspector General.
(8) Office of Communications Business Opportunities.
(10) Office of Workplace Diversity.
(11) Wireline Competition Bureau.
(13) International Bureau.
(14) Media Bureau.
(15) Enforcement Bureau.
(16) Consumer and Governmental Affairs 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.

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

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 on GPO Access.

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
Federal Communications Commission § 0.13

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 Commission’s performance review system. Ensure 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; 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.


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 3217, Mar. 21, 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 PLANS AND POLICY

§ 0.21 Functions of the Office.

The Office of Plans and Policy, 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
Federal Communications Commission

§ 0.31

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 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;
(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; present 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.


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) 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 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.
(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; present 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.

§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) To cooperate 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.

OFFICE OF GENERAL COUNSEL
Federal Communications Commission

§ 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;


INTERNATIONAL 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;
§ 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
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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 COMPETITIVENESS 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
§ 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 225 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.
(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 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.

(15) 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.

(16) 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.

(17) Encourage cooperative compliance efforts.

(18) Mediate and settle disputes.

(19) 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.

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

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

(22) 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, 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) Under the general direction of the Defense Commissioner, coordinate the defense activities of the Commission and provide support to the Defense Commissioner with respect to his or her participation in the Joint Telecommunications Resources Board, and the National Security Telecommunications Advisory Committee and other organizations. Recommend national emergency plans and preparedness programs covering Commission functions during national emergency conditions. Support the Chief of the Common Carrier, International and Wireless Telecommunications Bureaus on matters involving assignment of Telecommunications Service Priority System priorities and in administration of that system. The Chief, Enforcement Bureau, or that person’s designee, acts as FCC Alternate Defense Coordinator and principal to the National Communications System. Perform such alternate functions as may be delegated during a national emergency or following activation of the President’s war emergency powers as specified in section 706 of the Communications Act.

(d) 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.

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

(f) Administer the Commission’s Emergency Alert System. Be responsible for rulemakings involving the Emergency Alert System.

(g) Oversee the Commission’s privatized ship radio safety inspection program.

(h) Have authority to rule on emergency requests for Special Temporary Authority during non-business hours.

(i) 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.

(j) 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 Information Bureau, the Office of General Counsel (impermissible ex parte presentations) or another Bureau or Office.

(k) 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
§ 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′30.1″ N. Latitude
  - 85°57′20.1″ W. Longitude
- Anchorage, Alaska
  - 61°09′41.2″ N. Latitude
  - 150°00′08.0″ 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°59′02.3″ N. Latitude
  - 109°39′14.3″ W. Longitude
- Ferndale, Washington
  - 48°57′20.4″ N. Latitude
  - 122°35′17.6″ W. Longitude
- Grand Island, Nebraska
  - 40°55′21.0″ N. Latitude
  - 98°25′43.2″ 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°06′18.9″ N. Latitude
  - 66°22′30.6″ W. Longitude
- Vero Beach, Florida
  - 27°36′22.1″ N. Latitude
  - 80°36′06.2″ W. Longitude
- Waipahu, Hawaii
  - 21°22′31.6″ N. Latitude

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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
§ 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 consumer and governmental affairs.
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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.

(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]

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
§0.181  The Defense Commissioner.

The Defense Commissioner is designated by the Commission. The Defense Commissioner directs the 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 emergency preparedness, defense mobilization, and any defense activities that involve formulation or revision of Commission policy in any area of responsibility of the Commission.

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

(c) To act as the 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 National Communications System.

(f) To take such measures as will assure continuity of the Commission’s functions under any foreseeable circumstances with a minimum of interruption.

(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.


§0.182  Chief, Enforcement Bureau.

(a) Recommends national emergency plans and preparedness programs covering: Provision of service by common carriers, broadcasting and cable facilities, satellite and the wireless radio services; radio frequency assignment; electro-magnetic radiation; investigation and enforcement.

(b) In coordination with the Office of Managing Director, which has responsibility for developing the Commission’s Continuity of Operations Plan (COOP). Acts as Alternate Defense Coordinator in representations with other agencies with respect to planning for the continuity of the essential functions of the Commission under emergency conditions.

(c) Coordinates the FCC’s responsibilities under the Interagency Advisory Group (IAG) of the Federal Emergency Management Agency.

(d) Provides administrative support for the National Advisory Committee (NAC) on Emergency Alert System (EAS) issues.
(e) Keeps the Defense Commissioner informed as to significant developments in the field of emergency preparedness and related defense activities.

(f) Coordinates the FCC’s responsibilities under the Federal Response Plan, Catastrophic Disaster Response Group (CDRG) administered by the Federal Emergency Management Agency (FEMA).

(g) Serves as the FCC’s representative on the National Communications System’s Committees.

(h) Under the general direction of the Defense Commissioner coordinates the National Security and Emergency Preparedness (NSEP) activities of the Commission including Continuity of Government Planning, the Emergency Alert System (EAS) 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. Maintains liaison with FCC Bureaus/Offices, represents the Defense Commissioner with other Government agencies and organizations, the telecommunications industry and FCC licensees on NSEP matters; and, as requested, represents the Commission at NSEP meetings and conferences.

(i) Is authorized to declare that a temporary state of communications emergency exists pursuant to §97.401(c) of this chapter and to act on behalf of the Commission with respect to the operation of amateur stations during such temporary state of communications emergency.

[64 FR 60720, Nov. 8, 1999, as amended at 67 FR 13220, Mar. 21, 2002]

§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, Enforcement Bureau in the performance of that person’s duties with respect to defense activities will have the following duties and responsibilities:

(a) To keep the Chief, Enforcement Bureau informed of the investigation, progress, and completion of programs, plans, or activities with respect to defense in which they are engaged or have been requested to engage.

(b) To render assistance and advice to the Chief, Enforcement 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 defense activities as may be assigned to them by the Commission.


§0.186 Emergency Relocation Board.

(a) As specified in the Commission’s Continuity of Government 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, 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 following the announcement of national level mobilization of the Federal government by the President or other designated authority; in the absence of such announcement, immediately following receipt of an attack warning signal; or in the absence of either announcement or attack warning, immediately following an actual attack.

(b) The Board shall comprise such Commissioners as may be present 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 Government Plan will head the Board.

[53 FR 29055, Aug. 2, 1988]
Subpart B—Delegations of Authority


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 1.296 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.

§ 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.

§ 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.
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.

§ 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.
(4) 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.
§ 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 7631, Aug. 10, 1962]

MANAGING DIRECTOR

§ 0.231 Authority delegated.

(a) The Managing Director, or his designee, 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, is delegated authority, within the purview 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 $5,500.

(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) [Reserved]

(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.

(Cross Reference: 47 CFR part 19, subpart E.)
§ 0.241 Authority delegated.

(a) The performance of functions and activities described in §0.31 of this part is delegated to the Chief Engineer:

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. See §0.231(d).

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 present 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.

(b) The Chief Engineer is delegated authority to administer the Equipment Authorization program as described in part 2 of the Commission’s Rules.

(c) The Chief Engineer is delegated authority to administer the Experimental Radio Service program pursuant to part 5 of the Commission’s Rules.

(d) The Chief engineer 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 Engineer 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 Telecommunication Certification Bodies (TCBs) pursuant to §§2.960 and 2.962 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...
§ 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 Secretary in the Dockets Branch.

(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.

(b) The General Counsel is delegated authority to issue rulings on whether violations of the ex parte rules have occurred.

(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).


[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 on GPO Access.

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 part 23 of this chapter and 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;
§ 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 PLANS AND POLICY

§ 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 Plans and Policy is delegated authority to deny requests or to extend the time within which comments may be filed in dockets over which the Office of Plans and Policy has primary authority.

(b) [Reserved]

[45 FR 10347, Feb. 15, 1980]

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:


3. Matters involving emergency communications, including the issuance of Emergency Alert System Authorizations (FCC Form 392)—Enforcement Bureau.

4. 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.

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

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

7. [Reserved]

[45 FR 10347, Feb. 15, 1980]
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§ 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,
§ 0.301

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.


[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 on GPO Access.

§ 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 Authority concerning registration of telephone terminal equipment.

Authority is delegated to the Chief of the Wireline Competition Bureau jointly in cooperation with the Chief Engineer to act upon applications for registration of equipment to be directly connected to the telephone network: Provided, however, That the Chief, Wireline Competition Bureau shall exercise overall policy direction of the program, with appropriate consultation with the Chief Engineer (For record of actions taken under this section, see §0.247).

[67 FR 13221, Mar. 21, 2002]

§ 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.

(c) Action on emergency requests for Special Temporary Authority during non-business hours shall be promptly
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reported to the responsible Bureau or Office.

NOTE TO PARAGRAPH (c): See also §0.182 of this chapter.

[64 FR 60721, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

§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.

(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 §76.615 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]

§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 following exceptions and limitations.

(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
§ 0.332

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. 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 communications in defined port areas.


§ 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 emergency communications—Enforcement 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.

§ 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.

§ 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.

§ 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
§ 0.357 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.

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

§ 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.

§ 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.

§ 0.363 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.

§ 0.381 Defense Commissioner.

The authority delegated to the Commission under Executive Order 11490 is redelegated to the Defense Commissioner.

§ 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.

§ 0.383 National Security and Emergency Preparedness Delegations

47 CFR Ch. I (10–1–02 Edition)
§ 0.401 Other national security and emergency preparedness delegations; cross reference.

(a) For authority of the Chief of the Media Bureau to issue Emergency Alert System Authorizations (FCC Form 392), see §§0.284 (a)(4) and 73.913.

(b) For authority of the Chief of the Enforcement Bureau to declare a general communications emergency, see §0.182(j).


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]

Subpart C—General Information

§ 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.

(ii) Hand-carried documents should be delivered to the Secretary’s Office, Room TW–A325, 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:
§ 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. 151–669.


(d) The Commission operates under the Administrative Procedure Act, 50 Stat. 441, 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:

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[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 20–66 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 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. Additional procedures applicable to certain common carriers by radio are set forth in part 21 of this chapter. Part 1, subpart F, 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 G, of this chapter, concerning ex parte presentations, sets forth rules 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.


§ 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. Notwithstanding 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 valid 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”), Federal Communications Commission, Washington, DC 20554.

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1Pending OMB approval.
Federal Communications Commission

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.

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(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.

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(2) The Federal Register. As rules are adopted, amended, or repealed, the changes are published in the Federal Register, which is published daily except legal holidays. Notices of proposed rule making, other rule making decisions adopted by the Commission constitute rule-making documents for purposes of Federal Register publication. The Federal Register is fully indexed and contains numerous finding aids.


§ 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
§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).


§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
§ 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 Allocations. 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 data bases 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]

§ 0.441 General.

Any person desiring to obtain information may do so by contacting the Consumer and Governmental Affairs Bureau. Requests for information, general inquiries, and complaints may be submitted by:

(a) Internet at www.fcc.gov/CIB/FCCINFO or ftp.fcc.gov/CIB/FCCINFO.

(b) Telephone at 1–(888) CALLFCC (1–888–225–5322).

(c) TDD/TDY at (202) 418–0484.

(d) Correspondence at: Consumer and Governmental Affairs Bureau, P.O. Box FCC, 445 12th Street, SW., Washington, DC 20554.

(e) Visiting the Reference Information Center of the Consumer and Governmental Affairs Bureau at the Commission’s main office in Washington, DC.

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

§ 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 44 U.S.C. 3512 and 3510(b) rather than the Freedom of Information Act. The acceptance of materials in confidence under § 0.457 or § 0.459 does not provide assurance against their disclosure to other agencies.

(b) Information submitted to the Commission in confidence pursuant to § 0.457(c) (2) and (3), (d) and (g) or § 0.459 will be disclosed to other agencies of the Federal government upon request: 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 information.

(d)(1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, a party who furnished records to the Commission in confidence will be notified at the time that the request for disclosure is submitted and will be afforded 10 days in which to oppose disclosure.

(2) If the agency requesting the records states 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 activities and further
§ 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 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 Radio Regulation.

(c) All rulemaking documents are 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. See §1.412(a)(1). 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 or as otherwise specified in the rulemaking document published in the FEDERAL REGISTER. Docketed matters are available to the public via the Electronic Comment Filing System maintained in the Reference Information Center at 445 12th Street, Washington, DC. The complete texts of rulemaking decisions may also be purchased from the Commission’s duplicating contractor.

(d) Formal policy statements and interpretations designed to have general applicability and legal effect are published in the FEDERAL REGISTER, the FCC Record, FCC Reports, or Pike and Fischer. 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. 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 Radio Regulation, they may be relied upon, used or cited as precedent. 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 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 the rationale set forth in a recent document that is pending publication if the requirement or policy to which the
rationale relates is contained in a published document or if actual notice of that requirement or policy has been given.

(f) The Federal Register, the FCC Record, FCC Reports and Pike and Fischer Radio Regulation are indexed. If the documents described in paragraphs (a)-(d) of this section are not published, they are neither indexed nor relied upon, except as provided in paragraph (e) of this section.

(g) The FCC Administrative Manual (excepting Part IX, concerning Civil Defense, which contains materials classified under E.O. 10501) is available for inspection in the Office of the Managing Director. The Manual is not indexed but is organized by subject, with tables of contents, and the materials contained therein can be located without difficulty.

(h) 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. Except as provided in paragraph (g) of this section, all general instructions to the staff and limitations upon its authority are set forth in those subparts. As part of the Commission’s rules and regulations, the provisions of these subparts are indexed in the Federal Register and the Code of Federal Regulations. Instructions to the staff in particular matters or cases are privileged and are not published or made available for public inspection.

(i) To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Commission may delete identifying details 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.

§ 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 which 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 individual determination is required.

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

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

(5) Except as provided in §§0.461 and 0.463, 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
§ 0.453  Public reference rooms.

The Commission maintains the following public reference rooms at its offices in Washington, DC, and Columbia, Maryland. Much of the information available from the public reference rooms may also be retrieved from the Commission’s WorldWide Website at http://www.fcc.gov:

(a) The Reference Information Center of the Consumer and Governmental Affairs Bureau. (1) 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 docket rule making proceeding. Cards summarizing the history of such cases are available for inspection.

(2) Files, documents, and records related to the following services:

(A) Mass Media Services.

(B) Applications for broadcast authorizations and related files are available for public inspection. Certain broadcast applications, reports and records are also available for inspection in the community in which the station is located or is proposed to be located. See §§73.3526 and 73.3527 of this chapter.

(B) Ownership reports filed by licensees of broadcast stations pursuant to §73.3615.

(C) Network affiliation contracts between stations and networks (for television stations only).

(D) Contracts relating to network service to broadcast licensees filed on or after the 1st day of May 1969 under §73.3613.

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

(F) Contract files which contain pledges, trust agreements, options to purchase, stock and agreements, management consultant agreements, and mortgage or loan agreements.

(G) Broadcast applications and related files.

(H) FM Translator applications and related files.

(I) Station files containing Notice of Apparent Liability and Memorandum of Opinion and Order and related files.

(J) Network correspondence files and related materials.

(ii) Common Carrier Services, including:

(A) Annual reports filed by carriers under §43.21 of this chapter.

(B) Reports on pensions and benefits filed by carriers under §43.42 of this chapter.

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

(D) Tariff schedules for all charges for interstate and foreign wire or radio communications filed pursuant to section 203 of the Communications Act, all related documents and communications.

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

(F) All formal and informal 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.

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

(H) Enforcement proceedings and public inquiries and related materials.

(I) Files containing contracts between carriers and affiliates, accounts and subaccounts, pension filings, property records, disposition units, and depreciation rate filings.

(J) Cost Allocation Manuals and related materials.

(K) Section 214 applications and related files, to the extent that they concern domestic communications facilities and services.

(L) Files containing reports required by FCC Rules and Regulations, annual reports to stockholders, administrative reports, monthly bypass reports and related materials.

(M) Files containing reference material from major telephone companies.

[40 FR 7313, Feb. 19, 1975]
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(N) Files containing Local Exchange Rates and related files.
(O) Currently effective tariffs filed by Communications Common Carriers pursuant to various FCC Rules and Regulations.
(P) Recent revisions to tariff filings and the Reference Information Center Log which is prepared daily and lists the tariff filings received the previous day.

(iii) Wireless Telecommunications Services and Auction related data including:
(A) Station files containing a complete history of data submitted by the applicant that has been approved by the Commission which includes background material.
(B) Pending files containing applications for additional facilities or modifications of existing facilities.
(C) Cellular and Paging Granted Station files and related materials.
(D) Pending cellular and paging applications and related files.
(E) 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 wide area network. 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. Some of these services are available electronically now and most will be available on electronically within 90 days of the implementation of the Universal Licensing System (ULS).
(F) Petitions and related materials.
(iv) International Services, except to the extent they are excluded from routine public inspection under another section of this chapter:
(A) Satellite and earth station applications files and related materials under parts 25 and 100 of this chapter;
(B) Section 214 applications and related files under part 63 of this chapter, to the extent that they concern international communications facilities and services;
(C) International Fixed Public Radio applications and related files under part 23 of this chapter;
(D) 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 section 4(j) of the Communications Act (see § 0.457(c)(1)(i));
(E) Documents relating to INTELSAT or INMARSAT;
(F) International broadcast applications, applications for permission to deliver programming to foreign stations, and related files under part 73 of this chapter;
(v) Cable services. The following files and documents are available, including:
(A) All complaints regarding cable programming rates, 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.
(B) Special relief petitions and files pertaining to cable television operations.
(C) Cable television system reports filed by operators pursuant to § 76.403 of this chapter.
(D) Annual employment reports filed by cable television systems pursuant to § 76.77 of this chapter.
(E) Files and documents related to Cable Television Relay Service (CARS)
(b) Reference Information Center. Station files containing applications and related materials for Remote Pickup, Aural STL/ICR, TV Auxiliary, and Low Power Auxiliary Stations in the mass media services.
(c) The Library. Various legal and technical publications, and legislative history compilations, related to communications are available for inspection in the Library.
(d) The Office of Engineering and Technology, FCC Laboratory Reference Room. The following documents, files and records are available for inspection at this location. Files containing approved applications for Equipment Authorization and related materials are available for review. These files are
available in the Commission’s Laboratory in Columbia, Maryland.

(e) The International Bureau. The International Bureau maintains international settlement agreements and contracts and international cable agreements.

(f) The Media Bureau. The Media Bureau maintains all cable operator requests for approval of existing or increased cable television rates for basic service and associated equipment over which the Commission had assumed jurisdiction, 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.

(g) The Wireline Competition Bureau. Section 214 applications and related files, to the extent that they concern domestic communications facilities and services are available for inspection at this location.

(1) [Reserved]

(2) Section 214 applications and related files, to the extent that they concern domestic communications facilities and services.

(h) The Wireless Telecommunications Bureau, Commercial Mobile Services Reference Room. The following documents, files and records are available for inspection at this location. The Legal Branch is the responsible custodian for both locations.

(1) The Wireless Telecommunications Bureau Reference Room—Gettysburg. Commercial radio operator application files and all authorizations in the Wireless Radio Services and files relating thereto, which includes Land Mobile, Microwave, Aviation Ground and Marine Coast applications. All of these materials are available in the Commission’s offices in Gettysburg, Pennsylvania. See §0.457(f)(3). This reference room also contains station files containing applications and related materials for Remote Pickup, Aural STL/ICR, TV Auxiliary, and Low Power Auxiliary Stations in the Mass Media services. This reference room also contains station files containing applications and related materials for the Point-to-Point Microwave (including the Local Television Transmission Service) and Digital Electronic Message (DEMS) services in the Common Carrier services. Cards summarizing the historical record of applications and dispositions of the Broadcast Auxiliary service through May 1982 are available for inspection as well.

(2) Pending files containing applications for additional facilities or modifications of existing facilities.

(3) Cellular Granted Station files and related materials.

(4) Pending cellular applications and related files.

(5) Petitions and related materials.

(i) The Wireline Competition Bureau, Industry Analysis Reference Room. The following documents, files and records are available for inspection at this location.

(1) Files containing reports required by FCC Rules and Regulations, annual reports to stockholders, administrative reports, monthly bypass reports and related materials.

(2) Files containing reference material from major telephone companies.

(3) Files containing Local Exchange Rates and related files.

(j) The Wireline Competition Bureau, Tariff Review Reference Room. Contains currently effective tariffs filed by Communications Common Carriers pursuant to various FCC Rules and Regulations. Also available for review and copying are recent revisions to tariff filings and the Public Reference Room Log, which is prepared daily and lists the tariff filings received the previous day.

(k) The Office of Engineering and Technology, FCC Laboratory Reference Room. The following documents, files and records are available for inspection at this location. Files containing approved applications for Equipment Authorization and related materials are available for review. These files are available in the Commission’s Laboratory in Columbia, Maryland.

(1) The International Bureau Reference Room. Except to the extent they are excluded from routine public inspection under another section of this chapter, the following documents, files, and records are available for inspection at this location:
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(1) Satellite and earth station applications files and related materials under parts 25 and 100 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 section 4(j) of the Communications Act (see § 0.457(c)(1)(i));
(5) Files relating to international settlements under part 64 of this chapter;
(6) Documents relating to INTELSAT or INMARSAT;
(7) International broadcast applications, applications for permission to deliver programming to foreign stations, and related files under part 73 of this chapter; and
(8) International settlement agreements and contracts and international cable agreements.

(m) The Media Bureau Reference Center. The following documents, files and records are available for inspection at this location.

(1) Rulings under the Fairness Doctrine and section 315 of the Communications Act, and related materials.
(2) Ruling lists which contain brief summaries of rulings.
(3) Congressional correspondence and related materials.

(4) Cable television system reports filed by operators pursuant to § 76.403 of this chapter.

(n) Electronically stored application and licensing data for commercial radio operator applications and all authorizations in the Wireless Radio services are available for public inspection via the Commission's wide area network. Wireless Radio services include Commercial and Private Mobile Radio, Common Carrier and Private Operational Fixed Point-to-Point Microwave, Local Television Transmission Service (LTTS), Digital Electronic Message Service (DEMS), Aviation Ground and Marine Coast applications.


EFFECTIVE DATE NOTE: At 64 FR 28936, May 28, 1999, in § 0.453 paragraph (o) was added, effective 90 days after ULS is implemented for all services licensed by the Wireless Telecommunications Bureau.
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(4) Correspondence and other actions and decisions relating to cable television services that are not filed in the FCC Reference Information Center, e.g. rate regulation files and related documents.

(b) Wireline Competition Bureau. (1) Reports of public coast station operators filed under §43.71 of this chapter.

(2) Valuation reports filed under section 213 of the Communications Act, including exhibits filed in connection therewith, unless otherwise ordered by the Commission, with reasons therefor, pursuant to section 213(f) of the Communications Act. See §0.457(c)(2).

(3) Computer II files and related materials.

(c) 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 Agenda Group.

(2) Files containing information concerning the history of the Commission’s rules. These files are available for inspection in the Publications Group.

(3) See §0.443.

(4) Reports filed pursuant to subpart E of part 19 of this chapter and applications for inspection of such reports. See §0.460(k).

(d) Office of Engineering and Technology which includes the Bureau’s Technical Library containing technical reports, technical journals, and bulletins of spectrum management and related technical materials. Also files containing approved applications for Equipment Authorization (Type accepted, certified and notified) and related materials are available for review. These files are available in the Commission’s Laboratory in Columbia, Maryland.

(1) Experimental application and license files.

(2) The Master Frequency Records.

(3) Applications for Equipment Authorization (type accepted, type approval, certification, or advance approval of subscription television systems), following the effective date of the authorization. See §0.457(d)(1)(ii). (Application files, technical journals and other technical materials are maintained at the Commission’s Laboratory at Columbia, Maryland.)

(e) International Bureau. 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. Also contracts and other arrangements filed under §43.51 and reports of negotiations regarding foreign communication matters filed under §43.52 of this chapter, except for those kept confidential by the Commission pursuant to section 412 of the Communications Act. See §0.457(c)(3). Also files relating to international settlements under part 64 of this chapter.

[67 FR 13222, Mar. 21, 2002]

§0.457 Records not routinely available for public inspection.

The records listed in this section are not routinely available for public inspection. The records are listed in this section by category, according to the statutory basis for withholding those records from inspection; and 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, it is important to appreciate that 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 agency or advisory committee meetings will be considered under §0.603 rather than under the provisions of this section.
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(a) Materials that are specifically authorized under criteria established by Executive Order 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) E.O. 10450, “Security Requirements for Government Employees,” 18 FR 2489, April 27, 1953, 3 CFR, 1949–1953 Comp., p. 936. Pursuant to the provisions of E.O. 10450, reports and other material and information developed in security investigations are the property of the investigative agency. If they are retained by the Commission, it is required that they be maintained in confidence and that no access be given to them without the consent of the investigative agency. Such materials and information will not be made available for public inspection. See also paragraphs (f) and (g) of this section.


(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. Such materials may be made available for inspection under §0.461, however, unless their disclosure would interfere with or prejudice the performance of the internal management functions to which they relate, or unless their disclosure would constitute a clearly unwarranted invasion of personal privacy (see paragraph (f) of this section).

(2) Materials relating to the negotiation of contracts.

(3) All materials used in conducting radio operator examinations, including test booklets, Morse Code tapes, and scoring masks.

(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 (1) requires that the materials 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 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.


(2) Under section 213(f) 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. See §0.455(c) (8).

(3) Under section 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. Reports of negotiations regarding such foreign communication matters, filed by carriers under §43.52 of this chapter, may also
be withheld from public inspection under section 412. 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, 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 (see §0.116). Except as required for the enforcement of the communications laws, treaties and the provisions of this chapter, or as authorized in section 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 Criminal Code, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information. See paragraph (d) of this section.

(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 subparagraph 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 for inspection of such materials submitted under §0.461.

(i) Financial reports submitted by licensees of broadcast stations pursuant to former §1.611 or by radio or television networks are not routinely available for inspection.

(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. This information includes that necessary to prevent modification of scanning receivers to receive Cellular Service frequencies, such as schematic diagrams, technical narratives describing equipment operation, and relevant design details.

(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) Prior to July 4, 1967, the rules and regulations provided that certain materials submitted to the Commission would not be made available for public inspection or provided assurance, in varying degrees, that requests for non-disclosure of certain materials would be honored. See, e.g., 47 CFR chapter I revised as of October 1, 1966, §§0.417, 2.557, 5.204, 5.255, 15.76, 21.406, 80.33, 87.153, 89.215, 91.208, 91.605 and 93.208. Materials submitted under these provisions are not routinely available for
public inspection. To the extent that such materials were accepted on a confidential basis under the then existing rules, they are not routinely available for public inspection. The rules cited in this paragraph (d)(1)(v) were superseded by the provisions of this paragraph (d), effective July 4, 1967. Equipment authorization information accepted on a confidential basis between July 4, 1967 and March 25, 1974, will not be routinely available for inspection and a persuasive showing as to the reasons for inspection of such information will be required in requests for inspection of such materials submitted under §0.461.

(vi) 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.

(2) Unless the materials to be submitted are listed in paragraph (d)(1) of this section and the protection thereby afforded is adequate, it is important for any person who submits materials which he wishes withheld from public inspection under 5 U.S.C. 552(b)(4) to submit therewith a request for non-disclosure pursuant to §0.459. If it is shown in the request that the materials contain trade secrets or commercial, financial or technical data which would customarily be guarded from competitors, 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. Ordinarily, however, in the absence of such a request, materials which are submitted will be made available for inspection upon request pursuant to §0.461, even though some question may be present as to whether they contain trade secrets or like matter.

(e) Interagency and intra-agency memorandums or letters, 5 U.S.C. 552(b)(5). Interagency and intra-agency memorandums 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. Only if it is shown in a request under §0.461 that such a communication would be routinely available to a private party through the discovery process in litigation with the Commission will the communication be made available for public inspection. 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).

(1) Under Executive Order 10561, 19 FR 5963, September 13, 1954, 3 CFR, 1954–1958 Comp., page 205, 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 294.701–294.703), 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 will be withheld from public inspection.

(2) [Reserved]

(3) Information submitted to the Commission by applicants for commercial radio operator licenses concerning the character and mental or physical health of the applicant is available for inspection only under procedures set forth in §0.461. Except in this respect, or where other aspects of a similar private nature warrant nondisclosure, commercial radio operator application files are available for inspection.

(g) Investigatory records compiled for law enforcement purposes, to the extent that production of such records would:
§ 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 return the information to the Commission’s Office of Inspector General pursuant to that section. See 47 CFR 19.735–203.

§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.

(a) 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.

(b) 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 which do not comply with the requirements of paragraphs (a) and (b) of this section will not be considered.

(d)(1) 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. If a response in opposition to a confidentiality request is filed, the party requesting confidentiality may file a reply.

(2) Requests which comply with the requirements of paragraphs (a) and (b) of this section will be acted upon by the appropriate Bureau or Office Chief, who is directed to grant the request if it presents by a preponderance of the evidence a case for non-disclosure consistent with the provisions of the Freedom of Information Act, 5 U.S.C. 552. If the request is granted, the ruling will be placed in the public file in lieu of the materials withheld from public inspection. A copy of the ruling shall be forwarded to the General Counsel.

(e) If the materials are submitted voluntarily (i.e., absent any direction by 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 is 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.

(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(g).

(g) If a request for confidentiality is denied, the person who submitted the request may, within 5 working 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 5 working 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 subsection 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 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.


§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 and to the provisions of §0.466 and paragraph (l) of 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 site on the World Wide Web, located at <http://www.fcc.gov>. Commission documents listed in §0.416 are published in the FCC Record, and many such documents or summaries thereof are also published in the Federal Register.

(b) A person who does not want a copy of 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 request shall be submitted in writing, either in person or by mail.

(e) Written requests shall be captioned “REQUEST FOR INSPECTION OF RECORDS”, shall be dated, shall list the telephone number (if any) of the person making the request 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)

(f) Written requests shall be delivered or mailed directly to the chief of the organizational unit having custody of the records, as listed in §§0.453 and 0.455. If the request is enclosed in an envelope, the envelope shall be marked, “REQUEST FOR INSPECTION OF RECORDS.”

(g) When a written request is received by the custodian of the records, it will be date-stamped.

(h) 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.

(i) The records will be produced for inspection at the earliest possible time.

(j) 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.

(k) In addition to the other requirements of this section, the following provisions apply to the reports filed with the Commission pursuant to subpart E of part 19 of this chapter. (1) Such reports shall not be obtained or used:

(1) 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
§ 0.461 Requests for inspection of materials not routinely available for public inspection.

Any person desiring to inspect Commission records which are not listed in §0.453 or §0.455 shall file a request for inspection meeting the requirements of this section.

(a)(1) The records in question must be reasonably described by the person requesting them, so as to permit their location by staff personnel. See §0.460(c).

(2) The person requesting records under this section may specify the form or format of the records to be produced.

(b)(1) Requests shall be captioned “Freedom of Information Act Request,” shall be dated, shall list the telephone number (if any) of the person making the request 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.

(2) The request shall, in addition, specify the maximum search fee the person making the request is prepared to pay (see §0.467).

(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 determines that the materials in question may lawfully be withheld from inspection.

(d)(1) Requests shall be delivered or mailed to the Managing Director, sent by electronic mail to <foia@fcc.gov>, or sent by facsimile. (For purposes of this section, the custodian of the records is the Chief of the appropriate Bureau or Office.)

2 If the request is enclosed in an envelope, the envelope shall be marked, “Freedom of Information Act Request.”

(3) An original and two copies of the request shall be submitted. If the request is for materials not open to routine public inspection under §0.457(d) or §0.459, or if a request for confidentiality is pending pursuant to §0.459, one copy of the request will be mailed by the custodian of the records to the person who originally submitted the materials to the Commission.

(e) 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 custodian of the records.

(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) If the records 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 therefor.

(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 only from inspection, that part will be deleted and the remainder will be made available for inspection.

(6) In locating and recovering records responsive to a FOIA request, only those records within the Commission’s possession and control as of the date of
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its receipt of the request shall be considered.

(g) The custodian of the records will make every effort to act on the request within 20 working days after it is received by the FOIA Control Office. If it is not possible to locate the records and to determine whether they should be made available for inspection within 20 working days, the custodian may, in any of the following circumstances, extend the time for action by up to 10 working days:

(1) 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.

(2) 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

(3) 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.

The custodian of the records will notify the requester in writing of any extension of time exercised pursuant to paragraph (g) of this section. 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 specifying the length of the agreement.

(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 Processing—FOIA Request.” An original and two copies of the request for expedition shall be submitted, but only one copy is necessary if submitted by electronic mail. 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 as to whether to grant expedited processing shall be provided to the requester by the custodian of records within 10 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 working 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 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) or §0.459 is granted, an application for review of the action may be filed by the person who submitted the records to the Commission or by a third party owner of the records. 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 10 working 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. 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. The person who filed the request for inspection of records may respond to the application for review within 10 working days after it is filed.

(2) If the request for inspection of records submitted to the Commission in confidence under §0.457(d) or §0.459 is partially granted and partially denied, the person who submitted the records to the Commission, a third party owner of the records and the person who filed the request for inspection of those records may file an application for review within the 10 working 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 envelope (if any) shall also be so captioned. The application shall be filed within 30 days after the date of the written ruling by the custodian of records, and shall be served on the person (if any) who originally submitted the materials to the Commission. That person may file a response within 10 working days after the application for review is filed. If the records are made available on review, the person who submitted them to the Commission (if any) will be afforded 10 working 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 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 record 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 may be filed only by the person who made the request. The application shall be captioned, “Review of Freedom of Information Action.” The envelope (if any) shall also be so captioned. The application shall be delivered or mailed to the General Counsel and shall be served on the person (if any) who originally submitted the materials to the Commission. See paragraph (i) of this section. 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. (For general procedures relating to applications for review, see §1.115 of this chapter.)

(k) The Commission will make every effort to act on an application for review of an action on a request for inspection of records within 20 working
days after it is filed. See, however, paragraph (i) of this section. If it is not possible to locate the records and to determine whether they should be made available for inspection within 20 working days, the General Counsel may, in the following circumstances and to the extent time has not been extended under paragraphs (g) (1)(i), (ii), or (iii) of this section, extend the time for action up to 10 working 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 10 working days.):

(1) 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;

(2) 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

(3) 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.

If these circumstances are not present or if it is not possible to locate the records and make the determination within the extended period, the person who made the request will be advised of his/her rights and asked to consent to an extension or further extension. If the requestor 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 record 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.

(a) In the event that a demand (subpoena, order or other demand) is made by a court or other competent authority outside the Commission for the production of records or files or for testimony concerning information contained therein, the Managing Director shall promptly be advised of such demand, the nature of the papers or information sought, and all other relevant facts and circumstances. The Commission will thereupon issue such instructions as it may deem advisable.

(b) Unless specifically authorized to produce such records or files or to testify with respect thereto, any officer or employee of the Commission who is served with a demand for the production of records or files or for testimony concerning the same, shall appear in response to the demand and respectfully decline to produce such records or files or to testify concerning them, basing the refusal upon this rule.

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§ 0.463 Demand by competent authority for the production of documents or testimony concerning information contained therein.

(a) In the event that a demand (subpoena, order or other demand) is made by a court or other competent authority outside the Commission for the production of records or files or for testimony concerning information contained therein, the Managing Director shall promptly be advised of such demand, the nature of the papers or information sought, and all other relevant facts and circumstances. The Commission will thereupon issue such instructions as it may deem advisable.

(b) Unless specifically authorized to produce such records or files or to testify with respect thereto, any officer or employee of the Commission who is served with a demand for the production of records or files or for testimony concerning the same, shall appear in response to the demand and respectfully decline to produce such records or files or to testify concerning them, basing the refusal upon this rule.

(49 FR 13367, Apr. 4, 1984)
§ 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 extracting the requested documents from the Commission’s files.

Note to Paragraph (a): The name, address, telephone number, and schedule of fees for the current duplication contractor are published at the time of contract award of renewal in a Public Notice and periodically thereafter. Questions regarding this information should be directed to the Reference Information Center of the Consumer and Governmental Affairs Bureau.

(b) The Commission awards a contract to a commercial firm to transcribe Commission proceedings in which a verbatim record is kept and to offer copies of the transcript for sale to the public. Except as authorized by the Commission, the firm is required to retain the capacity to furnish copies of the transcript for a period of 5 years, and may retain that capacity for a longer period, even though another firm is currently transcribing Commission proceedings. Requests for copies of the transcript of the current proceedings should be directed to the current contractor. Requests for transcripts of older proceedings will be forwarded by the Commission to the firm which made the transcript in question, and the names of contracting firms for past years will be furnished upon request.

Note to Paragraph (b): The name, address, telephone number, and schedule of fees for the current transcription contractor are maintained by the Office of the Secretary in the Managing Director’s Office.

(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 extract therefrom 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 17 cents per page. For copies prepared with other media, such as computer tapes, microfiche or 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 $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: 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. § 552a(j)(4)(A). The following factors are relevant in applying that criterion: the number of persons to be benefited, the significance of the benefit, the private interest of the requester which the release may further, the usefulness of the materials to be released to the general public and the likelihood that a tangible public benefit will be realized. (See Attorney General’s 1974 FOI Amdts. Memorandum, at 15.)

(3) Requests for copies by representatives of foreign governments or persons residing in foreign countries shall be submitted to the General Counsel and will be reviewed by the General Counsel under criteria established by the Department of Commerce for controlling the export of technical data.

(4) 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 for documents located in the Commission’s Gettysburg, Pennsylvania Office by his deputy. Requests shall be in

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§ 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 16 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.

(5) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution or 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 actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. 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 include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances where they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization, even though not actually employed by it.

[53 FR 38093, Oct. 5, 1988]

§ 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(e) or §0.461, unless such fees are precluded or waived pursuant to §0.470. The fee is based on the grade level of the employee(s) who conduct(s) the search or review, as specified in the following schedule:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Hourly fee</th>
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<tbody>
<tr>
<td>GS-1</td>
<td>10.72</td>
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<tr>
<td>GS-2</td>
<td>11.66</td>
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<td>GS-3</td>
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<td>GS-14</td>
<td>51.00</td>
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<tr>
<td>GS-15</td>
<td>59.99</td>
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</table>

Note: These fees will be modified periodically to correspond with modifications in the rate of pay approved by Congress.

(2) The fees in paragraph (a)(1) of this section were computed at Step 5 of each grade level based on the General Schedule effective January 2002 and include 20 percent for personnel benefits.

(b) Search fees may be assessed for time spent searching, even if the Commission fails to locate the records or if the records 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
§ 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.

[53 FR 39094, Oct. 5, 1988]

§ 0.469 Advance payments.

(a)(1) The Commission may not require advance payment of estimated FOIA fees except as provided in subsection (a)(2) 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.

(2) 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.

(3) When the Commission acts under paragraph (a)(1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denials, plus permissible extensions of these time limits) will begin only after the agency has received the fee payments described above.

(b) [Reserved]

[53 FR 39094, Oct. 5, 1988]

§ 0.470 Assessment of fees.

(a)(1) Commercial use requesters. 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.

(2) Educational and non-commercial scientific institution requesters and requesters who are representatives of the news media. 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 disseminating information.

(3) All other requesters. 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 §§0.467 and 0.465 above, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

(b)(1) The 100 page restriction on assessment of reproduction fees in paragraphs (a)(2) and (a)(3) of this section refers to 100 paper copies of a standard size, which will normally be “8½ × 11” or “11 × 14,” or microfiche containing the equivalent of 100 pages or 100 pages of computer printout. Requesters will not be entitled to 100 microfiche.

(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 is entitled to a restricted 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 original FOIA request, a statement explaining with specificity, the reasons demonstrating that he/she qualifies for a restricted 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: Anyone requesting a restricted fee 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 5 working days to provide further information to justify receiving a restricted fee. During this time period, the materials will be available for inspection to the extent that the time period exceeds the 10 or 20 day time period for responding to FOIA requests, as appropriate.

(e) 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).

(f) The Commission shall not assess any fees if the routine cost of collecting the fee would be equal to or greater than the fee itself.

§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.

§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.

§0.475 Applications for employment.

Persons who wish to apply for employment should communicate with the Associate Managing Director-Personnel Management.

§0.481 Place of filing applications for radio authorizations.

For locations for filing applications, and appropriate fees, see §§1.1102-1.1105 of this chapter.
§ 0.482 Application for waiver of wireless radio service rules.

All requests for waiver of the rules (see §1.925) governing the Wireless Radio Services (see §1.907) that require a fee (see §1.1102) shall be submitted via the Universal Licensing System or to the Mellon Bank, Pittsburgh, Pennsylvania 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]

§ 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.


§ 0.491 Application for exemption from compulsory ship radio requirements.

Applications for exemption filed under the provisions of §§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, 445 12th Street, SW, Room TW–B204, Washington, DC 20554.

[63 FR 68919, Dec. 14, 1998]

§ 0.493 Non-radio common carrier applications.

All such applications shall be filed at the Commission’s offices in Washington, DC.


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

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.

§ 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.

§ 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;
§ 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 provisions 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.

(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
§ 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

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Federal Communications Commission

§ 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—Personnel Management, 445 12th Street, S.W., 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. 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 therefor;

   (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 adjudge 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))


§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 Commission. 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 Commission 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 Commission’s decision
§ 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
§ 0.601 Defined terms.

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.

§ 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.

§ 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:
§ 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
§ 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 Minute and Rules Branch, 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
§ 0.701 Local and State Government Advisory Committee.

The Local and State Government Advisory Committee (LSGAC) will facilitate intergovernmental communication between local municipal, county, state and tribal governments and the Federal Communications Commission. The LSGAC shall be comprised of 15 members (or their designated employees) as follows: six elected municipal officials (city mayors and city council members); three elected county officials (county commissioners or council

Subpart G—Intergovernmental Communication

SOURCE: 66 FR 8091, Jan. 29, 2001, unless otherwise noted.
members); one elected or appointed local government attorney; one elected state executive (governor or lieutenant governor); two elected state legislators; one elected or appointed public utilities or public service commissioner, and one elected or appointed Native American tribal representative. The LSGAC members shall select two members, a Chair and Vice Chair, to serve as leaders of the Committee. Vacancies to on the LSGAC shall be filled through a nomination process initiated by Public Notice and appointments shall be made by the Chairman of the Federal Communications Commission. At his discretion, the Chairman may replace LSGAC members using this same appointment process. Members of the LSGAC are required to attend a minimum of fifty percent of the yearly meetings. Failure to meet this attendance requirement will result in loss of membership in the LSGAC, subject to the discretion of the LSGAC chair. Members of the LSGAC are responsible for travel and other incidental expenses incurred while on LSGAC business and shall not be reimbursed for such expenses by the Commission. Pursuant to section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1534(b), the LSGAC 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).

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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

AUTHORITY: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).


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.

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.

(5 U.S.C. 554)

§ 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.

(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.
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 will commence on the date appearing on the document sent (e.g., mailed, telegraphed, etc.) to persons affected by the action.

Example 2: 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 letter granting the waiver mailed to the applicant or appearing on the face of the letter granting the waiver mailed to the licensee.

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.

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.

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.

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 letter granting the waiver 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
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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 §21.39(d) 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 offices are closed and not reopened prior to 5:30 p.m. For example, a regularly scheduled Commission business day may become a holiday if its offices are closed prior to 5:30 p.m. due to adverse weather, emergency or other closing.

NOTE: 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 § 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 7:00 p.m., at 445 12th St., SW., TW–A325, Washington, DC. 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.

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).


§ 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.
§ 1.6 (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 § 1.4 of the Commission’s Rules, 47 CFR 1.4. 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), 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]

§ 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 written statements and responses to Commission inquiries and correspondence.

The Commission or its representatives may, in writing, require from any
§ 1.18 Applicant, permittee or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to some other matter within the jurisdiction of the Commission. No applicant, permittee or licensee shall in any response to Commission correspondence or inquiry or in any application, pleading, report or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission. No applicant, permittee or licensee shall in any response to Commission correspondence or inquiry or in any application, pleading, report or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission.

NOTE: Section 1.17 is limited in application to written matter. It implies no change in the Commission’s existing policies respecting the obligation of applicants, permittees and licensees in all instances to respond truthfully to requests for information deemed necessary to the proper execution of the Commission’s functions.

[55 FR 23084, June 6, 1990]

§ 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.


§ 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 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.


§ 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.

§ 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 any 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.

§ 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.

§ 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.

§ 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.

§ 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 1.296(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 acting 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), 1.296(a), and 1.773.

§ 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, 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 rulemaking 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.

§ 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.

(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
§ 1.47

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, 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 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 said carrier in any proceeding before the Commission. Such designation shall include, for both the carrier and its designated agents, a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address. The carrier shall additionally list any other names by which it is known or under which it does business, and, if the carrier is an affiliated company, the parent, holding, or management company. Within thirty (30) days of the commencement of provision of service, each carrier shall file such information with the Chief of the Enforcement Bureau’s Market Disputes Resolution Division. Carriers 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 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 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 by leaving a copy thereof with such designated agent at his office or usual place of residence. If a carrier 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.

§ 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 8 1⁄2 × 11 inch (21.6 cm. × 27.9 cm.) paper with the margins set so that the printed material does not exceed 6 1⁄2 × 9 1⁄2 inches (16.5 cm. × 24.1 cm.). The printed material may be in any typeface of at least 12-point (0.4233 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 refilled 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
§ 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.

Except as otherwise specifically provided in the Commission’s rules and regulations, the number of copies of pleadings, briefs, and other papers to be filed is as follows:

(a) In hearing proceedings, the following number of copies shall be filed:

(1) If the paper filed relates to a matter to be acted upon by the presiding officer or the Chief Administrative Law Judge, an original and 6 copies shall be filed.

(2) If the paper filed relates to matters to be acted on by the Commission, an original and 14 copies shall be filed.

(3) If more than one person presided (is presiding) at the hearing an additional copy shall be filed for each such additional person.

(b) In rulemaking proceedings which have not been designated for hearing, see section 1.419 of this chapter.

(c) In matters other than rule making and hearing cases, the following number of copies shall be filed:

(1) If the paper filed relates to matters to be acted on by the Commission, an original and 4 copies shall be filed. If the matter relates to Part 22 of the rules, see §22.6.

(2) If the paper filed related to matters to be acted on by staff officials under delegated authority, an original and 4 copies shall be filed. If the matter relates to Part 22 of the rules, see §22.6.

(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.

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


§ 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.


§ 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]

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
§ 1.61

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.”


§ 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 non-continuing 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.

§ 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. 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 his application so as to furnish such additional or corrected information as may be appropriate. 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.
§ 1.68 (b) Applications in ITFS and broadcast services subject to competitive bidding will be subject to the provisions of §§1.2105(b), 73.5002 and 73.3522 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.

§ 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
§ 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; or

(4) Violated any provision of section 1304, 1343, or 1464 of Title 18, United States Code.

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), (b)(2) and (b)(3) of this section shall not apply to conduct which is subject to a forfeiture penalty under sections 202(c), 203(e), 205(b), 214(d), 219(b), 223(d), 223(h), 362(a), 362(b), 386(a), 386(b), 503(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 $27,500 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 $300,000 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.

(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 $120,000 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 $1,200,000 for any single act or failure to act described in paragraph (a) of this section.

(3) In any case not covered in paragraphs (b)(1) or (b)(2) of this section, the amount of any forfeiture penalty determined under this section shall not exceed $11,000 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 $87,500 for any single act or failure to act described in paragraph (a) of this section.

NOTE TO PARAGRAPH (b)(3): For information concerning notices of apparent liability and notices of opportunity for hearing, see paragraphs (e), (f), and (g) of this section.

(4) 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)(4):
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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 ceiling 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 are effective November 13, 2000. 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

<table>
<thead>
<tr>
<th>Violation</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>Misrepresentation/lack of candor ..................................................</td>
<td>$10,000</td>
</tr>
<tr>
<td>Construction and/or operation without an instrument of authorization ....</td>
<td>$10,000</td>
</tr>
<tr>
<td>Failure to comply with prescribed lighting and/or marking ..................</td>
<td>10,000</td>
</tr>
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<td>Violation of public file rules ....................................................</td>
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<td>Violation of political rules: reasonable access, lowest unit charge .......</td>
<td>8,000</td>
</tr>
<tr>
<td>Unauthorized substantial transfer of control ....................................</td>
<td>8,000</td>
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<tr>
<td>Violation of children’s television commercialization or programming ......</td>
<td>8,000</td>
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<tr>
<td>Violations of rules relating to distress and safety frequencies ..........</td>
<td>8,000</td>
</tr>
<tr>
<td>False distress communications .....................................................</td>
<td>8,000</td>
</tr>
<tr>
<td>EAS equipment not installed or operational ......................................</td>
<td>8,000</td>
</tr>
<tr>
<td>Alien ownership violation ............................................................</td>
<td>8,000</td>
</tr>
<tr>
<td>Failure to permit inspection .......................................................</td>
<td>7,000</td>
</tr>
<tr>
<td>Transmission of indecent/offensive materials ..................................</td>
<td>7,000</td>
</tr>
<tr>
<td>Interference ..................................................................................</td>
<td>7,000</td>
</tr>
<tr>
<td>Importation or marketing of unauthorized equipment ............................</td>
<td>7,000</td>
</tr>
<tr>
<td>Exceeding of authorized antenna height ..........................................</td>
<td>5,000</td>
</tr>
<tr>
<td>Fraud by wire, radio or television .................................................</td>
<td>5,000</td>
</tr>
<tr>
<td>Unauthorized discontinuance of service ..........................................</td>
<td>5,000</td>
</tr>
<tr>
<td>Use of unauthorized equipment ......................................................</td>
<td>5,000</td>
</tr>
<tr>
<td>Exceeding power limits ...................................................................</td>
<td>4,000</td>
</tr>
<tr>
<td>Failure to respond to Commission communications ................................</td>
<td>4,000</td>
</tr>
<tr>
<td>Violation of sponsorship ID requirements ........................................</td>
<td>4,000</td>
</tr>
<tr>
<td>Unauthorized emissions .....................................................................</td>
<td>4,000</td>
</tr>
<tr>
<td>Using unauthorized frequency .........................................................</td>
<td>4,000</td>
</tr>
<tr>
<td>Failure to engage in required frequency coordination .......................</td>
<td>4,000</td>
</tr>
<tr>
<td>Construction or operation at unauthorized location ............................</td>
<td>4,000</td>
</tr>
<tr>
<td>Violation of requirements pertaining to broadcasting of lotteries or contests</td>
<td>3,000</td>
</tr>
<tr>
<td>Violation of transmitter control and metering requirements .................</td>
<td>3,000</td>
</tr>
<tr>
<td>Failure to file required forms or information ...................................</td>
<td>2,000</td>
</tr>
<tr>
<td>Failure to make required measurements or conduct required monitoring ...</td>
<td>2,000</td>
</tr>
<tr>
<td>Failure to provide station ID .........................................................</td>
<td>1,000</td>
</tr>
<tr>
<td>Unauthorized pro forma transfer of control ......................................</td>
<td>1,000</td>
</tr>
<tr>
<td>Failure to maintain required records .............................................</td>
<td>1,000</td>
</tr>
</tbody>
</table>

1 Statutory Maximum for each Service.

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 one exception, 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. The one exception is Section 223 of the Act, which provides...
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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 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.

### Table: Maximum Penalties

<table>
<thead>
<tr>
<th>Violation</th>
<th>Statutory amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 202(c) Common Carrier Discrimination</td>
<td>7,600 330/day.</td>
</tr>
<tr>
<td>Sec. 203(e) Common Carrier Tariffs</td>
<td>7,600 330/day.</td>
</tr>
<tr>
<td>Sec. 205(b) Common Carrier Prescriptions</td>
<td>13,200/day.</td>
</tr>
<tr>
<td>Sec. 214(d) Common Carrier Line Extensions</td>
<td>1,200/day.</td>
</tr>
<tr>
<td>Sec. 219(b) Common Carrier Reports</td>
<td>7,600/day.</td>
</tr>
<tr>
<td>Sec. 220(d) Common Carrier Records &amp; Accounts</td>
<td>60,000 maximum/ day.</td>
</tr>
<tr>
<td>Sec. 223(b) Dial-a-Porn</td>
<td>5,500/owner.</td>
</tr>
<tr>
<td>Sec. 364(a) Ship Station Inspection</td>
<td>1,100/day (vessel/ master).</td>
</tr>
<tr>
<td>Sec. 364(b) Ship Station Inspection</td>
<td>5,500/day (owner).</td>
</tr>
<tr>
<td>Sec. 386(a) Forfeitures</td>
<td>1,100/day (vessel/ master).</td>
</tr>
<tr>
<td>Sec. 386(b) Forfeitures</td>
<td>500/day.</td>
</tr>
<tr>
<td>Sec. 634 Cable EEO</td>
<td>500/day.</td>
</tr>
</tbody>
</table>

(5) Inflation adjustments to the maximum forfeiture amount: (i) Pursuant to the Debt Collection Improvement Act of 1996, Public Law 104–134 (110 Stat. 1321–1358), 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 following formula. First, obtain the inflation factor by dividing the CPI for June of the preceding year by the CPI for June of the year the forfeiture was last set or adjusted. Then, multiply the inflation factor 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 $200,000.

(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:

<table>
<thead>
<tr>
<th>U.S. Code Citation</th>
<th>Maximum penalty after DCIA adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>47 U.S.C. 202(c)</td>
<td>$7,600</td>
</tr>
<tr>
<td>47 U.S.C. 203(e)</td>
<td>330</td>
</tr>
<tr>
<td>47 U.S.C. 205(b)</td>
<td>330</td>
</tr>
<tr>
<td>47 U.S.C. 214(d)</td>
<td>13,200</td>
</tr>
<tr>
<td>47 U.S.C. 219(b)</td>
<td>1,200</td>
</tr>
<tr>
<td>47 U.S.C. 220(d)</td>
<td>7,600</td>
</tr>
<tr>
<td>47 U.S.C. 223(b)</td>
<td>60,000</td>
</tr>
<tr>
<td>47 U.S.C. 362(a)</td>
<td>5,500</td>
</tr>
<tr>
<td>47 U.S.C. 362(b)</td>
<td>1,100</td>
</tr>
<tr>
<td>47 U.S.C. 365(a)</td>
<td>5,500</td>
</tr>
<tr>
<td>47 U.S.C. 365(b)</td>
<td>1,100</td>
</tr>
<tr>
<td>47 U.S.C. 503(b)(2)(A)</td>
<td>27,500</td>
</tr>
<tr>
<td>47 U.S.C. 503(b)(2)(B)</td>
<td>300,000</td>
</tr>
<tr>
<td>47 U.S.C. 503(b)(2)(C)</td>
<td>1,200,000</td>
</tr>
<tr>
<td>47 U.S.C. 503(b)(2)(D)</td>
<td>11,000</td>
</tr>
<tr>
<td>47 U.S.C. 507(a)</td>
<td>550</td>
</tr>
<tr>
<td>47 U.S.C. 507(b)</td>
<td>110</td>
</tr>
<tr>
<td>47 U.S.C. 554</td>
<td>500</td>
</tr>
</tbody>
</table>

NOTE TO PARAGRAPH (b)(5): Pursuant to Public Law 104–134, the first inflation adjustment cannot exceed 10 percent of the statutory maximum amount.

(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 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. No forfeiture penalty shall be imposed upon any person under this section, 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.
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(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 73482, Chicago, Illinois 60673–7482.

(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.

§ 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).

§ 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...
§ 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.

§ 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 promised compliance or agreement to settle formal proceedings.
§ 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
§ 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, or if the Commission on its own motion reviews the action on its own motion, the designated authority may in its discretion stay the effect of any such action until its review of the matters at issue has been completed.

(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.

§ 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.

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.

§ 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.

§ 1.106 Petitions for reconsideration.

(a)(1) Petitions requesting reconsideration of a final Commission action 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 rule making proceedings, see §1.429. This

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§ 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 is present:

(i) The petition relies on facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters; or

(ii) The petition relies on facts unknown to petitioner until after his last opportunity to present such matters.

(3) A petition for reconsideration which relies on facts not previously presented to the Commission or to the designated authority may be granted only under the following circumstances:

(1) The facts 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 relied on is required in the public interest.

(d)(1) The petition 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 or relief sought and, subject to this requirement, may contain alternative requests.

(2) The petition for reconsideration shall also, where appropriate, cite the findings of fact and/or conclusions of law which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and conclusions should be changed. The petition may request that additional findings of fact and 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
§ 1.106 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, D.C., 20554.

(j) The Commission or designated authority may grant the petition for reconsideration in whole or in part or may deny 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.

(Secs. 4, 303, 307, 405, 48 Stat., as amended, 1066, 1082, 1083, 1095; 47 U.S.C. 154, 303, 307, 405)


§ 1.108 Reconsideration on Commission’s own motion.

The Commission may, on its own motion, set aside 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) of these rules.


§ 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 applications 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.

(b)(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:

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(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 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 to the initial decision in the case are filed. A request to certify a matter to the Commission shall be filed within 5 days after the designation 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 to the initial decision in the case are filed. A request to certify a matter to the Commission shall be filed within 5 days after the designation.
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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-space typewritten pages. When permitted (see paragraph (e)(3) of this section), reply pleadings shall not exceed 5 double-space 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 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
§ 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 allegation of fact 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 the 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)


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.


§1.202 Official reporter; transcript.

The Commission will designate from time to time an official reporter for
§ 1.203 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]

§ 1.204 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.

(5 U.S.C. 556)

[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.

§ 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 6443, May 16, 1964; 36 FR 19439, Oct. 6, 1971]

§ 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.

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(b) The order designating an applica-
tion for hearing is mailed to the appli-
cant by the Reference Information Cen-
ter of the Consumer and Governmental
Affairs Bureau and this order or a sum-
mary thereof is published in the FEDERAL
REGISTER. Reasonable notice of hearing will be given to the parties in all proceedings; and, whenever pos-
sible, the Commission will give at least
60 days notice of comparative hearings.

(c) In order to avail himself of the op-
portunity 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 Ref-
eree Information Center of the Con-
sumer and Governmental Affairs Bu-
reau, file with the Commission, in trip-
licate, 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 with-
out prejudice, or a petition to accept,
for good cause shown, such written ap-
pearance 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 inter-
est.

(e) In order to avail himself of the op-
portunity to be heard, any person
named as a party pursuant to para-
graph (d) of this section shall, within 20
days of the mailing of the notice of his
designation as a party, file with the Com-
mission, in person or by attorney,
written appearance in triplicate,
stating that he will appear at the hear-
ing. 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) A fee must accompany each
written appearance filed with the Com-
mision 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 appear-
ance at the time of its filing and must be
in conformance with the require-
ments of subpart G of the rules. A writ-
ten 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 re-
turned to the applicant by the fee pro-
cessing 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 agree-
ment 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 set-
ttlement 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 accom-
pany 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 resub-
mitted with the FRN within ten (10)
business days of the date of notifica-
tion.

(g) In comparative broadcast pro-
cedings involving applicants for new
facilities, where the hearing fee was
paid before designation of the applica-
tions for hearing as required by the
Public Notice described at § 73.3571(c),
§ 73.3572(d), or § 73.3573(g) of this chap-
ter, a hearing fee payment should not
be made with the filing of the Notice of Appearance.
§ 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 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 as to 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.


§ 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,
§ 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 §1.160 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 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.

(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 Pittsburgh, PA 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
§ 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
§ 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 subpoenas;

(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)

§ 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
§ 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.

§ 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.
§ 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) 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.

(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.

§ 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.


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
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§ 1.255

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.


§ 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.


§ 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 of the Commission. Notice of such certification shall be served on all parties to the proceedings.

§ 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 proceeding 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.

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.

§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.

§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 de-
cision. In that event, the record shall
be certified to the Commission by the
Chief Administrative Law Judge.

(c)(1) Where the presiding officer be-
comes unavailable to the Commission
after the taking of evidence has com-
enced but before it has been con-
cluded, the Commission may order a
rehearing before another presiding offi-
cer designated in accordance with
§1.241.

(2) Upon a finding that due and time-
ly execution of its functions impera-
tively 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 Com-
mission 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 func-
tions imperatively and unavoidably re-
quires that no recommended decision
be issued, the officer continuing the
hearing shall prepare and file a rec-
ommended decision to be released with
the Commission’s initial or final deci-
sion. If all the parties expressly con-
sent, and if the Commission does not
order otherwise, the officer continuing
the hearing may prepare an initial de-
cision.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C.
409)

§ 1.276  Appeal and review of initial de-
cision.

(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 decli-
sion shall not become effective and
shall then be reviewed by the Commissi-
on, 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 sepa-
rately. As used in this subpart, the
term exceptions means the document
consolidating the exceptions and sup-
porting brief. The brief shall contain (i)
a table of contents, (ii) a table of cita-
tions, (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 fil-
ing 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 de-
cision is subject to review in accord-
ance with paragraph (a) or (b) of this
section, the Commission may, on its
own initiative or upon appropriate re-
quests by a party, take any one or
more of the following actions:
(1) Hear oral argument on the excep-
tions;
(2) Require the filing of briefs;
(3) Prior to or after oral argument or
the filing of exceptions or briefs, re-
open the record and/or remand the pro-
cedings to the presiding officer to
take further testimony or evidence;
(4) Prior to or after oral argument or
the filing of exceptions or briefs, re-
mand the proceedings to the presiding
officer to make further findings or con-
clusions; 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 re-
lease of the full text thereof is made
unless otherwise ordered by the Com-
mission. The timely filing of excep-
tions, the further review or consider-
ation of an initial decision on the Com-
mision’s initiative, or the taking of
action by the Commission under para-
graph (c) of this section shall stay the
effectiveness of the initial decision
until the Commission’s review thereof

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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.

(§ 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 of the Commission, 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
§ 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 order 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 §§1.294–1.296.

(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)


§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.


§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)


§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.


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.
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(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.
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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.


§ 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.


The Discovery and Preservation of Evidence


§ 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 procedures 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 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:
§ 1.313 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
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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, embarrassment 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
§ 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.
§ 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
§ 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
§ 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. Additional pleadings should not be submitted and will not be considered.

(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, bylaws, 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 alienate 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
§ 1.331 Requests for issuance of subpoena.

(a) Unless submitted on the record while a hearing is in progress, requests for a subpoena ad testificandum shall be submitted in writing.

(b) Requests for a subpoena 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 subpoena duces tecum request is directed to a nonparty to the proceeding, the presiding officer may issue the same, upon request, without an accompanying subpoena 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 subpoena duces tecum.

(c) All requests for subpoenas shall be supported by a showing of the general relevance and materiality of the evidence sought.

(d) Requests for subpoenas shall be submitted in triplicate, but need not be served on the parties to the proceeding.

(e) Requests for issuance of a subpoena 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 subpoena 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 subpoena request may ask that a subpoena 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 subpoena request will be subject to the provisions of §1.313 and paragraph (b) of this section.
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§ 1.339

(f) Requests for issuance of a subpoena 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 subpoena 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.


§ 1.338 Subpoena forms.

(a) Subpoena 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 subpoena.

(b) If the request for issuance of a subpoena is granted, the "Original" and "Duplicate" copies of the subpoena 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 subpoena 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 subpoena, to the official before whom the person named in the subpoena is required to appear.

(d) The "Duplicate" copy of the subpoena 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 subpoenaed 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 subpoena, 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.

§ 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
§ 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 32251, July 31, 1978]

Subpart C—Rulemaking Proceedings

Authority: 5 U.S.C. 553.

Source: 28 FR 12432, Nov. 22, 1963, unless otherwise noted.

§ 1.369 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]
the petition. The petition shall be accompanied by a certificate of service on such licensees or permittees. A draft Notice of Proposed Rule Making may be submitted with a petition for amendment of the FM or Television Table of Assignments.

(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.


§ 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.


§ 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 its 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.

§ 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).

§ 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) An original and 4 copies of all comments, briefs and other documents filed in a rulemaking proceeding shall be furnished the Commission. The distribution of such copies shall be as follows:

<table>
<thead>
<tr>
<th>Distribution</th>
<th>Copies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary (original and 1)</td>
<td>2</td>
</tr>
<tr>
<td>Bureau</td>
<td>2</td>
</tr>
<tr>
<td>Reference Information Center</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>5</td>
</tr>
</tbody>
</table>

Participants filing the required 5 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:

<table>
<thead>
<tr>
<th>Distribution</th>
<th>Copies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioners</td>
<td>5</td>
</tr>
<tr>
<td>Secretary</td>
<td>2</td>
</tr>
<tr>
<td>Bureau</td>
<td>2</td>
</tr>
<tr>
<td>Reference Information Center</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>10</td>
</tr>
</tbody>
</table>

However, 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 section 1.1206(a) of this chapter. Letters submitted to Commissioners or Commission staff will be treated in the same way as informal comments, as set forth above. Also such informal participants who wish the responsible members of the staff and the Commissioners to have personal copies may file an additional 7 copies. The distribution of such copies shall be as follows:

<table>
<thead>
<tr>
<th>Distribution</th>
<th>Copies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioners</td>
<td>5</td>
</tr>
<tr>
<td>Secretary</td>
<td>2</td>
</tr>
<tr>
<td>Bureau</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
</tr>
</tbody>
</table>

(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.

§ 1.420 Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments.

(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
§ 1.420

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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 an FM station to another class of channel or of a UHF TV station to a VHF channel in the same community in the course of the rule making proceeding to amend §73.202(b), §73.504(a) or §73.606(b) 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, or

(3) With respect to FM, the modification of license or permit would occur on a mutually exclusive higher class adjacent or co-channel.

NOTE 1 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.

NOTE 2 TO PARAGRAPH (g): 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.

(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.


§ 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.

(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.

§ 1.429 Petition for reconsideration.

(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 which have not previously been presented to the Commission will be granted only under the following circumstances:

(1) The facts relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present them to the Commission;
§ 1.429

(2) The facts 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 in question prior to such opportunity; or

(3) The Commission determines that consideration of the facts 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, D.C. 20554. 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 the petition. Its order will contain a concise statement of the reasons for the action taken. Any order disposing of 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.

(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).


Federal Communications Commission

§ 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.

§ 1.542 Application for temporary authorization.

§ 1.545 Agreements between parties for amendment or dismissal of, or failure to prosecute, broadcast applications.

§ 1.546 Records to be maintained locally for public inspection by commercial applicants, permittees and licensees.

§ 1.547 Records to be maintained locally for public inspection by non-commercial educational applicants, permittees and licensees.

§ 1.548 Records to be maintained locally for public inspection by non-commercial educational applicants, permittees and licensees.

§ 1.549 Application for license to cover construction permit.

§ 1.550 Application for modification of license.

§ 1.551 Application for renewal of license.

§ 1.552 Application for voluntary assignment or transfer of control.

§ 1.553 Application for involuntary assignment of license or transfer of control.

§ 1.554 Application for temporary authorization.

INQUIRIES

Subpart D—Broadcast Applications and Proceedings

SOURCE: 44 FR 38483, July 2, 1979, unless otherwise noted.

§ 1.502 Emergency Broadcast Authorizations.

See § 73.913.

GENERAL FILING REQUIREMENTS

§ 1.511 Applications required.

See § 73.3511.

§ 1.512 Where to file; number of copies.

See § 73.3512.

§ 1.513 Who may sign applications.

See § 73.3513.

§ 1.514 Content of applications.

See § 73.3514.

§ 1.516 Specification of facilities.

See § 73.3516.

§ 1.517 Contingent applications.

See § 73.3517.

§ 1.518 Inconsistent or conflicting applications.

See § 73.3518.

§ 1.519 Repetitious applications.

See § 73.3519.

§ 1.520 Multiple applications.

See § 73.3520.

§ 1.522 Amendment of applications.

See § 73.3522.
§ 1.543 Application for renewal or modification of special service authorization. See § 73.3543.

§ 1.544 Application for broadcast station to conduct field strength measurements and for experimental operation. See §§ 73.157 and 73.1510.

§ 1.545 Application for permit to deliver programs to foreign countries. See § 73.3545.

§ 1.546 Application to determine operating power by direct measurement of antenna power. See § 73.45.

§ 1.549 Requests for extension of authority to operate without required monitors, indicating instruments, and EBS Attention Signal devices. See § 73.3549.

§ 1.550 Requests for new or modified call sign assignments. See § 73.3550.

§ 1.561 Staff consideration of applications which receive action by the Commission. See § 73.3561.

§ 1.562 Staff consideration of applications which do not require action by the Commission. See § 73.3562.

§ 1.564 Acceptance of applications. See § 73.3564.

§ 1.566 Defective applications. See § 73.3566.

§ 1.568 Dismissal of applications. See § 73.3568.

§ 1.570 AM broadcast station applications involving other North American countries. See § 73.3570.

§ 1.571 Processing AM broadcast station applications. See § 73.3571.

§ 1.572 Processing TV broadcast and translator station applications. See § 73.3572.

§ 1.573 Processing FM broadcast and translator station applications. See § 73.3573.

§ 1.574 Processing of international broadcast station applications. See § 73.3574.

§ 1.578 Amendments to applications for renewal, assignment or transfer of control. See § 73.3578.

§ 1.580 Local public notice of filing of broadcast applications. See § 73.3580.

§ 1.584 Petitions to deny. See § 73.3584.

§ 1.587 Procedure for filing informal applications. See § 73.3587.

§ 1.591 Grants without hearing. See § 73.3591.

§ 1.592 Conditional grant. See § 73.3592.

§ 1.593 Designation for hearing. See § 73.3593.

§ 1.594 Local public notice of designation for hearing. See § 73.3594.

§ 1.597 Procedures on transfer and assignment applications. See § 73.3597.

§ 1.598 Period of construction. See § 73.3598.

§ 1.599 Forfeiture of construction permit. See § 73.3599.

§ 1.601 Simultaneous modification and renewal of license. See § 73.3601.

§ 1.603 Special waiver procedure relative to applications. See § 73.3603.
§ 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.

§ 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 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.


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.

§ 1.717 Procedure.

The Commission will forward informal complaints to the appropriate carrier for investigation. The carrier will,
§ 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
§ 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
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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) Its physical location; and

(C) 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 § 1.1105(1)(c) or (d), 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.
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(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.
§ 1.722

(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)(i) 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.”

§ 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
§ 1.723 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 Joiner 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 11833, 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 firsthand knowledge of the facts alleged with particularity in the answer, along with a description of the facts within any such individual’s knowledge;
§ 1.724

(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(1)(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
§ 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.

§ 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 firsthand 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
§ 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.
§ 1.728 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).

§ 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.

§ 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;

(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. 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 §1.728(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:

1. Appears likely to have an influence on, or affect the outcome of, a claim or defense;
2. 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;
3. Is something that competent counsel would consider reasonably necessary to prepare, evaluate or try a claim or defense; or
4. 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
§ 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 shall then provide the appropriate expert statement at the initial status conference.

(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 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, non-exclusive 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, 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. Minitrals 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.
§ 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.

§ 1.731 Confidentiality of information produced or exchanged by the parties.

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.

[61 FR 60725, Nov. 8, 1999, as amended at 64 FR 60725, Nov. 8, 1999]
§ 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(c)(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 expedient 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).

§ 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

(b)(2) 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 relating 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).)


§ 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
§ 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 I, subpart G (see §1.1105(1)(c) and (d)) 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 I, subpart G (see §1.1105(1)(c) and (d)), 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 \(\S\)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 on the following business day.

\(\S\)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 \(\S\)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.

\[63 FR 1041, Jan. 7, 1998\]

\(\S\)1.741 Scope.

The general rules relating to applications contained in \(\S\)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.

\[61 FR 26670, May 28, 1996\]

\(\S\)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, D.C. 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
§ 1.743 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 of a 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.


§ 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
§ 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.


§ 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
§ 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.

(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.


§ 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 duplicate and 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 office 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 these 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.
§ 1.767  

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.

(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)(6) 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 shall 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 may be by letter and 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.

(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 a 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 Secretary, Federal Communications Commission, Washington, DC 20554, with a copy to the Chief, International Bureau, Federal Communications Commission, no later than thirty (30) days after the assignment or transfer of control is consummated. The notification may be in the form of a letter (in duplicate to the Secretary), and it must contain a certification that the assignment or transfer of control was pro forma, as defined in § 63.24(a) of this chapter, and, together with all previous pro forma transactions, does not result in a change of the licensee’s ultimate control. A single letter may be filed for an assignment or transfer of control of more than one license issued in the name of a 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 shall notify the Secretary, Federal Communications Commission, Washington, DC 20554, in writing, within thirty (30) days of the date the cable is placed into service, of the date the cable was 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 caption its application and any cover letter with “Application for Cable Landing License—Streamlined Processing Requested.” 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 20520-3618; Office of Chief Counsel/NTIA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW, Washington, DC 20230; and Defense Information Systems Agency, Code RGC, 701 S. Courthouse Road, Arlington, Va. 22204, 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.

(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
§ 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
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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, 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 (c) of this section, the licensee shall include the projected date of closing. In the case of a notification subject to paragraph (a) 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 159, 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 Secretary in duplicate 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. Such a request must be made prominently in a cover letter accompanying the filing.

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 1822, Jan. 14, 2002]

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 3289, Feb. 20, 1987]

§ 1.773 Petitions for suspension or rejection of new tariff filings.

(a) Petition—(1) Content. Petitions seeking investigation, suspension, or
§ 1.773

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 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.

(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 made on at least 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, FCC room TW-A225, 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 filing made 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 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.
§ 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

(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, FCC room TW-A325, 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.
§ 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.

(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, FCC, 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
§ 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 in accordance with part 43 of this chapter.

§ 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.

§ 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.

§ 1.795 Reports regarding interstate rates of return.

Carriers shall file reports regarding interstate rates of return on FCC Form
Federal Communications Commission

§ 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

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§ 1.824 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.

§ 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.


Subpart F—Wireless Telecommunications 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, 80, 87, 90, 95, 97 and 101 of this chapter.

[63 FR 68921, Dec. 14, 1998]

§ 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, 80, 87, 90, 95, 97, and 101 of Title 47, Chapter I of the Code of Federal Regulations, the rules in art I shall govern.

[63 FR 68921, Dec. 14, 1998]

§ 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 and the Air-Ground 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, except as follows: individual authorizations are required to operate general aviation airborne mobile stations in the Air-Ground Radiotelephone Service. See §22.82 of this chapter. 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]

§ 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 to select from among 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.
§ 1.911 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 Mellon 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.

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.
§ 1.913 Application forms; electronic and manual filing.

(a) Application forms. Applicants and licensees in the Wireless Radio Services shall use the following forms and associated schedules for all applications:

(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, 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(a) of this part, 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 to apply for Commission consent to assignments of existing authorizations, to apply for Commission consent to the transfer of 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 to apply for Commission consent to partial assignments of authorizations, 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.

(b) Electronic filing. Except as specified in paragraph (d) of this section or elsewhere in this chapter, all applications and other filings using FCC Forms 601 through 605 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 subparagraph is effective on (1) July 1, 1999, or (2) 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 should be uploaded along with the electronically filed application 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 (see §1.211(a) of this part) submitted with an application must be uploaded as attachments to the application 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 and 605 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

(vi) 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
\section*{§ 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) Exception for emergency filings. The Commission may grant station licenses, or 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.

(c) Application 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.

\section*{§ 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) 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 \(\text{Section } 1.931\) 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]

\(\text{Section } 1.917\) 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]

\(\text{Section } 1.919\) Ownership information.

(a) Applicants or licensees in Wireless Radio Services that are subject to the ownership reporting requirements of \(\text{Section } 1.2112(\text{a})\) of this part shall use FCC Form 602 to provide all ownership information required by this chapter.

(b) Any applicant or licensee that is subject to the ownership reporting requirements of \(\text{Section } 1.2112(\text{a})\) of this part 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:
§ 1.923 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 “81/2 x 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.

§ 1.924 Quiet zones.

Quiet zones are those areas where 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. 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 should be sent at the same time. 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.

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
§ 1.924

(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

<table>
<thead>
<tr>
<th>Frequency range</th>
<th>Field strength (mV/m)</th>
<th>Power flux density (dBW/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 540 kHz</td>
<td>10</td>
<td>-65.8</td>
</tr>
<tr>
<td>540 to 1600 kHz</td>
<td>20</td>
<td>-59.8</td>
</tr>
<tr>
<td>1.6 to 470 MHz</td>
<td>10</td>
<td>65.8</td>
</tr>
<tr>
<td>470 to 890 MHz</td>
<td>30</td>
<td>56.2</td>
</tr>
<tr>
<td>890 and above</td>
<td>1</td>
<td>85.8</td>
</tr>
</tbody>
</table>

¹Note: Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 Ω (120π Ω).

(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 Management Coordinator, Department of Commerce, Research Support Services NOAA/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497-6548, in advance of filing their applications with the FCC.

(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/m² power flux density assuming a free space characteristic impedance of 120π Ω) 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.
§ 1.924

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

(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 should be sent the same time the application is filed with the FCC, and at least 20 days in advance of the applicant’s planned operation. The application must state the date that notification in accordance with paragraph (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...
(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.

(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 within a circle with a radius of 100 kilometers (62.1 miles) that is centered on 37°56′47″ N, 75°27′37″ W (Wallops Island) or 64°58′36″ N, 147°31′03″ 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′31″ 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

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the Interference Office a period of 20 days for comments or objections in response to the application or notification.

(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 co-ordinated:

Denver, CO area: 39°43′00″ N. Lat./104°46′00″ W. Long.
Washington, DC area: 38°48′00″ N. Lat./76°32′00″ W. Long.
§ 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
§ 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.

(b) Applications 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(h)(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).


§ 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.

<table>
<thead>
<tr>
<th>MHz</th>
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<tbody>
<tr>
<td>30.56–32.00</td>
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<tr>
<td>33.00–34.00</td>
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<tr>
<td>35.00–36.00</td>
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<td>37.00–38.00</td>
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<tr>
<td>39.00–40.00</td>
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<tr>
<td>42.00–46.00</td>
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<tr>
<td>47.00–49.60</td>
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<td>50.00–55.00</td>
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<tr>
<td>57.00–63.00</td>
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<td>65.00–70.00</td>
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<tr>
<td>72.00–73.00</td>
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<tr>
<td>75.40–76.00</td>
</tr>
<tr>
<td>150.80–174.00</td>
</tr>
<tr>
<td>450–470</td>
</tr>
<tr>
<td>806.00–960.00</td>
</tr>
</tbody>
</table>
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 Transportation, 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 46 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 83 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 northermost 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 northermost point of Campbellton, N.B., thence by great circle arc through the northermost 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 69 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 69 deg. N., 139 deg. W., (Burwash Landing), thence by great circle arc to the intersection of 68 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 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
§ 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 subparagraph (a) above, 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.
In the Private Land Mobile Radio Services (PLMRS) and in GMRS systems licensed to non-individuals:

(i) Change in frequency or modification of channel pairs;
(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, 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 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 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;
(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;
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;
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;
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.

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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.
§ 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

(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, 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. Such request must be evidenced by a properly executed certification of FCC Form 601 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.
§ 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...
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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.

(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.


§ 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
Federal Communications Commission

§ 1.935

(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 an application for a new station or for any modification of services or facilities with prejudice, or revoked the license for a radio station in the Wireless Radio Services, 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) If an applicant has been afforded an opportunity for a hearing with respect to an application for a new station or an enlargement of service area, and the Commission has, after hearing or default, denied the application or dismissed it with prejudice, the Commission will not consider a like application for service of the same type to the same area by that applicant, or by its successor or assignee, or on behalf of or for the benefit of the parties in interest to the original application, until after the lapse of 12 months from the effective date of final Commission action on the original application.

(c) If an appeal has been taken from the action of the Commission denying a particular application, 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.

[83 FR 68931, Dec. 14, 1998]

§ 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 Twelfth Street, S.W., Room TW-B204, Washington, DC 20554. Manually filed petitions to deny must be filed with the Office of the Secretary, 1919 M Street, NW., Washington, DC 20554. Attachments to manually filed applications may be filed on a standard 3 1/2 “ 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
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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.


§ 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, 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 service obligations within the coverage period must notify the Commission by filing FCC Form 601. The notification must be filed with the Commission 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.
§ 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, Aircraft, Commercial Operator and Personal Radio Services (except 218–219 MHz Service) may not be assigned or transferred, unless otherwise stated.

(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.

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(§ 1.948) 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(a), 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.

(4) 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 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.


§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, if the licensee fails to meet applicable construction or coverage requirements. See §1.948(c) of this part. No authorization granted under the provisions of this part shall be for a term longer than ten years.

(2) Failure to meet construction or coverage requirements. Authorizations automatically terminate, without specific Commission action, if the licensee fails to meet applicable construction or coverage requirements. See §1.948(c) of this part.

(3) Service discontinued. Authorizations automatically terminate, without specific Commission action, if service is permanently discontinued. The
§ 1.956 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.

§ 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 successful 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]

§ 1.981 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]

§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.]

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<tr>
<th>Action</th>
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<th>Fee amount</th>
<th>Payment type code</th>
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<td>a. New; Renewal</td>
<td>503 &amp; 159</td>
<td>$95.00</td>
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<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>b. Modification; Public Coast GMRS; Non-Profit.</td>
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<td>c. Assignment of Authorization.</td>
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<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>d. Transfer of Control</td>
<td>703 &amp; 159</td>
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<td>PATM</td>
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<td>e. Duplicate License</td>
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<td>50.00</td>
<td>PADM</td>
<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>f. Special Temporary Authority.</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
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<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>452R &amp; 159</td>
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<td>PBMR*</td>
<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358270, Pittsburgh, PA 15251–5270.</td>
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<td>h. Renewal (Electronic Filing)</td>
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§ 1.1102

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| r. Rule Waiver (Electronic Fil-
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| 6. Land Mobile, PMRS: |
| a. New or Renew/Mod (Frequencies below 470 MHz (except 220 MHz)). |
| b. New or Renew/Mod (Frequencies below 470 MHz (except 220 MHz)) (Electronic Filing). |
| c. New or Renew/Mod (Frequencies 470 MHz and above and 220 MHz Local) (Electronic Filing). |
| d. New or Renew/Mod (Frequencies 470 MHz and above and 220 MHz Local) (Electronic Filing). |
| e. New or Renew/Mod (220 MHz Nationwide). |
| f. New or Renew/Mod (220 MHz Nationwide) (Electronic Filing). |
| g. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS. |
| h. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS (Electronic Filing). |
| i. Renewal .......................... |
| j. Renewal (Electronic Filing) |
| k. Renewal (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety). |
| l. Renewal (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety (Electronic Filing). |
| m. Assignment of Authoriza-
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7. 218–219 MHz (previously IVDS):

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<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>PAIM</td>
<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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8. General Mobile Radio (GMRS):

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§ 1.1102

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<td>9. Restricted Radiotelephone:</td>
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<td>a. New (Lifetime Permit)</td>
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<td>New—Limited Use</td>
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<td>10. Commercial Radio Operator:</td>
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<td>11. Hearing</td>
<td>Corres &amp; 159</td>
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<td>PFHM</td>
<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
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<td>12. Common Carrier Microwave (Pt. To Pt. &amp; Local TV Trans):</td>
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<td>a. New; Renew/Mod (Electronic Filing Required)</td>
<td>601 &amp; 159</td>
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<td>CJPR*</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>b. Modification: Consolidate Call Signs (Electronic Filing Required)</td>
<td>601 &amp; 159</td>
<td>210.00</td>
<td>CJPM</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>c. Renewal (Electronic Filing Required)</td>
<td>601 &amp; 159</td>
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<td>CJPR*</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>d. Assignment of Authorization; Transfer of Control</td>
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<td>75.00</td>
<td>CCPM</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>Additional Stations (Electronic Filing Required)</td>
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<td>Federal Communications Commission, Wireless Bureau ETL, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>f. Extension of Construction Authority (Electronic Filing Required)</td>
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<td>75.00</td>
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<td>Federal Communications Commission, Wireless Bureau ETL, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>g. Special Temporary Authority</td>
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<td>h. Special Temporary Authority (Electronic Filing)</td>
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<td>95.00</td>
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13. Common Carrier Microwave (DEMS):

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<td>b. Modification; Consolidate Call Signs (Electronic Filing Required)</td>
<td>601 &amp; 159</td>
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<td>Federal Communications Commission, Wireless Bureau ETL, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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14. Broadcast Auxiliary (Aural and TV Microwave):

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<td>601 &amp; 159</td>
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<td>MEA</td>
<td>Federal Communications Commission, Wireless Bureau ETL, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>Federal Communications Commission, Wireless Bureau ETL, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245</td>
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15. Broadcast Auxiliary (Remote and Low Power):

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<td>MGA</td>
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<td>16. Pt 22 Paging &amp; Radiotelephone:</td>
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<td>a. New; Major Mod; Additional Facility; Major Amendment; Major Renewal/Mod; Fill in Transmitter (Per transmitter) (Electronic filing required)</td>
<td>601 &amp; 159</td>
<td>310.00</td>
<td>CMD</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5185.</td>
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<td>b. Minor Mod; Renewal; Minor Renewal/Mod; (Per Call Sign) 900 MHz Nationwide Renewal New Organ; New Operator (Per Operator/Per City) Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic filing required)</td>
<td>601 &amp; 159</td>
<td>50.00</td>
<td>CAD</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5185.</td>
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<td>c. Auxiliary Test (Per Transmitter); Consolidate Calls (Per Call Sign) (Electronic Filing Required)</td>
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<td>CLD</td>
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<td>d. Special Temporary Authority (Per Location/Per Frequency)</td>
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<td>f. Assignment of License or Transfer of Control (Full or Partial) (Per Call Sign); Additional Call Signs (Per Call Sign) (Electronic Filing Required)</td>
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<td>17. Cellular:</td>
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<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>b. Minor Modification; Minor Renewal/Mod (Electronic Filing Required)</td>
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<td>310.00</td>
<td>CMC</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
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<td>18. Rural Radio:</td>
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<td>a. New; Major Renew/Mod; Additional Facility (Per Transmitter)</td>
<td>601 &amp; 159</td>
<td>145.00</td>
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<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994,</td>
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<td>b. Major Mod; Major Amendment (Per Transmitter) (Electronic Filing</td>
<td>601 &amp; 159</td>
<td>145.00</td>
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<td>c. Minor Modification; (Per Transmitter) (Electronic Filing Required)</td>
<td>601 &amp; 159</td>
<td>50.00</td>
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<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994,</td>
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<td>Pittsburgh, PA 15251–5994.</td>
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<td>d. Assignment of License or Transfer of Control (Full or Partial)</td>
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<td>$145.00</td>
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<td>(Per Call Sign)</td>
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<td>Additional Calls (Per Call Sign) (Electronic Filing Required).</td>
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<td>e. Renewal (Per Call Sign); Minor Renew/Mod (Per Transmitter)</td>
<td>601 &amp; 159</td>
<td>50.00</td>
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<td>f. Notice of Completion of Construction or Extension of Time to</td>
<td>601 &amp; 159</td>
<td>50.00</td>
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<td>g. Special Temporary Authority (Per Transmitter).</td>
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<td>358130, Pittsburgh, PA 15251–5130.</td>
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<td>h. Special Temporary Authority (Per Transmitter)</td>
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<td>CLRM</td>
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<td>Pittsburgh, PA 15251–5994.</td>
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<td>i. Combining Call Signs (Per Call Sign) (Electronic Filing Required)</td>
<td>601 &amp; 159</td>
<td>270.00</td>
<td>CLRM</td>
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<td>j. Auxiliary Test Station (Per Transmitter) (Electronic Filing</td>
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<td>270.00</td>
<td>CLRM</td>
<td>Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994,</td>
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<td>19. Offshore Radio:</td>
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<td>a. New; Major Mod; Additional Facility; Major Amendment; Major</td>
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<td>Renew Mod; Fill in Transmitters (Per Transmitter) (Electronic Filing</td>
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<td>b. Consolidate Call Signs (Per Call Sign); Auxiliary Test (Per</td>
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<td>270.00</td>
<td>CLF</td>
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249
§ 1.1103 Schedule of charges for equipment approval, experimental radio services, and international telecommunications settlements.

<table>
<thead>
<tr>
<th>Action</th>
<th>FCC Form No.</th>
<th>Fee amount</th>
<th>Payment type code</th>
<th>Address</th>
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<tr>
<td>b. Devices Under Parts 11, 15 &amp; 18 (except TV and FM): Electronic 731 &amp; Electronic or Paper 159.</td>
<td></td>
<td>985.00</td>
<td>EGC</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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<td>c. All Other Devices: Electronic 731 &amp; Electronic or Paper 159.</td>
<td></td>
<td>495.00</td>
<td>EFT</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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<td>d. Modifications and Class II Permissive Changes: Electronic 731 &amp; Electronic or Paper 159.</td>
<td></td>
<td>50.00</td>
<td>EAC</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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<td>e. Request for Confidentiality: Electronic 731 &amp; Electronic or Paper 159.</td>
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<td>145.00</td>
<td>EBC</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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<tr>
<td>f. Class III permissive changes: Electronic 731 &amp; Electronic or Paper 159.</td>
<td></td>
<td>495</td>
<td>ECC</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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<tr>
<td>2. Advance Approval of Subscription TV Systems. Electronic Corres &amp; Electronic or Paper 159.</td>
<td></td>
<td>3,010.00</td>
<td>EIS</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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<tr>
<td>a. Request for Confidentiality: Electronic Corres &amp; Electronic or Paper 159.</td>
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<td>145.00</td>
<td>EBS</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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<td>3. Assignment of Grantee Code: a. New Applicants for all Application Types, except Subscription TV. Electronic Corres &amp; Electronic or Paper 159.</td>
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<td>50.00</td>
<td>EAG</td>
<td>Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.</td>
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(65 FR 49742, Aug. 15, 2000)
<table>
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<th>Payment type code</th>
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<tr>
<td>4. Experimental Radio Service:</td>
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<tr>
<td>a. New Station Authorization</td>
<td>442 &amp; 159</td>
<td>50.00</td>
<td>EAE</td>
<td>Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.</td>
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<tr>
<td>b. Modification of Authorization.</td>
<td>442 &amp; 159</td>
<td>50.00</td>
<td>EAE</td>
<td>Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.</td>
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<tr>
<td>c. Renewal of Station Authorization.</td>
<td>442 &amp; 159</td>
<td>50.00</td>
<td>EAE</td>
<td>Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.</td>
</tr>
<tr>
<td>d. Assignment of Transfer of Control.</td>
<td>702 &amp; 159 or 703 &amp; 159</td>
<td>50.00</td>
<td>EAE</td>
<td>Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.</td>
</tr>
<tr>
<td>e. Special Temporary Authority Requirements.</td>
<td>Corres &amp; 159</td>
<td>50.00</td>
<td>EAE</td>
<td>Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.</td>
</tr>
<tr>
<td>f. Additional fee required for any of the above applications that request withholding from public inspection.</td>
<td>Corres &amp; 159</td>
<td>50.00</td>
<td>EAE</td>
<td>Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.</td>
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</tbody>
</table>

§ 1.1104 Schedule of charges for applications and other filings for the Mass Media Services.

[Those services designated with an asterisk in the Payment Type Code column accepts multiples if filing in the same post office box.]
### § 1.1104

Those services designated with an asterisk in the Payment Type Code column accepts multiples if filing in the same post office box.

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<th>Action</th>
<th>FCC Form No.</th>
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<th>Payment type code</th>
<th>Address</th>
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<tr>
<td>h. Hearing (New and Major/Minor Change Comparative Construction Permit Hearings)</td>
<td>Corres &amp; 159</td>
<td>9,020.00</td>
<td>MWT</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358170, Pittsburgh, PA 15251–5170.</td>
</tr>
<tr>
<td>i. Call Sign</td>
<td>380 &amp; 159</td>
<td>75.00</td>
<td>MBT</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.</td>
</tr>
<tr>
<td>j. Special Temporary Authority</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGT</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.</td>
</tr>
<tr>
<td>k. Petition for Rulemaking for New Community of License</td>
<td>301 &amp; 159 or 302–TV &amp; 159</td>
<td>2,090.00</td>
<td>MRT</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.</td>
</tr>
<tr>
<td>l. Ownership Report</td>
<td>323 &amp; 159 or Corres &amp; 159</td>
<td>50.00</td>
<td>MAT</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358180, Pittsburgh, PA 15251–5180.</td>
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<tr>
<td>2. Commercial AM Radio Stations:</td>
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<tr>
<td>a. New or Major Change Construction Permit</td>
<td>301 &amp; 159</td>
<td>3,010.00</td>
<td>MUR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
</tr>
<tr>
<td>b. Minor Change</td>
<td>301 &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
</tr>
<tr>
<td>c. Main Studio Request</td>
<td>Corres &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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<tr>
<td>d. New License</td>
<td>302–AM &amp; 159</td>
<td>495.00</td>
<td>MMR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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<tr>
<td>e. AM Directional Antenna</td>
<td>302–AM &amp; 159</td>
<td>570.00</td>
<td>MOR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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<tr>
<td>f. AM Remote Control</td>
<td>301 &amp; 159</td>
<td>50.00</td>
<td>MAR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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<tr>
<td>g. License Renewal</td>
<td>303–S &amp; 159</td>
<td>135.00</td>
<td>MGR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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<td>h. License Assignment:</td>
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<td>(1) Long Form</td>
<td>314 &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
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<td>(2) Short Form</td>
<td>316 &amp; 159</td>
<td>110.00</td>
<td>MDR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
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<td>i. Transfer of Control:</td>
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<td>(1) Long Form</td>
<td>315 &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
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<td>(2) Short Form</td>
<td>316 &amp; 159</td>
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<td>MDR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
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<td>j. Hearing (New or Major/Minor Change, Comparative Construction Permit)</td>
<td>Corres &amp; 159</td>
<td>9,020.00</td>
<td>MW</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358170, Pittsburgh, PA 15251–5170.</td>
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<td>k. Call Sign</td>
<td>380 &amp; 159</td>
<td>75.00</td>
<td>MBR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.</td>
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<tr>
<td>l. Special Temporary Authority</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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<tr>
<td>m. Ownership Report</td>
<td>323 &amp; 159 or Corres &amp; 159</td>
<td>50.00</td>
<td>MAR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358180, Pittsburgh, PA 15251–5180.</td>
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<td>3. Commercial FM Radio Station:</td>
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<td>a. New or Major Change Construction Permit</td>
<td>301 &amp; 159</td>
<td>2,710.00</td>
<td>MTR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5190.</td>
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### Federal Communications Commission

#### § 1.1104

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<td>b. Minor Change</td>
<td>301 &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.</td>
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<tr>
<td>c. Main Studio Request</td>
<td>Corres &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.</td>
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<td>d. New License</td>
<td>302–FM &amp; 159</td>
<td>155.00</td>
<td>MHR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.</td>
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<tr>
<td>e. FM Directional Antenna</td>
<td>302–FM &amp; 159</td>
<td>475.00</td>
<td>MLR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.</td>
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<td>f. License Renewal</td>
<td>303–S &amp; 159</td>
<td>135.00</td>
<td>MGR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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<td>g. License Assignment:</td>
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<td>(1) Long Form</td>
<td>314 &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
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<td>(2) Short Form</td>
<td>316 &amp; 159</td>
<td>110.00</td>
<td>MDR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
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<tr>
<td>h. Transfer of Control:</td>
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<tr>
<td>(1) Long Form</td>
<td>315 &amp; 159</td>
<td>755.00</td>
<td>MPR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
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<td>(2) Short Form</td>
<td>316 &amp; 159</td>
<td>110.00</td>
<td>MDR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
</tr>
<tr>
<td>i. Hearing (New and Major/ Minor Change Comparative Construction Permit Hearings)</td>
<td>Corres &amp; 159</td>
<td>9,020.00</td>
<td>MWR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358170, Pittsburgh, PA 15251–5170.</td>
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<tr>
<td>j. Call Sign</td>
<td>380 &amp; 159</td>
<td>75.00</td>
<td>MBR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.</td>
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<tr>
<td>k. Special Temporary Author-</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.</td>
</tr>
<tr>
<td>l. Petition for Rulemaking for For New Community of License or Higher Class Channel</td>
<td>301 &amp; 159 or 302–FM &amp; 159</td>
<td>2,090.00</td>
<td>MRR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.</td>
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<tr>
<td>m. Ownership Report</td>
<td>323 &amp; 159 or Corres &amp; 159</td>
<td>50.00</td>
<td>MFR</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.</td>
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#### 4. FM Translators:

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<th>Action</th>
<th>FCC Form No.</th>
<th>Fee amount</th>
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<th>Address</th>
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<td>570.00</td>
<td>MOF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.</td>
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<td>tion Permit</td>
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<tr>
<td>b. New License</td>
<td>350 &amp; 159</td>
<td>115.00</td>
<td>MEF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.</td>
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<tr>
<td>c. License Renewal</td>
<td>303–S &amp; 159</td>
<td>50.00</td>
<td>MAF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5195.</td>
</tr>
<tr>
<td>d. Special Temporary Author-</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.</td>
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<tr>
<td>E. License Assignment</td>
<td>345 &amp; 159 or 314 &amp; 159 or 315 &amp; 159 or 316 &amp; 159</td>
<td>110.00</td>
<td>MDF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
</tr>
<tr>
<td>f. Transfer of Control</td>
<td>345 &amp; 159 or 315 &amp; 159 or 316 &amp; 159</td>
<td>110.00</td>
<td>MDF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
</tr>
</tbody>
</table>
### § 1.1104

[Those services designated with an asterisk in the Payment Type Code column accepts multiples if filing in the same post office box.]

<table>
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<tr>
<th>Action</th>
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<th>Fee amount</th>
<th>Payment type code</th>
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<tbody>
<tr>
<td>5. TV Translators and LPTV Stations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. New or Major Change Construction Permit.</td>
<td>346 &amp; 159</td>
<td>570.00</td>
<td>MOL</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.</td>
</tr>
<tr>
<td>b. New License</td>
<td>347 &amp; 159</td>
<td>115.00</td>
<td>MEL</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.</td>
</tr>
<tr>
<td>c. License Renewal</td>
<td>303–S &amp; 159</td>
<td>50.00</td>
<td>MAL*</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.</td>
</tr>
<tr>
<td>d. Special Temporary Authority.</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGL</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.</td>
</tr>
<tr>
<td>e. License Assignment</td>
<td>345 &amp; 159 or 314 &amp; 159 or 316 &amp; 159</td>
<td>110.00</td>
<td>MDL*</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
</tr>
<tr>
<td>f. Transfer of Control</td>
<td>345 &amp; 159 or 315 &amp; 159 or 316 &amp; 159</td>
<td>110.00</td>
<td>MDL*</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.</td>
</tr>
<tr>
<td>6. FM Booster Stations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. New or Major Change Construction Permit.</td>
<td>349 &amp; 159</td>
<td>570.00</td>
<td>MOF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.</td>
</tr>
<tr>
<td>b. New License</td>
<td>350 &amp; 159</td>
<td>115.00</td>
<td>MEF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.</td>
</tr>
<tr>
<td>c. Special Temporary Authority.</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.</td>
</tr>
<tr>
<td>7. TV Booster Stations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. New or Major Change Construction Permit.</td>
<td>346 &amp; 159</td>
<td>570.00</td>
<td>MOF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.</td>
</tr>
<tr>
<td>b. New License</td>
<td>347 &amp; 159</td>
<td>115.00</td>
<td>MEF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.</td>
</tr>
<tr>
<td>c. Special Temporary Authority.</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGF</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.</td>
</tr>
<tr>
<td>8. Multipoint Distribution Service (Including Multichannel MDS)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Conditional License (Per Station).</td>
<td>304 &amp; 159 or 331 &amp; 159</td>
<td>210.00</td>
<td>CJM</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>b. Major Modifications of Conditional Licenses or License Authorization (Per Station).</td>
<td>304 &amp; 159 or 331 &amp; 159</td>
<td>210.00</td>
<td>CJM</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>c. Certificate of Completion of Construction (Per Channel).</td>
<td>304–A &amp; 159</td>
<td>610.0</td>
<td>CPM*</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>d. License Renewal (Per Station).</td>
<td>405 &amp; 159</td>
<td>210.00</td>
<td>CJM</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>e. Assignment or Transfer:</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>(1) First Station on Application.</td>
<td>702 &amp; 159 or 704 &amp; 159</td>
<td>75.00</td>
<td>CCM</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>(2) Each Additional Station.</td>
<td>702 &amp; 159 or 704 &amp; 159</td>
<td>50.00</td>
<td>CAM*</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>f. Extension of Construction Authorization.</td>
<td>701 &amp; 159</td>
<td>175.00</td>
<td>CHM</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
</tbody>
</table>
§ 1.1105 Schedule of charges for applications and other filings in the common carrier services.

<table>
<thead>
<tr>
<th>Action</th>
<th>FCC Form No.</th>
<th>Fee amount</th>
<th>Payment code</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization.</td>
<td>Corres &amp; 159</td>
<td>95.00</td>
<td>CEM</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>h. Signal Booster:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Application ..........</td>
<td>304 &amp; 159 or 331 &amp; 159.</td>
<td>70.00</td>
<td>CSB</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
<tr>
<td>(2) Certification of Completion of Construction.</td>
<td>304–A &amp; 159</td>
<td>70.00</td>
<td>CCB</td>
<td>Federal Communications Commission, Mass Media Services, P.O. Box 358155, Pittsburgh, PA 15251–5155.</td>
</tr>
</tbody>
</table>

[65 FR 49752, Aug. 15, 2000]
§ 1.1106

Schedule of charges for applications and other filings in the cable services.

<table>
<thead>
<tr>
<th>Action</th>
<th>FCC Form No.</th>
<th>Fee amount</th>
<th>Payment type code</th>
<th>Address</th>
</tr>
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<tbody>
<tr>
<td>d. Petition for Waiver (per petition Waiver of Part 69 Accounting Rules &amp; Part 32 Accounting Rules, Part 36 Separation Rules, Part 43 Reporting Requirements Part 64 Allocation of Costs Rules Part 65 Rate of Return &amp; Rate Base Rules)</td>
<td>Corres &amp; 159</td>
<td>6,220.00</td>
<td>BEA</td>
<td>Federal Communications Commission, Accounting and Audits, P.O. Box 358140, Pittsburgh, PA 15251–5140.</td>
</tr>
<tr>
<td>e. Development and Review of Agreed-upon-Procedures Engagement Audit</td>
<td>Corres &amp; 159</td>
<td>45,355.00</td>
<td>BLA</td>
<td>Federal Communications Commission, Accounting and Audits, P.O. Box 358140 Pittsburgh, PA 15251–5140.</td>
</tr>
</tbody>
</table>

§ 1.1106

Schedule of charges for applications and other filings in the cable services.

<table>
<thead>
<tr>
<th>Action</th>
<th>FCC Form No.</th>
<th>Fee amount</th>
<th>Payment type code</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cable Television Services:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. CARS Construction Permit</td>
<td>327 &amp; 159</td>
<td>$210.00</td>
<td>TIC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>b. CARS Modification</td>
<td>327 &amp; 159</td>
<td>210.00</td>
<td>TIC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>c. CARS License Renewal</td>
<td>327 &amp; 159</td>
<td>210.00</td>
<td>TIC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>d. CARS License Agreement</td>
<td>327 &amp; 159</td>
<td>210.00</td>
<td>TIC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>e. CARS Transfer of Control</td>
<td>327 &amp; 159</td>
<td>210.00</td>
<td>TIC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>f. Special Temporary Authorization</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>TGC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>g. Cable Special Relief Petition</td>
<td>Corres &amp; 159</td>
<td>1,055.00</td>
<td>TQC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>h. §76.1801 Registration Statement 19</td>
<td>Corres &amp; 159</td>
<td>50.00</td>
<td>TAC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>i. Aeronautical Frequency Usage Notification 20</td>
<td>Corres &amp; 159</td>
<td>50.00</td>
<td>TAC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
<tr>
<td>j. Pole Attachment Complaint</td>
<td>Corres &amp; 159</td>
<td>205.00</td>
<td>TPC</td>
<td>Federal Communications Commission, Cable Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.</td>
</tr>
</tbody>
</table>
§ 1.1107 Schedule of charges for applications and other filings in the international services.

<table>
<thead>
<tr>
<th>Action Description</th>
<th>FCC form No.</th>
<th>Fee amount</th>
<th>Payment type code</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. International Fixed Public Radio: (Public &amp; Control Station)</td>
<td></td>
<td></td>
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<tr>
<td>a. Initial Construction Permit (per station).</td>
<td>407 &amp; 159</td>
<td>$685.00</td>
<td>CSN</td>
<td>Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>b. Assignment or Transfer (per Application).</td>
<td>702 &amp; 159 or 704 &amp; 159</td>
<td>$685.00</td>
<td>CSN</td>
<td>Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>c. Renewal (per license) ...</td>
<td>405 &amp; 159</td>
<td>495.00</td>
<td>CON</td>
<td>Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>d. Modification (per station) ...</td>
<td>403 &amp; 159</td>
<td>495.00</td>
<td>CON</td>
<td>Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>e. Extension of Construction Authorization (per station).</td>
<td>701 &amp; 159</td>
<td>250.00</td>
<td>CKN</td>
<td>Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>f. Special Temporary Authority or request for Waiver (per request).</td>
<td>Corres &amp; 159</td>
<td>250.00</td>
<td>CKN</td>
<td>Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>2. Section 214 Applications:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Overseas Cable Construction.</td>
<td>Corres &amp; 159</td>
<td>12,175.00</td>
<td>BIT</td>
<td>Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251-5115.</td>
</tr>
<tr>
<td>b. Cable Landing License:</td>
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<tr>
<td>(1) Common Carrier ....</td>
<td>Corres &amp; 159</td>
<td>1,370.00</td>
<td>CXT</td>
<td>Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251-5115.</td>
</tr>
<tr>
<td>(2) Non-Common Carrier</td>
<td>Corres &amp; 159</td>
<td>13,540.00</td>
<td>BUT</td>
<td>Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251-5115.</td>
</tr>
<tr>
<td>c. All Other International 214 Applications.</td>
<td>Corres &amp; 159</td>
<td>815.00</td>
<td>CUT</td>
<td>Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251-5115.</td>
</tr>
<tr>
<td>d. Special Temporary Authority (all services).</td>
<td>Corres &amp; 159</td>
<td>815.00</td>
<td>CUT</td>
<td>Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251-5115.</td>
</tr>
<tr>
<td>e. Assignments or Transfers (all services).</td>
<td>Corres &amp; 159</td>
<td>815.00</td>
<td>CUT</td>
<td>Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251-5115.</td>
</tr>
<tr>
<td>3. Fixed Satellite Transmit/Receive Earth Stations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Initial Application (per station).</td>
<td>312 &amp; Sched-2-ule B &amp; 159</td>
<td>2,035.00</td>
<td>BAX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>b. Modification of License (per station).</td>
<td>312 &amp; Sched-2-ule B &amp; 159</td>
<td>145.00</td>
<td>CGX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>c. Assignment or Transfer:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) First Station __________</td>
<td>312 &amp; Sched-2-ule A &amp; 159</td>
<td>405.00</td>
<td>CNX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>(2) Each Additional Station.</td>
<td>Attachment to 312 Sched-2-ule A &amp; 159</td>
<td>135.00</td>
<td>CFX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>d. Renewal of License (per station ).</td>
<td>405 &amp; 159</td>
<td>145.00</td>
<td>CGX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).</td>
<td>Corres &amp; 159</td>
<td>145.00</td>
<td>CGX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>f. Amendment of Pending Application (per station).</td>
<td>312 &amp; Sched-2-ule A or B &amp; 159</td>
<td>145.00</td>
<td>CGX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Action</th>
<th>FCC form No.</th>
<th>Fee amount</th>
<th>Payment type code</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>g. Extension of Construction Permit (per station).</td>
<td>701 &amp; 159</td>
<td>145.00</td>
<td>CGX</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>4. Fixed Satellite transmit/Receive Earth Stations, (2 meters or less operating in the 4/6 GHz frequency band):</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Routine Application (per station).</td>
<td>312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>50.00</td>
<td>CAS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>d. Assignment or Transfer:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) First Station ________</td>
<td>312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>405.00</td>
<td>CNS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>(2) Each Additional Station.</td>
<td>Attachment to 312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>50.00</td>
<td>CAS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>e. Renewal of License (per station).</td>
<td>405 &amp; 159</td>
<td>145.00</td>
<td>CGS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).</td>
<td>Corres &amp; 159</td>
<td>145.00</td>
<td>CGS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>g. Amendment of Pending Application (per station).</td>
<td>312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>145.00</td>
<td>CGS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>h. Extension of Construction Permit (per station).</td>
<td>701 &amp; 159</td>
<td>145.00</td>
<td>CGS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>5. Receive Only Earth Stations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Initial Applications for Registration or License (per station).</td>
<td>312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>310.00</td>
<td>CMO</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>b. Modification of License or Registration (per station).</td>
<td>312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>145.00</td>
<td>CMO</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>c. Assignment or Transfer:</td>
<td>(1) First Station ________</td>
<td>312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>405.00</td>
<td>CNS</td>
</tr>
<tr>
<td>(2) Each Additional Station.</td>
<td>Attachment to 312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>135.00</td>
<td>CMO</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>d. Renewal of License (per station).</td>
<td>405 &amp; 159</td>
<td>145.00</td>
<td>CMO</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>e. Amendment of Pending Application (per station).</td>
<td>312 &amp; Sched. A &amp; B &amp; 159.</td>
<td>145.00</td>
<td>CMO</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>f. Extension of Construction Permit Application (per station).</td>
<td>701 &amp; 159</td>
<td>145.00</td>
<td>CMO</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
</tr>
<tr>
<td>g. Waivers (per request) .....</td>
<td>Corres &amp; 159</td>
<td>145.00</td>
<td>CMO</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
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<tr>
<td>6. Fixed Satellite Very Small Aperture Terminal (AVSAT) System:</td>
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</table>
Federal Communications Commission  § 1.1107

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<th>Action</th>
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<th>Fee amount</th>
<th>Payment type code</th>
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<tr>
<td>b. Modification of License (per station).</td>
<td>312 &amp; Sched.-ule B &amp; 159.</td>
<td>145.00</td>
<td>CGV</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>c. Assignment or Transfer of System.</td>
<td>312 &amp; Sched.-ule A &amp; 159.</td>
<td>2,010.00</td>
<td>CZS</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>d. Renewal of License (per system).</td>
<td>405 &amp; 159 ...</td>
<td>145.00</td>
<td>CGV</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).</td>
<td>Corres &amp; 159</td>
<td>145.00</td>
<td>CGV</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>f. Amendment of Pending Application (per system).</td>
<td>312 &amp; Sched. A or B &amp; 159.</td>
<td>145.00</td>
<td>CGV</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>g. Extension of Construction Permit (per system).</td>
<td>701 &amp; 159 ...</td>
<td>145.00</td>
<td>CGV</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>7. Mobile Satellite Earth Stations:</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>a. Initial Application of Blanket Authorization.</td>
<td>312 &amp; Sched.-ule B &amp; 159.</td>
<td>7,510.00</td>
<td>BGB</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>b. Initial Application for Individual Earth Station.</td>
<td>312 &amp; Sched.-ule B &amp; 159.</td>
<td>1,805.00</td>
<td>CYB</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
</tr>
<tr>
<td>c. Modification of License (per system).</td>
<td>312 &amp; Sched.-ule B &amp; 159.</td>
<td>145.00</td>
<td>CGB</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>d. Assignment or Transfer (per system).</td>
<td>312 &amp; Sched.-ule A &amp; 159.</td>
<td>2,010.00</td>
<td>CGB</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>e. Renewal of License (per system).</td>
<td>Corres &amp; 159</td>
<td>145.00</td>
<td>CGB</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).</td>
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<tr>
<td>g. Amendment of Pending Application (per system).</td>
<td>312 &amp; Sched. A or B &amp; 159.</td>
<td>145.00</td>
<td>CGB</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>h. Extension of Construction Permit (per system).</td>
<td>701 &amp; 159 ...</td>
<td>145.00</td>
<td>CGB</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>8. Radio Determination Satellite Earth Station:</td>
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<tr>
<td>a. Initial Application of Blanket Authorization.</td>
<td>312 &amp; Sched.-ule B &amp; 159.</td>
<td>7,510.00</td>
<td>BGH</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>b. Initial Application for Individual Earth Station.</td>
<td>312 &amp; Sched.-ule B &amp; 159.</td>
<td>1,805.00</td>
<td>CYH</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>c. Modification of License (per system).</td>
<td>312 &amp; Sched.-ule B &amp; 159.</td>
<td>145.00</td>
<td>CGH</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>d. Assignments or Transfer (per system).</td>
<td>312 &amp; Sched.-ule A &amp; 159.</td>
<td>2,010.00</td>
<td>CGH</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>e. Renewal of License (per system).</td>
<td>Corres &amp; 159</td>
<td>145.00</td>
<td>CGH</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<tr>
<td>f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).</td>
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<tr>
<td>g. Amendment of Pending Application (per system).</td>
<td>312 &amp; Sched. A or B &amp; 159.</td>
<td>145.00</td>
<td>CGH</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251-5160.</td>
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<td>Action</td>
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<tr>
<td>h. Extension of Construction Permit (per system).</td>
<td>701 &amp; 159</td>
<td>145.00</td>
<td>CGH</td>
<td>Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.</td>
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<td>9. Space Stations (GSO):</td>
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<td></td>
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<tr>
<td>a. Application for Authority to Launch &amp; Operate:</td>
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<tr>
<td>(1) Initial Application</td>
<td>312 &amp; 159</td>
<td>93,375.00</td>
<td>BNY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>(2) Replacement Satellite</td>
<td>312 &amp; 159</td>
<td>93,375.00</td>
<td>BNY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>b. Assignment or Transfer (per satellite)</td>
<td>312 &amp; Schedule A &amp; 159</td>
<td>6,670.00</td>
<td>BFY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>c. Modification</td>
<td>312 &amp; 159</td>
<td>6,670.00</td>
<td>BFY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>d. Special Temporary Authority (per request)</td>
<td>Corres &amp; 159</td>
<td>670.00</td>
<td>CRY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>e. Amendment of Pending Application (per request)</td>
<td>312 &amp; 159</td>
<td>1,335.00</td>
<td>CNY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>f. Extension of Launch Authority</td>
<td>Corres &amp; 159</td>
<td>670.00</td>
<td>CRY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<td>10. Space Stations (NGSO):</td>
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<tr>
<td>a. Application for Authority to Launch and Operate (per system of technically identical satellites)</td>
<td>312 &amp; 159</td>
<td>321,570.00</td>
<td>CLW</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<td>b. Assignment or Transfer (per request)</td>
<td>312 &amp; 159</td>
<td>9,195.00</td>
<td>CZW</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<td>c. Modification (per request)</td>
<td>312 &amp; 159</td>
<td>22,970.00</td>
<td>CGW</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<td>d. Special Temporary Authority (per request)</td>
<td>Corres &amp; 159</td>
<td>2,305.00</td>
<td>CXW</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>e. Amendment of Pending Application (per request)</td>
<td>312 &amp; 159</td>
<td>4,600.00</td>
<td>CAY</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<td>f. Extension of Launch Authority</td>
<td>Corres &amp; 159</td>
<td>2,305.00</td>
<td>CXW</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<td>11. Direct Broadcast Satellites:</td>
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<tr>
<td>a. Authorization to Construct or Major Modification (per request)</td>
<td>Corres &amp; 159</td>
<td>2,710.00</td>
<td>MTD</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>b. Construction Permit and Launch authority (per request)</td>
<td>Corres &amp; 159</td>
<td>26,295.00</td>
<td>MTD</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<td>c. License to Operate (per request)</td>
<td>Corres &amp; 159</td>
<td>755.00</td>
<td>MDC</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>d. Special Temporary Authority (per request)</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGD</td>
<td>Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.</td>
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<tr>
<td>e. Hearing (New and Major/Minor change, comparative construction permit hearings; comparative license renewal hearings)</td>
<td>Corres &amp; 159</td>
<td>9,020.00</td>
<td>MWD</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358270, Pittsburgh, PA 15251–5170.</td>
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<td>12. International Broadcast Stations:</td>
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<tr>
<td>a. New Station &amp; Facilities Change Construction Permit (per applications)</td>
<td>309 &amp; 159</td>
<td>2,275.00</td>
<td>MSN</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
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</tbody>
</table>
§ 1.1109 Payment of charges.

(a) Electronic fee payments do not require the use of a FCC Form 159, Remittance Advice. An electronic fee payment must be made on or before the day the application and appropriate processing form are filed.

(b) The schedule of fees for applications and other filings lists those applications and other filings that must be accompanied by a FCC Form 159, Remittance Advice. A separate FCC Form 159 will not be required once the information requirements of that form (payor information) is incorporated into the underlying application form.

(c) Applications and other filings that are not submitted in accordance with these instructions will be returned as unprocessable.

NOTE: 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 § 1.1118 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. 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

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<tr>
<td>b. New License (per application).</td>
<td>310 &amp; 159 ...</td>
<td>515.00</td>
<td>MNN</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
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<tr>
<td>c. License Renewal (per application).</td>
<td>311 &amp; 159 ...</td>
<td>130.00</td>
<td>MFN</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
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<tr>
<td>d. License Assignment or Transfer of Control (per station/license).</td>
<td>314 &amp; 159 or 315 &amp; 159 or 316 &amp; 159.</td>
<td>85.00</td>
<td>MCN</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
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<tr>
<td>e. Frequency Assignment &amp; Coordination (per frequency hour).</td>
<td>Corres &amp; 159</td>
<td>50.00</td>
<td>MAN</td>
<td>Federal Communications Commission International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
</tr>
<tr>
<td>f. Special Temporary Authorization (per application).</td>
<td>Corres &amp; 159</td>
<td>135.00</td>
<td>MGN</td>
<td>Federal Communications Commission International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
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<tr>
<td>13. Permit to Deliver Programs to Foreign Broadcast Stations (per application):</td>
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<tr>
<td>a. Commercial TV Stations .</td>
<td>308 &amp; 159 ...</td>
<td>75.00</td>
<td>MBR</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
</tr>
<tr>
<td>b. Commercial AM or FM Radio Stations.</td>
<td>308 &amp; 159 ...</td>
<td>75.00</td>
<td>MBR</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.</td>
</tr>
<tr>
<td>14. Recognized Private Operating Status (per application).</td>
<td>Corres &amp; 159</td>
<td>815.00</td>
<td>CUG</td>
<td>Federal Communications Commission, International Bureau, P.O. Box 358115, Pittsburgh, PA 15251–5115.</td>
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</tbody>
</table>
lockbox bank. Applicants should attach a copy of the Commission 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 § 1.110(b) of the rules.

NOTE: 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.

§ 1.1110 Form of payment.

(a) Fee payments should be 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 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 are not 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 payment will be announced by Public Notice. Applicants must submit a written request to the Commission for authorization to make electronic payments of a fee for applications and other filings, as follows.

(2) No electronic payment of an application fee will be accepted unless the payor has obtained the written authorization of the Commission to submit application fees electronically. It is the responsibility of the payor to ensure 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 and the fee payment.

(3) Payments by wire transfer will be accepted. Prior to making a payment by wire, the payor shall obtain the approval of the Managing Director or his designee. A completed FCC Form 159 shall be submitted to the Managing Director or his designee prior to initiating the wire transfer.

(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.
§ 1.1111 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 1.1107.

(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. 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 1.1107. Payments must be accompanied by the bill sent by the Commission. Payments must be accompanied by the bill and a FCC Form 159 to ensure proper credit.

(3) Petitions for reconsideration or applications for review of fee decisions pursuant to §1.1117(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 §1.1114 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 1.1107.

(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 lockbox 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.
§ 1.1112 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 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;
(iii) And 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 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 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 rescission 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.

(2) Not permit nunc pro tunc treatment to applicants who attempt to refile after the original deadline for the underlying submission.

(c) Where the procedures outlined in paragraphs (a) and (b) of this section would not provide a meaningful incentive to pay a fee that is due or would not be a meaningful sanction for failure to pay such a fee, in the alternative to those procedures, the Commission may, in its discretion, withhold processing and/or grant of any other application or filing made by a person or organization who has failed to make full payment of any fee due under this subpart.

(1) Before taking such action, the staff will make a written request for the fee, together with any penalties that may be due under this subpart. Such request shall inform the applicant/filer that failure to pay will result in the Commission’s withholding action on any other application or request 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, the applicant fails to pay the fee in a timely manner, the staff may terminate the processing and/or withhold a grant of any other application or filing pending or later filed by
§ 1.1113 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.

(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 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) Comparative hearings are no longer required.

(c) Applicants in the Mass 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 indicating that there is a previously filed pending application for the same vacant channel, such application 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 applicant.

§ 1.1114 General exemptions to charges.

No fee established in §§1.1102 through 1.1106 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 broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees who certify that the station will operate or does operate in accordance with §73.503 of the rules.

(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 noncommercial educational broadcast station on a noncommercial educational basis.

(e) Other applicants, permittees, or licensees providing, or proposing to
§ 1.1115 Adjustments to charges.

(a) The Schedule of Charges established by Sections 1.1102 through 1.1107 of this subpart shall be adjusted by the Commission on October 1, 1999 and every two years thereafter.

(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.

(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.
§ 1.1117 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 lockbox bank at the address for the appropriate service set forth in §§1.1102 through 1.1105.

(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. Waiver requests that do not include these materials will be dismissed in accordance with §1.1108 of

§ 1.1116 Penalty for late or insufficient payments.

(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed under §1.1108(b) 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 which 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 at the Commission. A penalty charge of 25 percent of the amount due will be added to each bill. Any Commission actions taken prior to timely payment of this bill are 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 equaling 25 percent of the amount due. Any Commission actions taken prior to timely payment of these charges are contingent and subject to rescission.

§ 1.1118 Error claims.

(a) Applications who wish to challenge a staff determination of an insufficient fee may do so in writing. These claims should be addressed to the same location as the original submission marked “Attention Financial Operations.”

(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.

§ 1.1119 Billing procedures.

(a) The fees required for the International Telecommunications Settlements (§ 1.1103 of this subpart) and Common Carrier Field Audits (§ 1.1105 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).

(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 §1.1111 of this subpart.

§ 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.

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

<table>
<thead>
<tr>
<th>Exclusive use services (per license)</th>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station &amp; SMRS) (47 CFR, Part 90):</td>
<td></td>
<td>FCC, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
</tr>
<tr>
<td>(a) New, Renew/Mod (FCC 601 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
</tr>
<tr>
<td>(b) New, Renew/Mod (Electronic Filing) (FCC 601 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358245, Pittsburgh, PA 15251–5245.</td>
</tr>
<tr>
<td>(c) Renewal Only (FCC 601 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
</tr>
<tr>
<td>(d) Renewal Only (Electronic Filing) (FCC 601 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358245, Pittsburgh, PA 15251–5245.</td>
</tr>
</tbody>
</table>

220 MHz Nationwide

<table>
<thead>
<tr>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.00</td>
<td>FCC, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
</tr>
</tbody>
</table>

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Federal Communications Commission

§ 1.1152

<table>
<thead>
<tr>
<th>Exclusive use services (per license)</th>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) New, Renew/Mod (Electronic Filing) (FCC 601 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
</tr>
<tr>
<td>(c) Renewal Only (FCC 601 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358245, Pittsburgh, PA 15251–5245.</td>
</tr>
<tr>
<td>(d) Renewal Only (Electronic Filing) (FCC 601 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Microwave (47 CFR Pt. 101) (Private):</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New, Renew/Mod (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(b) New, Renew/Mod (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(c) Renewal Only (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(d) Renewal Only (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>218–219 MHz Service:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New, Renew/Mod (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(b) New, Renew/Mod (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(c) Renewal Only (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(d) Renewal Only (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>General Mobile Radio Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New, Renew/Mod (FCC 605 &amp; 159)</td>
</tr>
<tr>
<td>(b) New, Renew/Mod (Electronic Filing) (FCC 605 &amp; 159)</td>
</tr>
<tr>
<td>(c) Renewal Only (FCC 605 &amp; 159)</td>
</tr>
<tr>
<td>(d) Renewal Only (Electronic Filing) (FCC 605 &amp; 159)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rural Radio (Part 22)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Marine Coast</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New Renewal/Mod (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(b) Renewal Only (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(c) Renewal Only (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Aviation Ground</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New, Renewal/Mod (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(b) Renewal Only (FCC 601 &amp; 159)</td>
</tr>
<tr>
<td>(c) Renewal Only (Electronic Filing) (FCC 601 &amp; 159)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Marine Ship</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New, Renewal/Mod (FCC 605 &amp; 159)</td>
</tr>
<tr>
<td>(b) New, Renewal/Mod (Electronic Filing) (FCC 605 &amp; 159)</td>
</tr>
<tr>
<td>(c) Renewal Only (FCC 605 &amp; 159)</td>
</tr>
<tr>
<td>(d) Renewal Only (Electronic Filing) (FCC 605 &amp; 159)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Aviation Aircraft</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) New, Renewal/Mod (FCC 605 &amp; 159)</td>
</tr>
<tr>
<td>(b) New, Renewal/Mod (Electronic Filing) (FCC 605 &amp; 159)</td>
</tr>
</tbody>
</table>
§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

<table>
<thead>
<tr>
<th>Exclusive use services (per license)</th>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>c. Renewal Only (FCC 605 &amp; 159) ....</td>
<td>5.00</td>
<td>FCC, P.O. Box 358245, Pittsburgh, PA 15251–5245.</td>
</tr>
<tr>
<td>d. Renewal Only (Electronic Filing) (FCC 605 &amp; 159)</td>
<td>5.00</td>
<td>FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
</tr>
<tr>
<td>5. Amateur Vanity Call Signs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Initial or Renew (FCC 605 &amp; 159) ........</td>
<td>1.45</td>
<td>FCC, P.O. Box 358130, Pittsburgh, PA 15251–5130.</td>
</tr>
<tr>
<td>(b) Initial or Renew (Electronic Filing) (FCC 605 &amp; 159)</td>
<td>1.45</td>
<td>FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
</tr>
<tr>
<td>6. CMRS Mobile Services (per unit) (FCC 159) ....</td>
<td>2.24</td>
<td>FCC, P.O. Box 358835, Pittsburgh, PA 15251–5835.</td>
</tr>
<tr>
<td>7. CMRS Messaging Services (per unit) (FCC 159) ....</td>
<td>0.08</td>
<td>FCC, P.O. Box 358835, Pittsburgh, PA 15251–5835.</td>
</tr>
</tbody>
</table>

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 § 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.

[67 FR 46303, July 12, 2002]

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

<table>
<thead>
<tr>
<th>Radio [AM and FM] (47 CFR, Part 73)</th>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. AM Class A: &lt;=20,000 population</td>
<td>$500</td>
<td>FCC, Radio, P.O. Box 358835, Pittsburgh, PA 15251–5835.</td>
</tr>
<tr>
<td>20,001–50,000 population ..........</td>
<td>925</td>
<td></td>
</tr>
<tr>
<td>50,001–125,000 population ..........</td>
<td>1,500</td>
<td></td>
</tr>
<tr>
<td>125,001–400,000 population .......</td>
<td>2,250</td>
<td></td>
</tr>
<tr>
<td>400,001–1,000,000 population .......</td>
<td>3,125</td>
<td></td>
</tr>
<tr>
<td>1,000,000 population ..............</td>
<td>4,975</td>
<td></td>
</tr>
<tr>
<td>2. AM Class B: &lt;=20,000 population</td>
<td>375</td>
<td></td>
</tr>
<tr>
<td>20,001–50,000 population ..........</td>
<td>725</td>
<td></td>
</tr>
<tr>
<td>50,001–125,000 population ..........</td>
<td>975</td>
<td></td>
</tr>
<tr>
<td>125,001–400,000 population .......</td>
<td>1,575</td>
<td></td>
</tr>
<tr>
<td>400,001–1,000,000 population .......</td>
<td>2,525</td>
<td></td>
</tr>
<tr>
<td>1,000,000 population ..............</td>
<td>4,100</td>
<td></td>
</tr>
<tr>
<td>3. AM Class C: &lt;=20,000 population</td>
<td>275</td>
<td></td>
</tr>
<tr>
<td>20,001–50,000 population ..........</td>
<td>375</td>
<td></td>
</tr>
<tr>
<td>50,001–125,000 population ..........</td>
<td>525</td>
<td></td>
</tr>
<tr>
<td>125,001–400,000 population .......</td>
<td>800</td>
<td></td>
</tr>
<tr>
<td>400,001–1,000,000 population .......</td>
<td>1,425</td>
<td></td>
</tr>
<tr>
<td>1,000,000 population ..............</td>
<td>2,075</td>
<td></td>
</tr>
<tr>
<td>4. AM Class D: &lt;=20,000 population</td>
<td>325</td>
<td></td>
</tr>
<tr>
<td>20,001–50,000 population ..........</td>
<td>525</td>
<td></td>
</tr>
<tr>
<td>50,001–125,000 population ..........</td>
<td>775</td>
<td></td>
</tr>
<tr>
<td>125,001–400,000 population .......</td>
<td>950</td>
<td></td>
</tr>
<tr>
<td>400,001–1,000,000 population .......</td>
<td>1,700</td>
<td></td>
</tr>
<tr>
<td>1,000,000 population ..............</td>
<td>2,625</td>
<td></td>
</tr>
<tr>
<td>5. AM Construction Permit ..........</td>
<td>370</td>
<td></td>
</tr>
<tr>
<td>6. FM Classes A, B1 and C3: &lt;=20,000 population</td>
<td>375</td>
<td></td>
</tr>
<tr>
<td>20,001–50,000 population ..........</td>
<td>725</td>
<td></td>
</tr>
<tr>
<td>50,001–125,000 population ..........</td>
<td>975</td>
<td></td>
</tr>
<tr>
<td>125,001–400,000 population .......</td>
<td>1,575</td>
<td></td>
</tr>
<tr>
<td>400,001–1,000,000 population .......</td>
<td>2,525</td>
<td></td>
</tr>
<tr>
<td>71,000,000 population ..............</td>
<td>4,100</td>
<td></td>
</tr>
<tr>
<td>7. FM Classes B, C1 and C2: &lt;=20,000 population</td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>20,001–50,000 population ..........</td>
<td>925</td>
<td></td>
</tr>
<tr>
<td>50,001–125,000 population ..........</td>
<td>1,500</td>
<td></td>
</tr>
<tr>
<td>125,001–400,000 population .......</td>
<td>2,250</td>
<td></td>
</tr>
<tr>
<td>400,001–1,000,000 population .......</td>
<td>3,125</td>
<td></td>
</tr>
<tr>
<td>71,000,000 population ..............</td>
<td>4,975</td>
<td></td>
</tr>
<tr>
<td>8. FM Construction Permits ..........</td>
<td>1,500</td>
<td></td>
</tr>
</tbody>
</table>
### § 1.1155 Schedule of regulatory fees and filing locations for cable television services.

<table>
<thead>
<tr>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>$65</td>
<td>FCC, Cable, P.O. Box 358835, Pittsburgh, PA 15251–5835.</td>
</tr>
</tbody>
</table>

### § 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

<table>
<thead>
<tr>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10.00</td>
<td>FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.</td>
</tr>
</tbody>
</table>

### § 1.1155 Schedule of regulatory fees and filing locations for cable television services.

<table>
<thead>
<tr>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>.00153</td>
<td>FCC, Carriers, P.O. Box 358835, Pittsburgh, PA 15251–5835.</td>
</tr>
</tbody>
</table>

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[67 FR 46304, July 12, 2002]  
[67 FR 46305, July 12, 2002]  
[67 FR 46306, July 12, 2002]
§ 1.1156 Schedule of regulatory fees and filing locations for international services.

<table>
<thead>
<tr>
<th>Fee amount</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Radio Facilities</td>
<td></td>
</tr>
<tr>
<td>2. International Public Fixed</td>
<td>1,400</td>
</tr>
<tr>
<td>Space Stations (Geostationary Orbit)</td>
<td>99,700</td>
</tr>
<tr>
<td>Space Stations (Non-Geostationary Orbit)</td>
<td>103,200</td>
</tr>
<tr>
<td>Earth Stations</td>
<td></td>
</tr>
<tr>
<td>Transmit/Receive &amp; Transmit Only (per authorization or registration)</td>
<td>$140</td>
</tr>
<tr>
<td>Carriers</td>
<td></td>
</tr>
<tr>
<td>1. International Bearer Circuits (per active 64KB circuit or equivalent)</td>
<td>$2.00</td>
</tr>
</tbody>
</table>

[67 FR 46306, July 12, 2002]

§ 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.
§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.

§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 regulatory fee. Final payment shall mean receipt by the U.S.
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§ 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 nonprofit 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 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 noncommercial educational broadcast station on a noncommercial educational basis.

(g) Other applicants, permittees or licensees providing, or proposing to provide, a noncommercial educational 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 a noncommercial educational basis;

(2) An applicant, permittee or licensee of a translator or low power television station operating or proposing to operate a noncommercial educational 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 a noncommercial education station, is exempt from fees for broadcast auxiliary stations (subparts D, E, and F 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 noncommercial educational translator or low power station.
§ 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.
§ 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 36034, 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 will be granted for a period of six months following the date that the fee is initially due.

(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 338335, Pittsburgh, Pennsylvania, 15251–3835. 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.


§ 1.1167 Error claims related to regulatory fees.

(a) Challenges to determinations of an insufficient regulatory fee payment should be made in writing. Challenges submitted with a fee payment must be submitted to the same location as the original fee payment, marked “Attention: Fee Supervisor”. 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.

(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]

§ 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)

<table>
<thead>
<tr>
<th>Product or service</th>
<th>Fee amount</th>
<th>Payment procedure</th>
</tr>
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<tr>
<td>On-line remote access 900 Number Telephone Service)</td>
<td>2.30 per minute ...................................</td>
<td>Charges included on customer’s long distance telephone bill. Payment to auction contractor by credit card or check. (Public Notice will specify exact payment procedures.)</td>
</tr>
<tr>
<td>Remote Bidding Software</td>
<td>$175.00 per package ..................................</td>
<td>Payment to auction contractor by credit card or check. (Public Notice will specify exact payment procedures.)</td>
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<tr>
<td>Bidder Information Package</td>
<td>First package free; $16.00 per additional package (including postage) to same person or entity.</td>
<td>Payment to auction contractor by credit card or check. (Public Notice will specify exact payment procedures.)</td>
</tr>
</tbody>
</table>

(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
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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;

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 either §5.210 of this chapter or §5.215 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
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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).

(6) 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.


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. If the presentation is of substantial significance and clearly intended to affect the ultimate decision, 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 applies from 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
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§ 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 telecommunications competition 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 disclosed 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 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
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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 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;

(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);
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(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.

(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 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.


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
§ 1.1206

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;

(13) Applications by Bell Operating Companies to provide in-region, interLATA services pursuant to §271(d) of the Communications Act; and

(14) Petitions for Commission pre-emption 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) Written presentations. A person who makes a written ex parte presentation subject to this section shall, no later than the next business day after the presentation, submit two copies of the presentation to the Commission’s secretary under separate cover for inclusion in the public record. The presentation (and cover letter) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that two copies have been submitted to the Secretary, and must be labeled as an ex parte presentation. If the presentation relates to more than one proceeding, two copies shall be filed for each proceeding. Alternatively, in rulemaking proceedings governed by §1.49(f), the person making the presentation may file one copy of the presentation electronically; no additional paper copies need to be filed.

(2) Oral presentations. A person who makes an oral ex parte presentation subject to this section that presents data or arguments not already reflected in that person’s written comments, memoranda or other filings in that proceeding shall, no later than the next business day after the presentation, submit to the Commission’s Secretary, an original and one copy of a memorandum which summarizes the new data or arguments. Except in proceedings subject to §1.49(f) in which pleadings are filed electronically, a copy of the memorandum must also be submitted to the Commissioners or Commission employees involved in the oral presentation. In proceedings governed by §1.49(f), the person making the presentation may, alternatively, electronically file one copy of the memorandum, which will be available to Commissioners and Commission employees involved in the presentation
through the Commission’s electronic comment filing system. 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. The memorandum (and cover letter) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that an original and one copy have been submitted to the Secretary or that one copy has been filed electronically, and must be labeled as an ex parte presentation. If the presentation relates to more than one proceeding, two copies of the memorandum (or an original and one copy) shall be filed for each proceeding.

NOTE 1 TO PARAGRAPH (b): 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 tape recording of the discussion as an alternative to a memorandum.

(3) Notwithstanding paragraphs (b)(1) and (b)(2) of this section, in permit-but-disclose proceedings 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 a written summary of any such oral presentations and place them in the record in accordance with paragraph (b)(2) of this section and place any such written presentations in the record in accordance with paragraph (b)(1) of this section.

(4) Notice of ex parte presentations. The Commission’s Secretary or, in the case of non-docketed proceedings, the relevant Bureau or Office shall place in the public file or record of the proceeding written ex parte presentations and memoranda reflecting oral ex parte presentations. The 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 should generally be released at least twice per week.

NOTE 2 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.

NOTE 3 TO PARAGRAPH (b): As a matter of convenience, the Secretary may also list on the referenced public notices materials, even if not ex parte presentations, that are filed after the close of the reply comment period or, if the matter is on reconsideration, the reconsideration reply comment period.


RESTRICTED PROCEEDINGS

§1.1208 Restricted proceedings.

Unless otherwise provided by the Commission or its staff pursuant to §1.1202(d), the party and the Commission may freely make presentations to each other because there is no other party to

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§ 1.1210
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.


§ 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 68948, Dec. 9, 1999]

§ 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
Subpart I—Procedures Implementing the National Environmental Policy Act of 1969

§ 1.1301 Basis and purpose.


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
§ 1.1304

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).


§ 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
§ 1.1307

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, archaeology, 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 60 and 800.)

NOTE: The National Register is updated and re-published in the FEDERAL REGISTER each year in February. To ascertain whether a proposal affects a historical property of national significance, inquiries also may be made to the appropriate State Historic Preservation Officer, see 16 U.S.C. 470a(b); 36 CFR parts 63 and 800.

(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.

(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

<table>
<thead>
<tr>
<th>Service (title 47 CFR rule part)</th>
<th>Evaluation required if</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Experimental Radio Services (part 5)</strong></td>
<td>Power &gt; 100 W ERP (164 W EIRP)</td>
</tr>
<tr>
<td>Multipoint Distribution Service (subpart K of part 21).</td>
<td>Non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and power &gt; 1640 W EIRP</td>
</tr>
<tr>
<td></td>
<td>Building-mounted antennas: power &gt; 1640 W EIRP</td>
</tr>
<tr>
<td></td>
<td>MDS licensees are required to attach a label to subscriber transceiver or transverter antennas that:</td>
</tr>
<tr>
<td></td>
<td>(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</td>
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<tr>
<td></td>
<td>(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.</td>
</tr>
<tr>
<td><strong>Paging and Radiotelephone Service (subpart E of part 22).</strong></td>
<td>Non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and power &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td></td>
<td>Building-mounted antennas: power &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td><strong>Cellular Radiotelephone Service (subpart H of part 22).</strong></td>
<td>Non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and total power of all channels &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td></td>
<td>Building-mounted antennas: total power of all channels &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td><strong>Personal Communications Services (part 24)</strong></td>
<td>Power &gt; 1640 W EIRP</td>
</tr>
<tr>
<td>(1) Narrowband PCS (subpart D): non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and total power of all channels &gt; 1000 W ERP (1640 W EIRP)</td>
<td>Building-mounted antennas: total power of all channels &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td>(2) Broadband PCS (subpart E): non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and total power of all channels &gt; 2000 W ERP (3280 W EIRP)</td>
<td>Building-mounted antennas: total power of all channels &gt; 2000 W ERP (3280 W EIRP)</td>
</tr>
<tr>
<td><strong>Satellite Communications (part 25)</strong></td>
<td>All included. In addition, for NGSO subscriber equipment, licensees are required to attach a label to subscriber transceiver antennas that:</td>
</tr>
<tr>
<td></td>
<td>(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</td>
</tr>
<tr>
<td></td>
<td>(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310 of this chapter.</td>
</tr>
<tr>
<td><strong>General Wireless Communications Service (part 26).</strong></td>
<td>Total power of all channels &gt; 1640 W EIRP</td>
</tr>
<tr>
<td><strong>Wireless Communications Service (Part 27)</strong></td>
<td>All included</td>
</tr>
<tr>
<td>(1) For the 1390–1392 MHz, 1392–1395 MHz, 1432–1435 MHz 1670–1675 MHz and 2385–2390 MHz bands:</td>
<td>Non-building-mounted antennas: height above ground level to lowest point of antenna &lt;10m and total power of all channels &gt; 2000 W ERP (3280 W EIRP)</td>
</tr>
<tr>
<td></td>
<td>Building-mounted antennas: total power of all channels &gt;2000 W ERP (3280 W EIRP)</td>
</tr>
<tr>
<td>(2) For the 746–764 MHz, 776–794 MHz, 2305–2320 MHz, and 2345–2360 MHz bands.</td>
<td>Total power of all channels &gt;1000 W ERP (1640 W EIRP).</td>
</tr>
<tr>
<td><strong>Radio Broadcast Services (part 73)</strong></td>
<td>All included</td>
</tr>
<tr>
<td>Experimental, auxiliary, and special broadcast and other program distributional services (part 74).</td>
<td>Subparts A, G, L: power &gt; 100 W ERP</td>
</tr>
<tr>
<td></td>
<td>Subpart I: non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and power &gt; 1640 W EIRP</td>
</tr>
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<td></td>
<td>Building-mounted antennas: power &gt; 1640 W EIRP</td>
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<tr>
<td></td>
<td>ITFS licensees are required to attach a label to subscriber transceiver or transverter antennas that:</td>
</tr>
<tr>
<td></td>
<td>(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</td>
</tr>
<tr>
<td></td>
<td>(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in §1.1310.</td>
</tr>
<tr>
<td><strong>Stations in the Maritime Services (part 80)</strong></td>
<td>Total power of all channels &gt; 1000 W ERP (1640 W EIRP).</td>
</tr>
<tr>
<td><strong>Private Land Mobile Radio Services Paging Operations (part 90).</strong></td>
<td>Non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and power &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td></td>
<td>Building-mounted antennas: power &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td><strong>Private Land Mobile Radio Services Specialized Mobile Radio (part 90).</strong></td>
<td>Non-building-mounted antennas: height above ground level to lowest point of antenna &lt; 10 m and total power of all channels &gt; 1000 W ERP (1640 W EIRP)</td>
</tr>
<tr>
<td></td>
<td>Building-mounted antennas:</td>
</tr>
<tr>
<td><strong>Amateur Radio Service (part 97)</strong></td>
<td>Transmitter output power &gt; levels specified in §97.13(c)(1) of this chapter.</td>
</tr>
</tbody>
</table>
TABLE 1—Transmitters, Facilities and Operations Subject to Routine Environmental Evaluation—Continued

<table>
<thead>
<tr>
<th>Service (title 47 CFR rule part)</th>
<th>Evaluation required if</th>
</tr>
</thead>
</table>
| 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 Building-mounted antennas: power >1640 W EIRP LMDS and 24 GHz Service 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

2. References the applicable FCC-adopted limits for radio-frequency 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 General Wireless Communications Service, the Wireless Communications Service, the Maritime Services (ship earth stations only) and the Specialized Mobile Radio Service authorized under Subpart H of parts 22, 24, 25, 26, 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 environmental evaluation as specified in §§2.1093 and 95.1125 of this chapter. Equipment authorized for use in the Medical Implant Communications Service (MICS) as a medical implant 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.
Federal Communications Commission

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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 §1.1301 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)(i) 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, “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)
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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 §§1.1307 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.


§ 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 900. 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).
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(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.


§ 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)

<table>
<thead>
<tr>
<th>Frequency range (MHz)</th>
<th>Electric field strength (V/m)</th>
<th>Magnetic field strength (A/m)</th>
<th>Power density (mW/cm²)</th>
<th>Averaging time (milliseconds)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Limits for Occupational/Controlled Exposures</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.3–3.0</td>
<td>614</td>
<td>1.63</td>
<td>*(100)</td>
<td>6</td>
</tr>
<tr>
<td>3.0–30</td>
<td>1842</td>
<td>4.89</td>
<td>*(900)</td>
<td>6</td>
</tr>
<tr>
<td>30–300</td>
<td>61.4</td>
<td>0.163</td>
<td>1.0</td>
<td>6</td>
</tr>
<tr>
<td>300–1500</td>
<td>6.1</td>
<td>*(300)</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>1500–100,000</td>
<td>5</td>
<td>*(500)</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>(B) Limits for General Population/Uncontrolled Exposure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.3–1.34</td>
<td>614</td>
<td>1.63</td>
<td>*(100)</td>
<td>30</td>
</tr>
<tr>
<td>1.34–30</td>
<td>824</td>
<td>2.19</td>
<td>*(180)</td>
<td>30</td>
</tr>
</tbody>
</table>

Copyright NCRP, 1986, Bethesda, Maryland 20814.

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TABLE 1—LIMITS FOR MAXIMUM PERMISSIBLE EXPOSURE (MPE)—Continued

<table>
<thead>
<tr>
<th>Frequency range (MHz)</th>
<th>Electric field strength (V/m)</th>
<th>Magnetic field strength (A/m)</th>
<th>Power density (mW/cm^2)</th>
<th>Averaging time (minutes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30–300</td>
<td>27.5</td>
<td>0.073</td>
<td>0.2</td>
<td>30</td>
</tr>
<tr>
<td>300–1500</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1500–100,000</td>
<td></td>
<td></td>
<td>1.0</td>
<td>30</td>
</tr>
</tbody>
</table>

* = Plane-wave equivalent power density
f = frequency in MHz

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 cannot 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 impact 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.

§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.

§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 non-environmental 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
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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 EIIs 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 EIIs 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.

§ 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.

§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.

§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.

Subpart J—Pole Attachment
Complaint Procedures

SOURCE: 43 FR 36094, Aug. 15, 1978, unless otherwise noted.

§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.
§ 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 or telecommunications carrier’s pole attachment agreement;

(2) Any increase in pole attachment rates;

(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 granted unless justified pursuant to §1.46.5.

(e) Cable operators must notify pole owners upon offering telecommunications services.

[61 FR 46618, 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

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.

(i) The data and information shall include, where applicable:

A. The gross investment by the utility for pole lines;
B. The investment in crossarms and other items which do not reflect the cost of owning and maintaining poles, if available;
C. The depreciation reserve from the gross pole line investment;
D. The depreciation reserve from the investment in crossarms and other items which do not reflect the cost of owning and maintaining poles, if available;
E. The total number of poles:
   A. Owned;
   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;
F. The total number of poles which are the subject of the complaint;
G. The number of poles included in paragraph (g)(1)(vi) of this section that are 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;
H. The annual carrying charges attributable to the cost of owning a pole. 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 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.

(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.
§ 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 section 47 U.S.C. 224(f), the complaint shall be filed within 30 days of such denial. In addition to meeting the other requirements of this section, 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 and rights-of-way;
(2) The basis for the complainant’s claim that the denial of access is improper;
(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 improper 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.


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]
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§ 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.

§ 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 its 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:

\[
\text{Maximum Rate} = \text{Space Factor} \times \text{Net Cost of a Bare Pole} \times \text{Carrying Charge Rate}
\]

Where

\[
\text{Space Factor} = \frac{\text{Space Occupied by Attachment}}{\text{Total Usable Space}}
\]

(2) Subject to paragraph (f) of this section the following formula shall 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 beginning February 8, 2001:

\[
\text{Maximum Rate} = \text{Space Factor} \times \text{Net Cost of a Bare Pole} \times \left[ \frac{\text{Carrying Charge Rate}}{\text{Rate}} \right]
\]

Where

\[
\text{Space Factor} = \left[ \frac{\text{Space Occupied}}{\text{Pole Height}} + \frac{2}{3} \times \frac{\text{Unusable Space}}{\text{No. of Attaching Entities}} \times \frac{\text{No. of Inner Ducts}}{1} \right]
\]

(3) The following formula shall apply to attachments to conduit by cable operators and telecommunications carriers:

\[
\text{Maximum Rate per Linear ft./m.} = \frac{1}{\text{No. of Inner Ducts}} \times \frac{\text{Net Conduit Investment}}{\text{System Duct Length (ft./m.)}} \times \text{Carrying Charge Rate}
\]

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.

§ 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) Terminate the unjust and unreasonable rate, term, or condition;

(b) Substitute in the pole attachment agreement the just and reasonable rate, term, or condition established by the Commission; and

(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]

§ 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
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the prescribed period does not extend beyond 360 days after the filing of such complaint.


§ 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 attachers 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
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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)

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. 2225 (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.


§ 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.
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(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.


§ 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 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) 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.


§ 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
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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.

§ 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.


INFORMATION REQUIRED FROM APPLICANTS

§ 1.1511 Contents of application.

(a) An application for an award of fees and expenses under EAJA shall identify 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. 1141(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.


§ 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 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 envelope labeled “Confidential Financial Information”, accompanied by a motion to withhold the information from public disclosure.
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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 disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be placed in the public record of 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.


§ 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.


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...
§ 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.


§ 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.


§ 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.


§ 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


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]


§ 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.


§ 1.1604 Post-selection hearings.

(a) Following the random selection, the Commission shall announce the “tentative selectee” and, where permitted by §73.3594 invite Petitions to Deny its application.
§ 1.1621

(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.

§ 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.

§ 1.1622 Preferences.

(a) Any applicant desiring a preference 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 medium 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).

§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 [Reserved]
§ 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 to prohibit discrimination on the basis of handicap 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—

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

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 (TDD’s), interpreters, notetakers, written materials, and other similar services and devices.

Commission means Federal Communications Commission.

Complete complaint means a written statement 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. 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, rolling stock or other conveyances, or other real or personal property.

Individual with handicaps 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—

(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; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions 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 includes 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
§ 1.1830 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, 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)(1) The Commission, in providing any aid, benefit, or service, may not,
§§ 1.1831–1.1839  47 CFR Ch. I (10–1–02 Edition)

directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with handicaps 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 handicaps an opportunity to participate in or benefit from the 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 handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with handicaps 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 handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The Commission may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The Commission, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(6) The Commission may not administer a licensing or certification program in a manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the Commission establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the Commission are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this part.

(d) The Commission shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

§§ 1.1831–1.1839  [Reserved]

§ 1.1840  Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the Commission. The
§ 1.1850 Program accessibility: Existing facilities.

(a) General. 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 handicaps. This paragraph does not—

(1) Necessarily require the Commission to make each of its existing facilities accessible to and usable by individuals with handicaps; and

(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 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 handicaps 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 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, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. 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 handicaps 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 part 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, but in any event as expeditiously as possible.

(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 part, a transition plan setting forth the steps necessary to complete such changes. The Commission shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition 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 handicaps;
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;
4. Indicate the official responsible for implementation of the plan.

§ 1.1851 Program 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 handicaps. 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.

§§ 1.1852-1.1859 [Reserved]

§ 1.1860 Communications.

(a) The Commission shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

1. The Commission shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the Commission.

   (i) In determining what type of auxiliary aid is necessary, the Commission shall give primary consideration to the requests of the individual with handicaps.
   
   (ii) The Commission need not provide individually prescribed devices, readers for personal use or study, or other devices, of a personal nature.

   (2) Where the Commission communicates with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDD’s) or equally effective telecommunications systems shall be used.

   (b) The Commission shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

   (c) The Commission shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

   (d) This section does not 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 § 1.1860 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 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 required to comply with this section 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, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§§ 1.1861–1.1869 [Reserved]

§ 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 handicap in programs or activities conducted by the Commission.


(c) The Managing Director shall be responsible for coordinating implementation of this section. Complaints may be sent to the Handicapped Coordinator, Office of Managing Director, Federal Communications Commission, 445 12th Street, SW., Room 1-A207, Washington, DC 20554.

(d) Acceptance of complaint. (1) The Commission shall accept and investigate all complete complaints for which it has jurisdiction. All complete 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, 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 handicaps.

(g) Within one-hundred eighty (180) days of the receipt of a complete complaint 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 request. If the Commission determines that it needs additional information from the complainant, it 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 paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(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.

§§ 1.1871–1.1899  [Reserved]

Subpart O—Collection of Claims Owed the United States


Source: 54 FR 403, Jan. 6, 1989, unless otherwise noted.

General Provisions

§ 1.1901 Definitions.

(a) The term administrative offset means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) The term agency means the Federal Communications Commission (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 and 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 terms appropriate agency official or designee means the Managing Director of the Commission or such other official as may be named by the Managing Director.

(e) The terms claim and debt are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another Federal agency. They include amounts owing to the United States on account of loans 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, fines, penalties, damages, interest, taxes, and forfeitures (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 delinquent means a claim or debt which has not been paid by the date specified in the agency’s written notification or applicable contractual agreement, 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 with the agency.

(h) 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.

(i) 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).


(k) The term paying agency means the agency employing the individual and authorizing the payment of his or her current pay.

(l) 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.

(m) 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.

(n) The term waiver means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C 710, 5 U.S.C. 8346(b), or any other law.
§ 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 system, 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.
(d) Tax claims are also excluded from the coverage of this regulation.

§ 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 Pub. L. 97–365, 96 Stat. 1749) have been implemented in government wide standards:
(a) The Regulations of the Office of Personnel Management (5 CFR part 550) and
(b) The Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice (4 CFR parts 101–105).
Not every item in the above 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 required by other statutes or regulations. In particular, the assessment and collection of monetary forfeiture penalties 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.

§ 1.1906 Informal action.
Nothing contained in these regulations is intended to preclude utilization of informal administrative actions or remedies which may be available.

§ 1.1907 Return of property.
Nothing contained in this regulation is intended to deter the Commission from demanding the return of specific
§ 1.1908

property or from demanding, in the alternative, either the return of property or the payment of its value.

§ 1.1908 Omissions not a defense.

The failure of the Commission to comply with any provision in this regulation shall not serve as a defense to the debt.

ADMINISTRATIVE OFFSET—CONSUMER REPORTING AGENCIES—CONTRACTING FOR COLLECTION

§ 1.1911 Demand for payment.

(a) Written demands for payment shall be made promptly upon a debtor in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor’s response does not require rebuttal. In determining the timing of demand letters, the Commission will give due regard to the need to act promptly so that, as a general rule, if it becomes necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the agency’s final determination of the fact and the amount of the debt. When necessary to protect the Government’s interest (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions under this chapter, including immediate referral for litigation.

(b) The initial demand letter will inform the debtor of:

(1) The basis for the indebtedness and the right of the debtor to request review within the agency;

(2) The applicable standards for assessing interest, penalties, and administrative costs (§§1.1940 and 1.1941 of this subpart) and;

(3) The date by which payment is to be made, which normally should not be more than 30 days from the date that the initial demand letter was mailed or hand-delivered.

(c) As appropriate to the circumstances, the Commission may include either in the initial demand letter or in subsequent letters, matters relating to alternative methods of payment, policies with respect to use of consumer reporting agencies and collection services, the agency’s intentions with respect to referral of the debt to the Department of Justice for litigation, and, depending on applicable statutory authority, the debtor’s entitlement to consideration of waiver.

(d) 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.

(e) If, either prior to the initiation of, at any time during or after completion of the demand cycle, the Commission determines to pursue administrative offset, then the procedures specified in §§1.1912 and 1.1913 as applicable, will be followed. The availability of funds for offset and the agency’s determination to pursue that remedy, release the agency from the necessity of further compliance with paragraphs (a), (b) and (c) of this section. If the agency has not already sent the first demand letter, the agency’s written notification of its intent to offset must give the debtor the opportunity to make voluntary payment, a requirement which will be satisfied by compliance with the notice requirements of §§1.1912 and 1.1913 as applicable.

§ 1.1912 Collection by administrative offset.

(a) Collection by administrative offset will be undertaken in accordance with these regulations on all claims which are liquidated or certain in amount, in every instance in which such collection is determined to be feasible and not otherwise prohibited.

(1) Whether collection by administrative offset is feasible is a determination to be made by the agency on a case-by-case basis, in the exercise of sound discretion. The Commission will consider not only whether administrative offset can be accomplished practically, but also whether offset is best suited to further and protect all of the Government’s interest. In appropriate circumstances, the Commission may
§ 1.1912

give due consideration to the debtor’s financial condition and is not required to use offset in every instance in which there is an available source of funds. The Commission may also consider whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee’s performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement.

(2) [Reserved]

(b) Before the offset is made, a debtor shall be provided with the following: Written notice of the nature and amount of the debt, and the agency’s intention to collect by offset; opportunity to inspect and copy agency records pertaining to the debt; opportunity to obtain review within the agency of the determination of indebtedness; and opportunity to enter into a written agreement with the agency to repay the debt.

(1) The Commission will exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination will weigh the Government’s interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, the Commission will normally accept a repayment agreement in lieu of offset only if the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

(2) In cases where the procedural requirements specified in paragraph (b) of this section have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to a notice of audit disallowance or pursuant to 47 U.S.C. 503, 504 and 47 CFR 1.80, the agency is not required to duplicate those requirements before taking administrative offset.

(3) The Commission may not initiate administrative offset to collect a debt under 31 U.S.C. 3716 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. When the debt first accrued is to be determined according to existing law regarding the accrual of debts, such as under 28 U.S.C. 2415.

(4) The Commission is not authorized by 31 U.S.C. 3716 to use administrative offset with respect to:

(i) Debts owed by any State or local Government;

(ii) Debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or

(iii) Any case in which collection of the claim or type of claim by administrative offset is explicitly provided for or prohibited by another statute.

(5) The Commission may effect administrative offset against a payment to be made to a debtor prior to completion of the procedures required by paragraph (b) of this section if:

(i) Failure to take the offset would substantially prejudice the Government’s ability to collect the debt, and

(ii) The time before the payment is to be made does not reasonably permit the completion of those procedures.

Such prior offset must be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Government shall be promptly refunded.

(6) The Commission will obtain credit reports on delinquent accounts to identify opportunities for administrative offset of amounts due to a delinquent debtor when other collection techniques have been unsuccessful.

(c) Type of hearing or review. (1) For purposes of this section, whenever the Commission is required to provide a hearing or review within the agency, it shall provide the debtor with a reasonable opportunity for an oral hearing when:

(i) Any applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved,
§ 1.1913 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, the Commission may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment, or a minimal number of payments, debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, the Commission shall include written certification that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The Commission has complied with the applicable statutes, regulations and procedures of the Office of Personnel Management; and

(3) The Commission has complied with the requirements of §1.1912 of this subpart, including any required hearing or review.

(c) Once the Commission decides to request administrative offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify and “flag” the debtor’s account in anticipation of the time when the debtor requests or becomes eligible to receive
§ 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, at 31 U.S.C. 3701(a)(3) or the Fair Credit Reporting Act, at 15 U.S.C. 168a(f).
§ 1.1919

(b) The Commission may disclose to a consumer reporting agency, from a system of records, information that an individual is responsible for a claim if—

(1) Notice required by section 5 U.S.C. 552a(e)(4) indicates that information in the system may be disclosed to a consumer reporting agency; 

(2) The claim has been reviewed and it is decided that the claim is valid and overdue; 

(3) The Commission has notified the individual in writing—

(i) That payment of the claim is overdue; 

(ii) That, within not less than 60 days after sending the notice, the Commission intends to disclose to a consumer reporting agency that the individual is responsible for that claim; 

(iii) Of the specific information to be disclosed to the consumer reporting agency; and 

(iv) Of the rights the individual has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative appeal or review of the claim; and 

(4) The individual has not—

(i) Repaid or agreed to repay the claim under a written repayment plan that the individual has signed and the agency has agreed to; or 

(ii) Filed for review of the claim under paragraph (g) of this section; 

(c) The Commission shall—

(1) Disclose promptly, 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 satisfactory 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) Before disclosing information to a consumer reporting agency, the Commission shall take reasonable action to locate an individual for whom the head of the agency does not have a current address to send the notice. 

(g) Before disclosing information to a consumer reporting agency, the Commission shall provide, on request of an individual alleged by the agency to be responsible for the claim, for a review of the obligation of the individual, including an opportunity for reconsideration of the initial decision on the claim. 

(h) Under the same provisions as described above, 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. 

§ 1.1919 Contracting for collection services.

(a) The Commission has authority to contract for collection services to recover delinquent debts, provided that the following conditions are satisfied: 

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter for litigation is retained by the agency; 

(2) The contractor shall be subject to the Privacy Act of 1974, as amended, 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, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692; 

(3) The contractor must be required to account strictly for all amounts collected; 

(4) The contractor must agree that uncollectible accounts shall be returned with appropriate documentation to enable the Commission to determine whether to pursue collection
through litigation or to terminate collection efforts; and

(5) The contractor must agree to provide any data contained in its files relating to paragraphs (a) (1), (2), and (3) of §105.2 of the Federal Claims Collection Standards (4 CFR part 105) upon returning an account to the Commission for subsequent referral to the Department of Justice for litigation.

(b) Funding of collection service contracts. (1) The Commission may fund a collection service contract on a fixed-fee basis, that is, payment of a fixed fee determined without regard to the amount actually collected under the contract. Payment of the fee under this type of contract must be charged to available agency appropriations.

(2) The Commission may also fund a collection service contract on a contingent-fee basis, that is, by including a provision in the contract permitting the contractor to deduct its fee from amounts collected under the contract. The fee should be based on a percentage of the amount collected, consistent with prevailing commercial practice.

(3) The Commission may enter into a contract under paragraph (b)(1) of this section only if and to the extent provided in advance appropriation acts or other legislation, except that this requirement does not apply to the use of a revolving fund authorized by statute.

(4) Except as authorized under paragraph (b)(2) of this section, or unless the receipt qualifies as a refund to the appropriation, or unless otherwise specifically provided by law, the Commission must deposit all amounts recovered under collection service contracts (or by agency employees on behalf of the agency) in the Treasury as miscellaneous receipts pursuant to 31 U.S.C. 3302.

(c) The Commission will consider the use of collection agencies at any time after the account is 61 days past due. In any case where an account is six months or more past due, the Commission may turn it over to a collection agency unless referred for litigation or unless arrangements have been made for a workout procedure or the Commission has exercised its authority to write off the debt pursuant to §1.1916.

(4) The Commission will generally not use a collection agency to collect a delinquent debt owed by a currently employed or retired Federal employee, if collection by salary or annuity offset is available.

§ 1.1926 Scope.

(a) Coverage. This section applies to agencies 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 (4 CFR parts 101-105).

(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) Waiver requests and claims to the General Accounting Office. This section does not preclude an employee from requesting waiver of a salary overpayment 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 by submitting a subsequent claim to the General Accounting Office in accordance with procedures prescribed by the General Accounting Office. Similarly, in the case of other types of debts, it does not preclude an
§ 1.1927 Notification.

(a) Salary offset deductions shall not be made unless the Managing Director of the Commission, or such other official as may be named in the future by the Managing Director of the Commission, provides the employee at least 30 days before any deduction written notice stating at a minimum:

(1) The agency’s determination that a debt is owed, including the origin, nature, and amount of the debt;

(2) The agency’s intention to collect the debt by means of deduction from the employee’s current disposable pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deductions;

(4) An explanation of the agency’s policy concerning interest, penalties, and administrative costs (§§1.1940 and 1.1941 of this regulation), 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 agency) 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 agency files (4 CFR 102.2(e)).

(7) The employee’s right to a hearing conducted by an official arranged by the agency (an administrative law judge, or alternatively, a hearing official not under the control of the head of the agency) if a petition is filed as prescribed by this subpart.

(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.

(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, United States Code, 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, United States Code, or any other applicable statutory authority; or

(iii) Criminal penalties under sections 286, 287, 1001, and 1002 of Title 18, United States Code, 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.

(c) No notification, hearing, written responses or final decisions under this regulation are required by the Commission for 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
§ 1.1928 Hearing.

(a) Petition for Hearing. (1) A hearing may be requested by filing a written petition with the Managing Director of the Commission, or such other official as may be named by the Managing Director of the Commission, stating why the employee believes the determination of the agency concerning the existence or the amount of the debt is in error.

(2) The employee's petition must be signed 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 above, the Commission will nevertheless accept the petition if the employee can show 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 (3) above, 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 agency 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 himself 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 agency.

§ 1.1929 Deduction from 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 should be collected in full, in one lump sum. This will be done when funds are available for payment in one lump sum, or, if the amount of the debt exceeds 15 percent of disposable pay for an officially established pay interval, collection will normally be made in installments.

(2) The installments shall 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 must be made over a period not greater than the anticipated period of employment except as provided in §1.1930.

(b) [Reserved]
§ 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, 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 of this regulation.

§ 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 of this regulation.

§ 1.1934 Recovery when paying agency 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) The creditor agency 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 paying agency 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 paying agency, the creditor agency also must advise the paying agency 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 (3) of this section and an installment agreement (or other instruction on the payment schedule), if applicable to the employee’s paying agency.

(5) If the employee is in the process of separating, the creditor agency must submit its claim to the employee’s paying agency for collection pursuant to §1.1930. The paying agency must certify the total amount of its collection and provide copies to the creditor agency and the employee as stated in paragraph (c)(4) of this section. If the paying agency 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 his or her former paying agency 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 paying agency—

(1) Complete claim. When the paying agency receives a properly certified debt claim from a creditor agency, deductions should be scheduled to begin prospectively at the next officials established pay interval. The employee must receive written notice that the paying agency 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 paying agency receives an incomplete debt claim from a creditor agency, the paying agency must 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 paying agency is not required or authorized to 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 employee’s paying agency, the employee transfers to a position served by a different paying agency before the debt is collected in full, the paying agency from which the employee separates 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 paying agency designated in appendix A of 5 CFR part 581 for a hearing official, and the paying agency must then cooperate as provided by 4 CFR 102.1 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 4 CFR 102.1 and provide a hearing official.

INTEREST, PENALTIES, ADMINISTRATIVE COSTS AND OTHER SANCTIONS

§ 1.1940 Assessment.

(a) Except as provided in paragraph (h) of this section, or §1.1941, the Commission shall assess interest, penalties and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. Before assessing these charges, the Commission will mail or hand-deliver a written notice to the debtor explaining the agency’s requirements concerning these charges.

(b) Interest shall accrue from the date on which notice of the debt and
the interest requirements is first mailed or hand-delivered to the debtor, using the most current address that is available to the agency. If the Commission should use an “advance billing” procedure—that is, if it mails a bill before a debt is actually owed—it can include the required interest notification in the advance billing, but interest may not start to accrue before the debt is actually owed.

(c) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury Tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the FEDERAL REGISTER and the Treasury Financial Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. The Commission may assess a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the interests of the United States. The rate of interest, as initially assessed, shall remain fixed for the duration of the indebtedness except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, the Commission may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest will not be assessed on accrued interest, penalties, or administrative costs required by this section. However, if the debtor defaults on a previous repayment agreement, charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under a new repayment schedule.

(d) The Commission shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt—that is, the additional costs incurred in processing and handling the debt because it became delinquent. Calculation of administrative costs shall be based upon actual costs incurred or upon costs analyses establishing an average of actual additional costs incurred by the agency in processing and handling claims against other debtors in similar stages of delinquency. Administrative costs may include costs incurred in obtaining a credit report or in using a private debt collector, to the extent they are attributable to the delinquency.

(e) The Commission shall assess a penalty charge, not to exceed 6 percent a year, on any portion of a debt that is delinquent for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to the outstanding principal.

(g) The Commission will waive the collection of interest on the debt or any portion of the debt which is paid within 30 days after the date on which interest began to accrue. It may extend this 30-day period, on a case-by-case basis, if it reasonably determines that such action is appropriate. Also, the Commission may waive, in whole or in part, the collection of interest, penalties, and/or administrative costs assessed under this section under the criteria specified in part 103 of the Federal Claims Collection Standards (4 CFR part 103) relating to the compromise of claims (without regard to the amount of the debt), or if it determines that collection of these charges would be against equity and good conscience, or not in the best interest of the United States. Waiver under the first sentence of this paragraph (g) is mandatory. Under the second and third sentences, it may be exercised under appropriate circumstances. Examples of appropriate circumstances include:

(1) Waiver of interest pending the agency’s disposition of a request for reconsideration, administrative review, or waiver of the underlying debt under a permissive statute, and

(2) Waiver of interest where the Commission has accepted an installment plan under §1.1914, and there is no indication of fault or lack of good faith on the part of the debtor.

(h) Where a mandatory waiver or review statute applies, interest and related charges may not be assessed for those periods during which collection action must be suspended under
§ 1.1941 Exemptions.
(a) The provisions concerning interest and penalty on claims contained in 31 U.S.C. 3717 do not apply:
(1) To debts owed by any State or local government;
(2) To debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of), October 25, 1982;
(3) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.
(b) 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.

COOPERATION WITH THE INTERNAL REVENUE SERVICE

§ 1.1950 Reporting discharged debts to the Internal Revenue Service.
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-G or any other form prescribed by the Service, when:
(a) The principal amount of the debt not in dispute is $600 or more; and
(b) The obligation has not been discharged in a bankruptcy proceeding; and
(c) 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.

§ 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.

GENERAL PROVISIONS CONCERNING INTERAGENCY REQUESTS

§ 1.1952 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,
§ 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(i), 506, 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, 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.


§ 1.2003 Applications affected.

The certification required by § 1.2002 must be filed with the following applications as well as any other requests for authorization filled with the Commission, 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 362 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;
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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 Authorization;
FCC 330 Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed Station 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-R 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 409 Airborne Mobile Radio Telephone License Application;
FCC 410 Registration of Canadian Radio Station Licensee and Application for Permit to Operate (Land Mobile);
FCC 422 Application for New or Modified Radio Station Authorization Under part 5 of this chapter—Experimental Radio Service (Other than Broadcast);
FCC 423 Application for Assignment or Transfer of Control Under part 22 of this chapter;
FCC 423 Application for Earth Station Authorization or Modification of Station License (Proposed);
FCC 424 Application for a New or Modified Microwave Radio Station License Under part 21 of this chapter;
FCC 424-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 Application for Assignment of Authorization and Transfer of Control;
FCC 602 FCC Application for Wireless Telecommunications Bureau Application for Assignment of Authorization and Transfer of Control;
FCC 604 Application for New or Modified Common Carrier Radio Station Authorization Under part 22 of this chapter;
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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.

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


(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 parts 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 90.239), 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
§ 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) Reservation Price. The Commission may establish a reservation price, either disclosed or undisclosed, below which a license subject to auction will not be awarded.

(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 high 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 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 equal to 3 percent of the amount of their bid withdrawals. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed at the close of the subsequent auction of the 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 $85 and withdraws. Bidder D wins the license in that auction at a bid of $80. 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 high bid at the close of an auction. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (g)(1) of this section plus an additional payment equal to 3 percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder’s bid amount, the 3 percent payment will be calculated based on the defaulting bidder’s bid amount. If either bid amount is subject to a bidding credit, the 3 percent credit will be calculated using the same bid amounts and basis (net or gross bids) as in the calculation of the payment in paragraph (g)(1) of this section. Thus, for example, if gross bids are used to calculate the payment in paragraph (g)(1) of this section, the 3 percent will be applied to the gross amount of the subsequent winning bid, or the gross amount of the defaulting bid, whichever is less.

(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
§ 1.2105 Bidding application and certification procedures; prohibition of collusion.

(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 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 309(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
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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.

(c) Prohibition of collusion. (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:

(1) 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, 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. Such reports shall be filed with the Office of the Secretary, and a copy shall be sent to the Chief of the Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

(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, 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.

§ 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
§ 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 penalties) 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. Notwithstanding any other provision in title 47 of the Code of Federal Regulations to the contrary, 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).

§ 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 a 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.


§ 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). In such event, the Commission, at its discretion, may either re-auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. The down payment obligations set forth in §1.2107(b) will apply.
§ 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 controlling interests and their affiliates shall be attributed to the applicant 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. An applicant seeking status as an entrepreneur must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues of the applicant (or licensee), its controlling interests and their affiliates for each of the previous two years.

(ii) Applicants without identifiable controlling interests. Where 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) Small business consortia. Where an applicant (or licensee) is a consortium of small businesses, the gross revenues of each small business consortium member shall not be aggregated. Each small business consortium member must constitute a separate and distinct legal entity to qualify.

(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.

(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)(i)(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)(i)(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 an entity shall be considered to have a controlling interest in the entity. 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.

(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.
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(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 activities that determine, or significantly influence:

(I) 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-in-law, mother-in-law, son-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 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)(i)(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 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.
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.

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 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.

The Commission may set aside specific licenses for which only eligible designated entities, as specified by the Commission, may bid.

The Commission may permit partitioning of service areas in particular services for eligible designated entities.

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 or a consortium of small businesses may use the following bidding credits corresponding to their 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” (see 25 CFR 20.1(v)), that has a wireline telephone subscription rate equal to or less than seventy (70) percent based on the most recently available U.S. Census Data.

(ii)(A) Certification. Within ninety (90) 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 ninety (90) 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 buildout requirements set forth in §1.2110(f)(vi) and consult with the tribal government regarding the siting of facilities and deployment of service on the tribal land.

(iii) Bidding credit formula. Subject to the applicable bidding credit limit set forth in §1.2110(f)(3)(iv), the bidding credit shall equal three hundred thousand (300,000) dollars for the first two hundred (200) square miles (518 square kilometers) of qualifying tribal land, and fifteen hundred (1500) 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 one million (1,000,000) 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 twenty-five (25) percent of the high bid.

(v) Application of credit. The bidding credit amount, if approved by the Commission, will be subtracted from the final net bid amount. The bidding credit will not affect calculation of the down payment.

(vi) 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.

(vii) Performance penalties. If a recipient of a bidding credit under this section fails to provide the post-construction certification required by §1.2110(f)(3)(vi), 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.
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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
§ 1.2110 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 and other agreements, including oral agreements, establishing, as applicable, *de facto* or *de jure* control of the entity. Such information must be maintained at the licensees’ facilities or by their designated agents for the term of the license in order to enable the Commission to audit designated entity eligibility on an ongoing basis.

(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 public- and private-sector 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) 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.

(o) 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.
Federal Communications Commission

or certified by the applicant’s chief financial officer or its equivalent if the applicant does not otherwise use audited financial statements.

§ 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’s 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 of this chapter). 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 a license acquired by the transferor or assignor pursuant to a set-aside for eligible designated entities under § 1.2110(c), or who proposes to take any other action relating to ownership or control that will result in loss of status as an eligible 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 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 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
§ 1.2111 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 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 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 and the bidding credit for which the restructured licensee 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.

(2) Payment schedule. (i) 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.

(ii) These payments will have to be paid to the United States Treasury as a condition of approval of the assignment, transfer, or ownership change.

(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.

§ 1.2112 Ownership disclosure requirements for short- and long-form 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 disclose fully the real party or parties in interest and must list the following information:

1. 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.

2. 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);

3. In the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;

4. 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.

5. 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.

6. 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 (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, and other controlling interests of the applicant, as described in §1.2110;

(ii) List any FCC-licensed 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 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, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium;

2. As an exhibit to its long-form application (i.e., see 47 CFR 1.2107):

(i) 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; such agreements and instruments include articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written; and

(ii) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights
§ 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]

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;
§ 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.

(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.
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,
§ 1.5000 Purpose.


[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 or will be eligible companies owned and/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
§ 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]
§ 1.6000 Purpose.


§ 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 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.

(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
§ 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 record-keeping 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-
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§ 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
§ 1.8001

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; and
5. Anyone paying statutory charges on behalf of another entity or person.

(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.


§ 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, 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, and anyone paying a 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.

§ 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
Federal Communications Commission

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.


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 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 co-
operation 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 jurisdic-
tion 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 con-
ference 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 mem-
er or members from the State or States af-
lected or to be affected by such matter, the 
procedure shall be as follows:

The Federal Commission will send a re-
quest to each interested State commission to 
nominate a specified number of members to 
serve on such board.

The representation of each State con-
cerned 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 mat-
ter 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 pro-
cedings shall be conducted. The rules of 
practice and procedure, as from time to time 
adopted or prescribed by the Federal Com-
mision, 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 inter-
ested, are invited to name Cooperating Com-
missons to sit with the Federal Commis-
sion 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 asso-
ciation, 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 re-
questing such advice (1) whether such com-
mision 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 commissioner it will be repre-
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 the territory 
for which rates will be under consideration 
therein, the general solicitor shall advise the 
president of the association that the associa-
tion is invited to name a cooperating com-
mittee 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 accept-
ed 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 ac-
cept or to decline said invitation for the asso-
ciation, and to determine the number of 
commissioners who shall be named on the 
cooperating committee, provided that his ac-
}
Federal Communications Commission

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 hereinafter 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 nonconcur-
rence of said cooperating committee in the
decision or order of said Federal Commiss-
ion.

CONSTRUCTION HEREOF IN CERTAIN RESPECTS
EXRESSLY PROVIDED

It is understood and provided that no State
or States shall be deprived of the right of
participation and cooperation as herein-
befre provided because of nonmembership in
the association. With respect to any such
State or States, all negotiations herein spec-
ified to be carried on between the Federal
Commission and any officer of such associa-
tion shall be conducted by the Federal Com-
mission 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]

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§ 2.1

The terms permissible interference and accepted interference are used in the coordination of frequency assignments between administrations.

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FIGURE 4—EXAMPLE OF EPIRB CARRIER COMPONENT

AUTHORITY: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

SOURCE: 28 FR 12465, Nov. 22, 1963, unless otherwise noted.


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:


FCC—Federal Communications Commission.

(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)

Administration. Any governmental department or service responsible for discharging the obligations undertaken in the Convention of the International Telecommunication Union and the Regulations. (CONV)

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 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 radio beacon 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 radio beacon 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

1The terms permissible interference and accepted interference are used in the coordination of frequency assignments between administrations.
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 a 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. (CONV)

_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 antennas 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)

Coordinated Universal Time (UTC). Time scale, based on the second (SI), as defined and recommended by the CCIR, and maintained by the Bureau International de l’Heure (BIH).

NOTE: For most practical purposes associated with the Radio Regulations, UTC is equivalent to mean solar time at the prime meridian (0 degrees longitude), formerly expressed in GMT. (RR)

Coordination Area. The area associated with an earth station outside of which a terrestrial station sharing the same frequency band neither causes nor is subject to interfering emissions greater than a permissible level. (RR)

Coordination Contour. The line enclosing the coordination area. (RR)

Coordination Distance. Distance on a given azimuth from an earth station beyond which a terrestrial causes nor is subject to interfering emissions greater than a permissible level. (RR)

Deep Space. Space at distance from the Earth equal to, or greater than, 2×10⁶ kilometers. (RR)

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 telecommunications channel. (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 necessary 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 Radio-beacon 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)

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3The full definition is contained in CCIR Recommendation 460-2.

4In general, duplex operation and semi-duplex operation require two frequencies in radiocommunication; simplex operation may use either one or two.
§ 2.1

**Equivalent Isotropically Radiated Power (e.i.r.p.).** The product of the power supplied 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.

**Note:** In this definition the term telegraphy has the same general meaning as defined in the Convention. (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 radio-communication 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 radio-communication service between earth stations at given positions, when one or more satellites are used; the given positions may be at 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 radio-communication services. (RR)

**Fixed Service.** A radiocommunication service between specified fixed points. (RR)

**Fixed Station.** A station in the fixed service. (RR)

**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.
§ 2.1

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 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)

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 these [international] Radio Regulations. (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. (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)

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)

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)

See Resolution 68 of the Radio Regulations.
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. (FCC)

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 Campbeltown, N.B., thence by great circle arc 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)
§ 2.1

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. (CONV)

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)

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 by the CCIR 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 communications 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 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. Observed or predicted interference which complies with quantitative interference and sharing criteria contained in these [International Radio] Regulations or in CCIR 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 safety 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 CCIR 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. (CONV)

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 retransmitted, 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. (CONV)

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. (CONV)

Radiocommunication Service. A service as defined in this Section involving the 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 service. (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 Mobil 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. (RR)

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 balloon, 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 of the mobile-satellite service. (RR)

Radiotelemetry. Telemetry by means of radio waves. (RR)

Reduced Carrier Single-Sideband Emission. A single-sideband emission in which the degree of carrier suppression enables the carrier to be reconstructed 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. (CONV)

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.

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. A method which is simplex operation at one end of the circuit and duplex operation at the other.5 (RR)

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) can be altered by making a change in software without making any changes to hardware components that affect the radio frequency emissions.

Spacecraft. A man-made vehicle which is intended to go beyond the major portion of the Earth’s atmosphere. (RR)

Space Operation Service. A radio-communication 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 radio-communication involving the use 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 radio-communication 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 radio-communication for specific purposes. (RR)

Space Telecommand. The use of radio-communication for the transmission of signals to a space station to initiate, modify or terminate functions of equipment on a space object, including 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)

Special Service. A radio-communication 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 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, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems. (CONV)

Telegram. Written matter intended to be transmitted by telegraphy for delivery to the addressee. This term also includes radiotelegrams unless otherwise specified.

NOTE: In this definition the term telegraphy has the same general meaning as defined in the Convention. (CONV)

Telegraphy. A form of telecommunication which is concerned in any process providing transmission and reproduction at a distance of documentary matter, such as written or printed matter or fixed images, or the reproduction at a distance of any kind of information in such a form. For the purposes of the [international] Radio Regulations, unless otherwise specified therein, telegraphy shall mean a form of telecommunication for the transmission of written matter by the use of a signal code. (RR)

Telemetry. The use of telecommunication for automatic indicating or recording measurements at a distance from the measuring instrument. (RR)

Telephony. A form of telecommunication set up for the transmission of speech or, in some cases, other sounds. (RR)

Television. A form of telecommunication for the transmission of transient images of fixed or moving objects. (RR)

4(See footnote under Harmful Interference)

7(See footnote under Harmful Interference)
Federal Communications Commission

§ 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 400 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, may be authorized the use of any frequency or frequency band not exclusively allocated to the passive
§ 2.102 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-Government stations may be authorized to use Government frequencies in the bands above 25 MHz if the Commission finds, after consultation with the appropriate Government agency or agencies, that such use is necessary for coordination of Government and non-Government activities: Provided, however, that:

(1) Non-Government operation on Government frequencies shall conform with the conditions agreed upon by the Commission and the National Telecommunications and Information Administration (NTIA) (the more important of which are contained in paragraphs (c) (2), (3), and (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 Government stations and, should harmful interference result, that the interfering non-Government operation shall immediately terminate; and

(4) Non-Government operation has been certified as necessary by the Government agency involved and this certification has been furnished, in writing, to the non-Government 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-Government 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-Government 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-Government 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:
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(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)(3)(i) and (ii) 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.

§ 2.103 Government use of non-Government frequencies.

(a) Government stations may be authorized to use non-Government frequencies in the bands above 25 MHz (except the 764–776 MHz and 794–806 MHz public safety bands) if the Commission finds that such use is necessary for coordination of Government and non-Government activities: Provided, however, that:

(1) Government operation on non-Government frequencies shall conform with the conditions agreed upon by the Commission and the National Telecommunications and Information Administration (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-Government stations and, should harmful interference result, that the interfering Government operation shall immediately terminate; and

(4) Government operation has been certified as necessary by the non-Government licensees involved and this certification has been furnished, in writing, to the Government agency with which communication is required.

(b) Government stations may be authorized to use channels in the 764–776 MHz and 794–806 MHz public safety bands with non-Government entities if the Commission finds such use necessary; where:

(1) The stations are used for interoperability or part of a Government/non-Government shared or joint-use system;

(2) The Government entity obtains the approval of the non-Government
§ 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 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, Russian Federation, Georgia, Kazakhstan, Mongolia, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan, Turkey and Ukraine and the area to the north of 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, Russian Federation, Georgia, Kazakhstan, Mongolia, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan, Turkey and Ukraine and the area to the north of 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′ South 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

1It 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.
(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 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, Iraq, Jordan and that part of the territory of Syria, 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 Libya 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.

(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); these are called “additional” services (see paragraph (d)(3) of this section).

(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 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
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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 that a service may operate in a specific frequency band subject to not causing harmful interference, this means also that this service cannot claim protection from harmful interference caused by other services to which the band is allocated under Chapter III of the International Radio Regulations.

(2) 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 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: 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).
§ 2.105 United States Table of Frequency Allocations.

(a) The United States Table of Frequency Allocations (United States Table) is subdivided into the Federal Government Table of Frequency Allocations (Federal Government Table, column 4 of §2.106) and the Non-Federal Government Table of Frequency Allocations (Non-Federal Government 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 (i.e., the 50 States, the District of Columbia, the Caribbean insular areas and some of the Pacific insular areas). The Federal Government Table is administered by the National Telecommunications and Information Administration (NTIA), whereas the Non-Federal Government Table is administered by the Federal Communications Commission (FCC).

(b) In the United States, radio spectrum may be allocated to either Federal government or non-Federal government 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 government FIXED, non-Federal government MOBILE). The terms used to designate categories of services and allocations in columns 4 and 5 of §2.106 correspond to the terms employed by the International Telecommunication Union (ITU) in the international Radio Regulations.

(c) Category of services. (1) Any segment of the radio spectrum may be allocated to the Federal government and/or non-Federal government 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 and the Rule Part Cross Reference Column. (1) The frequency band referred to in each allocation, column 4 for Federal government and column 5 for non-Federal government, 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 either column 4 or 5, then the Federal government or the non-Federal government sector, respectively, has no access to that band except as provided for by §2.102.

(2) When the Federal Government and Non-Federal Government Tables 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 Government Table, given in column 4, is included for informational purposes only.

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1See §2.104(a)(1) for definition of Region 2.
2The Caribbean insular areas are: The Commonwealth of Puerto Rico; the unincorporated territory of the United States Virgin Islands; and Navassa Island.
3The Pacific insular areas located in Region 2 are: Johnston Atoll and Midway Atoll.
4The operation of stations in the Pacific insular areas located in Region 3 are generally governed by the International plan for Region 3 (i.e., column 3 of §2.106). The Pacific insular areas located in Region 3 are: the Commonwealth of the Northern Mariana Islands; the unincorporated territory of American Samoa; the unincorporated territory of Guam; and Baker Island, Howland Island, Jarvis Island, Kingman Reef, Palmyra Island and Wake Island.
6The Communications Act of 1934, as amended.
7Definitions of the various radio services used are contained in §2.1.
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(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.

(5) The following symbols are used to designate footnotes in the United States Table:

(i) Any footnote consisting of “S5.” followed by one or more digits, e.g., S5.53, or any footnote not prefixed by a letter, e.g., 459, denotes an international footnote. Where an international footnote is applicable, without modification, to the United States Table, the footnote appears in the United States Table (columns 4 and 5) and denotes a stipulation affecting both the Federal Government Table and the Non-Federal Government Table. If, however, an international footnote pertains to a service allocated only for Federal government or non-Federal government use, the international footnote will be placed only in the affected Table. For example, “AMATEUR S5.142” shall be shown only in the Non-Federal Government Table.

(ii) Any footnote consisting of the letters US followed by one or more digits, e.g., US7, denotes a stipulation affecting both the Federal Government Table and the Non-Federal Government Table.

(iii) Any footnote consisting of the letters NG followed by one or more digits, e.g., NG2, denotes a stipulation applicable only to the Non-Federal Government Table (column 5).

(iv) Any footnote consisting of the letter G following by one or more digits, e.g., G2, denotes a stipulation applicable only to the Federal Government Table (column 4).

(6) If a frequency or frequency band has been allocated to a radiocommunication service in the Non-Federal Government Table, then a cross reference may be added for the pertinent FCC Rule part (column 6 of § 2.106). For example, the 849–851 MHz band is allocated to the non-Federal government aeronautical mobile service, 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 the Table. 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.

[65 FR 4640, Jan. 31, 2000]

§ 2.106 Table of Frequency Allocations.

EDITORIAL NOTE: The text of §2.106 begins on the following page.
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Note: The table represents the frequency ranges and services covered by the Federal Communications Commission. The entries include various services such as aeronautical, maritime, and mobile communications, with specific frequency ranges and notes on services and permissions.
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Note: The NTIA Manual (footnote G126) states that differential GPS stations may be authorized in the 108-117.975 MHz band, but the FCC has not yet addressed this footnote.

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174-216 BROADCASTING Fixed Mobile

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**Note:** The table is from the Federal Communications Commission (FCC) regulations. The numbers in parentheses indicate the part numbers under which these services are regulated.
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Note: The NTIA Manual (footnote 126) states that differential GPS stations may be authorized in the 1555-1610 MHz band, but the FCC has not yet addressed this footnote.
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Note: In its Manual, NTIA has added a primary inter-satellite service allocation to the band 25.25-25.5 GHz, limited the use of this allocation by adopting footnote 5.536, and has changed the directional indicator for the Earth exploration-satellite service allocation in the band 25.5-27 GHz from space-to-space to space-to-Earth.
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| FIXED-SATELLITE (space-to-Earth)  | BROADCASTING BROADCASTING-SATELLITE| Mobile                           | BROADCASTING BROADCASTING-SATELLITE Mobile                                           |                                                                                         |
| Mobile                           | Mobile-satellite (space-to-Earth)  | 5.547                            |                                                                                     |                                                                                         |
| 5.547                            | 5.547                              |                                   |                                                                                     |                                                                                         |

| 5.547, 5.551F, 5.551G             | 5.547                              |                                   |                                                                                     |                                                                                         |
| 5.547                            | 5.547                              |                                   |                                                                                     |                                                                                         |

<p>| 42.5-43.5                        | FIXED-SATELLITE (Earth-to-space)   | 42.5-43.5                        | 42.5-43.5 FIXED-SATELLITE (Earth-to-space) RADIO ASTRONOMY                          | 42.5-43.5 FIXED-SATELLITE (Earth-to-space) RADIO ASTRONOMY US342 US342                    |
| FIXED-SATELLITE (Earth-to-space)  | MOBILE except aeronautical mobile  | MOBILE except aeronautical mobile |                                                                                     |                                                                                         |
| MOBILE except aeronautical mobile| RADIO ASTRONOMY                    | 5.149                            |                                                                                     |                                                                                         |
| 5.149                            | 5.547                              |                                   |                                                                                     |                                                                                         |</p>
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as the Commission has considered the sub-
stantially revised international footnotes
that have previously been adopted domes-
tically, certain of the old international foot-
notes shall apply in the United States. These footnotes appear immediately after footnote
5.55 in II.

I. New Numbering Scheme

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, Bulgaria, Georgia, Kyrgyzstan, the Russian Federation, Tajikistan and Turkmenistan, the band 14-17 kHz is also allocated to the radionavigation service on a primary basis.

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, Georgia, Kazakhstan, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., Russian Federation, Tajikistan, Turkmenistan and Ukraine, the frequencies 25 kHz and 50 kHz will be used for this purpose under the same conditions.

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, Georgia, Kazakhstan, Kyrgyzstan, the Russian Federation, 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. 5.53).

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 operated under the 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 radio-
navigation 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 129-129 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.53).

5.66 Different category of service: In Germany, the allocation of the bands 115-117.6 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.53) and to the radionavigation service on a secondary basis (see No. 5.52).

5.67 Additional allocation: In Azerbaijan, Bulgaria, Mongolia, Kyrgyzstan, Romania 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.

5.68 Alternative allocation: In Angola, Botswana, Burundi, the Congo, Malawi, Dem. Rep. of the Congo, Rwanda and South Africa, the band 190–200 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, Cameroon, the Central African Rep., the Congo, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Oman, 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.
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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 radio-beacon 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, Georgia, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and the Black Sea areas of Bulgaria and 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.

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 Territories of Region 3, India, Indonesia (until 1 January 2005), 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).

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-97)).

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, from the date of full implementation of the GMDSS (see Resolution 331 (Rev.WRC-97)), 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.

5.83 The frequency 500 kHz is an international distress and calling frequency for Morse radiotelegraphy. The conditions for its use are prescribed in Articles 31 and 52, and in Appendix 13.

5.84 The conditions for the use of the frequency 518 kHz by the maritime mobile service are prescribed in Articles 31 and 52 and in Appendix 13.

5.85 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, Zambia and Zimbabwe, the band 525.5–535 kHz is also allocated to the mobile service on a secondary basis.

5.87A A *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 radio beacons in operation on 27 October 1997 until the end of their lifetime.

5.88 A *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
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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 1605.5–1705 kHz is also allocated to the broadcasting service on a secondary basis.

5.92 Some countries of Region 1 use radio-determination systems in the bands 1606.5–1625 kHz, 1635–1800 kHz, 1850–2160 kHz, 2194–2300 kHz, 2562–2850 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, Georgia, Hungary, Kazakhstan, Latvia, Lithuania, Moldova, Mongolia, Nigeria, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the Russian Federation, Tajikistan, Chad, Turkmenistan and Ukraine, the bands 1625–1830 kHz, 1800–1810 kHz and 2160–2170 kHz and, in Bulgaria, the bands 1625–1635 kHz and 1800–1810 kHz, are also allocated to the fixed and land mobile services on a primary basis, subject to agreement obtained under No. 9.21.

5.94 In Germany, Armenia, Austria, Azerbaijan, Belarus, Denmark, Estonia, Finland, Georgia, Hungary, Ireland, Israel, Jordan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Norway, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the United Kingdom, the Russian Federation, Sweden, Switzerland, Tajikistan, Turkmenistan and Ukraine, administrations may allocate up to 250 kHz to their amateur service in the bands 1715–1900 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.

5.95 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 1850–1900 kHz is allocated may use any frequency therein on condition that no harmful interference is caused to the Loran system operating on 1830 kHz or 1950 kHz.

5.96 Alternative allocation: in Angola, Armenia, Azerbaijan, Belarus, Belgium, Bulgaria, Cameroon, the Congo, Denmark, Egypt, Eritrea, Spain, Ethiopia, Georgia, Greece, Italy, Kazakhstan, Lebanon, Lithuania, Moldova, the Netherlands, Syria, Kyrgyzstan, the Russian Federation, 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.

5.99 Additional allocation: in Saudi Arabia, Austria, Bosnia and Herzegovina, Iraq, Libya, Uzbekistan, Slovakia, the Czech Rep., Romania, Slovenia, Chad, Togo and Yugoslavia, the band 1810–1830 kHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

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 Argentina, Bolivia, Chile, Mexico, Paraguay, Peru, Uruguay and Venezuela, the band 1850–2000 kHz is allocated to the fixed, mobile except aeronautical mobile, radiolocation and radio-navigation services on a primary basis.

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, 2562–2625 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, Botswana, Eritrea, Ethiopia, Iraq, Lesotho, Libya, Somalia and Swaziland, the band 2190-2190.5 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 and in Appendix 13.

5.109 The frequencies 2187.5 kHz, 4207.5 kHz, 5112 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, 12320 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 kHz, 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 and in Appendix 13.

The same applies to the frequencies 10003 kHz, 14903 kHz and 19968 kHz, but in each of these cases emissions must be confined in a band of ±3 kHz about the frequency.

5.112 Alternative allocation: in Bosnia and Herzegovina, Cyprus, Denmark, Greece, Iceland, Malta, Sri Lanka and Yugoslavia, the band 2194-2300 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.113 For the conditions for the use of the bands 2300-2405 kHz (2408 kHz in Region 1), 2300-2400 kHz, 2475-4995 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 Bosnia and Herzegovina, Cyprus, Denmark, Greece, Iraq, Malta, and Yugoslavia, the band 2562-2625 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.115 The carrier (reference) frequencies 3023 kHz and 5680 kHz may also be used, in accordance with Article 31 and Appendix 13 by stations of the maritime mobile service engaged in coordinated search and rescue operations. Additional 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 Bosnia and Herzegovina, Cyprus, Côte d’Ivoire, Denmark, Egypt, Greece, Iceland, Liberia, Malta, Sri Lanka, Togo and Yugoslavia, the band 3155-3200 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.118 Additional allocation: in the United States, Japan, 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, Peru and Venezuela, the band 3500-3750 kHz is also allocated to the fixed and mobile services on a primary basis.

5.120 For the use of the bands allocated to the amateur service at 3.5 MHz, 7.0 MHz, 10.1 MHz, 14.0 MHz, 18.068 MHz, 21.0 MHz, 24.89 MHz and 144 MHz in the event of natural disasters, see Resolution 640.1(SUP-WRC-2000).

5.122 Alternative allocation: in Argentina, 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.

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 In Afghanistan, Argentina, Armenia, Azerbaijan, Belarus, Botswana, Burkina Faso, the Central African Rep., China, Georgia, India, Kazakhstan, Mali, Niger, Kyrgyzstan, Russian Federation, Tajikistan, Chad, Turkmenistan and Ukraine, in the bands 4063-4123 kHz, 4130-4133 kHz and 4406-
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4338 kHz, stations of limited power in the fixed service which are situated at least 600 km from the coast may operate on condition that harmful interference is not caused to the maritime mobile service.

5.129 On condition that harmful interference is not caused to the maritime mobile service, the frequencies in the bands 6038–6125 kHz and 7050 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.

5.130 The conditions for the use of the carrier frequencies 4125 kHz and 6215 kHz are prescribed in Articles 31 and 52 and in Appendix 13.

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, 8141.5 kHz, 12579 kHz, 15806.5 kHz, 19680.5 kHz, 22376 kHz and 26100.5 kHz are the international frequencies for the transmission of maritime safety information (MSI) (see Appendix 13).

5.133 Different category of service: in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Uzbekistan, Kyrgyzstan, Russian Federation, 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).

5.134 The use of the bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11850 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 limited to single-sideband emissions with the characteristics specified in Appendix 11 or to any other spectrum-efficient modulation techniques recommended by ITU–R. Access to these bands shall be subject to the decisions of a competent conference.

5.135 The band 5900–5950 kHz is allocated, until 1 April 2007, to the fixed service on a primary basis, as well as to the following services: in Region 1 to the land mobile service on a primary basis, in Region 2 to the mobile except aeronautical mobile (R) service on a primary basis, and in Region 3 to the mobile except aeronautical mobile (R) service on a secondary basis, subject to application of the procedure referred to in Resolution 21 (Rev.WRC-95). After 1 April 2007, 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 the 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.

5.136 On condition that harmful interference is not caused to the maritime mobile service, the bands 6200–6213.5 kHz and 6220.5–6255 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.

5.137 The following bands:

6765–6785 kHz (centre frequency 6770 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.

5.138 Different category of service: in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 6765–7000 kHz to the land mobile service is on a primary basis (see No. 5.33).

5.139 Additional allocation: in Angola, Iraq, Rwanda, Somalia and Togo, the band 7000–7050 kHz is also allocated to the fixed service on a primary basis.

5.140 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.

5.141 The band 7300–7350 kHz is allocated, until 1 April 2007, to the fixed service on a primary basis and to the land mobile service on a secondary basis, subject to application of the procedure referred to in Resolution 21 (Rev.WRC-95). After 1 April 2007, 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.

5.144 In Region 3, the stations of those services to which the band 7965–8065 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 and in Appendix 13.

5.146 The bands 9400–9500 kHz, 11600–11850 kHz, 12050–12100 kHz, 13600–13800 kHz, 15450–15600 kHz, 17550–17700 kHz and 21750–21850 kHz are allocated to the fixed service on a primary basis subject to the procedure described in Resolution 8. The use of these bands by the broadcasting service shall be subject to provisions to be established by the world administrative radio conference for the planning of HF bands allocated to the broadcasting service (see Resolution 506). Within these bands, the date of commencement of operations in the broadcasting service on a planned channel shall not be earlier than the date of completion of satisfactory transfer, according to the procedures described in Resolution 8, of all assignments to stations in the fixed service operating in accordance with the Table and other provisions of the Radio Regulations, which are recorded in the Master Register and which may be affected by broadcasting operations on that channel. (SUP—WRC–97)

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.

5.148 The bands 9775–9900 kHz, 11650–11700 kHz, 11975–12050 kHz, 13600–13800 kHz, 15450–15600 kHz, 17550–17700 kHz and 21750–21850 kHz are allocated to the fixed service on a primary basis subject to the procedure described in Resolution 8. The use of these bands by the broadcasting service shall be subject to provisions to be established by the world administrative radio conference for the planning of HF bands allocated to the broadcasting service (see Resolution 506). Within these bands, the date of commencement of operations in the broadcasting service on a planned channel shall not be earlier than the date of completion of satisfactory transfer, according to the procedures described in Resolution 8, of all assignments to stations in the fixed service operating in accordance with the Table and other provisions of the Radio Regulations, which are recorded in the Master Register and which may be affected by broadcasting operations on that channel. (SUP—WRC–97)

5.149 In making assignments to stations of other services to which the bands:

<table>
<thead>
<tr>
<th>13360–13410 kHz</th>
<th>4900–5000 MHz</th>
<th>94.1–100 GHz</th>
</tr>
</thead>
<tbody>
<tr>
<td>25550–25670 kHz</td>
<td>6650–6675.2 MHz</td>
<td>102–109.5 GHz</td>
</tr>
<tr>
<td>37.5–38.25 MHz</td>
<td>10.6–10.68 GHz</td>
<td>111.8–114.25 GHz</td>
</tr>
<tr>
<td>73–74.6 MHz in Regions 1 and 3</td>
<td>14.47–14.5 GHz</td>
<td>128.33–128.59 GHz</td>
</tr>
<tr>
<td>150.05–153 MHz in Region 1</td>
<td>22.01–22.21 GHz</td>
<td>129.23–129.49 GHz</td>
</tr>
<tr>
<td>322–328.6 MHz</td>
<td>22.21–22.5 GHz</td>
<td>130–134 GHz</td>
</tr>
<tr>
<td>406.1–410 MHz</td>
<td>22.81–22.86 GHz</td>
<td>136–148.5 GHz</td>
</tr>
<tr>
<td>608–614 MHz in Regions 1 and 3</td>
<td>23.07–23.12 GHz</td>
<td>151.5–158.5 GHz</td>
</tr>
<tr>
<td>1330–1400 MHz</td>
<td>31.2–31.3 GHz</td>
<td>168.59–168.93 GHz</td>
</tr>
<tr>
<td>1610.6–1613.8 MHz</td>
<td>31.5–31.8 GHz in Regions 1 and 3</td>
<td>171.1–171.45 GHz</td>
</tr>
<tr>
<td>1660–1670 MHz</td>
<td>36.43–36.5 GHz</td>
<td>172.31–172.65 GHz</td>
</tr>
<tr>
<td>1718.8–1722.2 MHz</td>
<td>42.5–43.5 GHz</td>
<td>173.52–173.85 GHz</td>
</tr>
<tr>
<td>2655–2690 MHz</td>
<td>42.77–42.87 GHz</td>
<td>195.75–196.15 GHz</td>
</tr>
<tr>
<td>3260–3267 MHz</td>
<td>43.07–43.17 GHz</td>
<td>209–226 GHz</td>
</tr>
<tr>
<td>3332–3339 MHz</td>
<td>43.37–43.47 GHz</td>
<td>241–250 GHz</td>
</tr>
<tr>
<td>3345.8–3352.5 MHz</td>
<td>48.94–49.04 GHz</td>
<td>252–275 GHz</td>
</tr>
<tr>
<td>4825–4835 MHz</td>
<td>76–86 GHz</td>
<td>252–275 GHz</td>
</tr>
<tr>
<td>4950–4990 MHz</td>
<td>92–94 GHz</td>
<td>252–275 GHz</td>
</tr>
</tbody>
</table>

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).
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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),
- 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 The bands 13570–13600 kHz and 13800–13870 kHz are allocated, until 1 April 2007, to the fixed service on a primary basis and to the mobile except aeronautical mobile (R) service on a secondary basis, subject to application of the procedure referred to in Resolution 21 (Rev.WRC-96). After 1 April 2007, frequencies in these bands may be used by stations in the above-mentioned services, 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.

5.152 Additional allocation: in Armenia, Azerbaijan, China, Côte d’Ivoire, Georgia, Iran (Islamic Republic of), Kazakhstan, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 14250–14550 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 15985–16005 kHz is allocated may transmit standard frequency and time signals.

5.154 Additional allocation: in Armenia, Azerbaijan, Georgia, Kazakhstan, Moldova, Kyrgyzstan, the Russian Federation, 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, Bulgaria, Georgia, Hungary, Kazakhstan, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 21850–21870 kHz is also allocated to the aeronautical mobile (R) services on a primary basis.

5.155A In Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., the Russian Federation, 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.

5.155B The band 21850–21870 kHz by the fixed service is limited to 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.

5.158 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.

5.159 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.

5.160 Additional allocation: in Australia and New Zealand, the band 44–47 MHz is also allocated to the broadcasting service on a primary basis.

5.161A Additional allocation: in Germany, Austria, Belgium, Bosnia and Herzegovina, China, Vatican, Denmark, Spain, Estonia, Finland, France, Ireland, Iceland, Italy, Latvia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Lithuania, Luxembourg, Moldova, Monaco, Norway, the Netherlands, Poland, Portugal, Slovakia, the Czech Rep., the United Kingdom, the Russian Federation, Sweden and Switzerland the band 46–48 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).

5.162 Additional allocation: in Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, China, Croatia, Greece, Ireland, Israel, Italy, Jordan, Lebanon, Libya, Liechtenstein, Luxembourg,
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Madagascar, Mali, Malta, Morocco, Mauritania, Monaco, Nigeria, Norway, the Netherlands, Poland, Syria, the United Kingdom, Senegal, Slovenia, Sweden, Switzerland, Syria, Taiwan, Tanzania, Turkey and Yugoslavia, the band 47-68 MHz, in Romania the band 47-58 MHz and in the Czech Rep. the band 68-68 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 other countries other than those mentioned in connection with the band.

5.165 Additional allocation: in Angola, Cameroon, the Congo, 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, Burma, Darussalam, India, Indonesia, Iran (Islamic Republic of), Malaysia, Pakistan, Singapore and Thailand, the band 50-54 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis.

5.168 Alternative 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, 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 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 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).

5.174 Alternative allocation: in Bulgaria, Hungary, Poland and Romania, the band 68-73 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions in the Final Acts of the Special Regional Conference (Geneva, 1960).

5.175 Alternative allocation: in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the bands 68-73 MHz and 75.2-75.4 MHz are allocated to the broadcasting service 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.

5.176 Additional allocation: in Australia, China, Korea (Rep. of), Estonia (subject to agreement obtained under No. 9.21), 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.

5.177 Additional allocation: in Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Kazakhstan, Latvia, Moldova, Uzbekistan, Poland, Kyrgyzstan, the Russian Federation, 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.

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, Bulgaria, China, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Russian Federation, 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.

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, Japan, and Syria, 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 radio-navigation 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 76.4–87 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.

5.184 Additional allocation: in Bulgaria and Romania, the band 76–87.5 MHz is also 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).

5.185 Different category of service: in the United States, the French Overseas Depart-ments 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 83–87 MHz is also allocated to the mobile, except aeronautical mobile-satellite (R) service on a secondary 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, Lebanon, Syria, Kyrgyzstan, Somalia and Turkmenistan, the band 104–108 MHz is also allocated to the mobile, except aeronautical mobile (R) service on a secondary basis.

5.197 Additional allocation: in Japan, Pakistan and Syria, 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 by any administration which may be identified in the application of the procedures invoked under No. 9.21.

5.198 Additional allocation: the band 117.975–136 MHz is also allocated to the aero-
nautical mobile-satellite (R) service on a secondary basis, subject to agreement ob-
tained under No. 9.21.

5.199 The bands 121.45–121.55 MHz and 242.95–243.05 MHz are also allocated to the mobile-satellite service for the reception on board satellites of emissions from emergency position-indicating radiobeacons transmitting at 121.5 MHz and 243 MHz (see Appendix 13).

5.200 In the band 117.975–136 MHz, the frequency 121.5 MHz is the aeronautical emer-
gency frequency and, where required, the frequency 123.1 MHz is the aeronautical fre-
quency auxiliary to 121.5 MHz. Mobile stations of the maritime mobile service may com-
unicate on these frequencies under the conditions laid down in Article 31 and Appen-
dix 13 for distress and safety purposes with stations of the aeronautical mobile service.

5.201 Additional allocation: in Angola, Armenia, Azerbaijan, Belarus, Bulgaria, Estonia, Georgia, Hungary, Iran (Islamic Repub-
lic of), Iraq, Japan, Kazakhstan, Latvia, Moldova, Mongolia, Mozambique, Uzbekistan, Papua New Guinea, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Roma-
ia, Russian Federation, 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 adminis-
tration shall take account of the frequencies assigned to stations in the aeronautical mo-
obile (R) service.

5.202 Additional allocation: in Saudi Arabia, Armenia, Azerbaijan, Belarus, Bulgaria, the United Arab Emirates, Georgia, Iran (Islamic Republic of), Jordan, Latvia, Moldova, Oman, Uzbekistan, Poland, Syria, Kyrgyzstan, Slovakia, the Czech Rep., Roma-
ia, the Russian Federation, 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 adminis-
tration shall take account of the frequencies assigned to stations in the aeronautical mo-
obile (R) service.

5.203 In the band 136–137 MHz, existing operational meteorological satellites may continue to operate, under the conditions defined in No. 4.4 with respect to the aero-
nautical mobile service, until 1 January 2002. Administrations shall not authorize new fre-
quency assignments in this band to stations in the meteorological-satellite service.

5.203A Additional allocation: in Israel, Mauritania, Qatar and Zimbabwe, the band 136–137 MHz is also allocated to the fixed and mobile, except aeronautical mobile (R), serv-
ces on a secondary basis until 1 January 2005.

5.203B Additional allocation: in Saudi Arabia, United Arab Emirates, Jordan, Oman
and Syria, the band 136–137 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis until 1 January 2005.

5.205 Different category of service: in Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Bosnia and Herzegovina, Brunei Darussalam, China, Cuba, the United Arab Emirates, Indonesia, Iran (Islamic Republic of), Iraq, Malaysia, Oman, Pakistan, Philippines, Qatar, Singapore, Sri Lanka, Thailand, Yemen and Yugoslavia, 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).

5.206 Different category of service: in Armenia, Azerbaijan, Belarus, Bulgaria, Egypt, Finland, France, Georgia, Greece, Kazakhstan, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Syria, Slovakia, the Czech Rep., Romania, the Russian Federation, 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 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 Table 1 of Recommendation ITU-R RA.769-1.

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 France, Italy, Liechtenstein, Slovakia, the Czech Rep., the United Kingdom and Switzerland, 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.

5.211 Additional allocation: in Germany, Saudi Arabia, Austria, Bahrain, Belgium, Bosnia and Herzegovina, Denmark, the United Arab Emirates, Spain, Finland, Greece, Ireland, Israel, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Liechtenstein, Luxembourg, Mali, Malta, Norway, the Netherlands, Qatar, the United Kingdom, Somalia, Sweden, Switzerland, Tanzania, Tunisia, Turkey and Yugoslavia, the band 138–144 MHz is also allocated to the maritime mobile and land mobile services on a primary basis.

5.212 Alternative allocation: in Angola, Botswana, Burundi, Cameroon, the Central African Rep., the Congo, Gabon, Gambia, Ghana, Guinea, Iraq, Jordan, Lesotho, Liberia, Libya, Malawi, Mozambique, Namibia, Nigeria, Oman, 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.

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 Bosnia and Herzegovina, Croatia, Eritrea, Ethiopia, Kenya, The Former Yugoslav Republic of Macedonia, Malta, Somalia, Sudan, Tanzania and Yugoslavia, the band 138–144 MHz is also allocated to the fixed service on a primary basis.

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, Brunei Darussalam, Bulgaria, Cameroon, China, Cyprus, Congo, Korea (Rep. of), Croatia, Cuba, Denmark, Egypt, the United Arab Emirates, Eritrea,
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In the bands 156.9–159.55 MHz and 399.9–400.05 MHz may also be used by receiving earth stations of the space research service.

5.233 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.

5.244 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.

5.244B The allocation of the bands 149.9–150.05 MHz and 399.9–400.05 MHz to the radio-navigation-satellite service shall be effective until 1 January 2015.

5.226 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 are contained in Article 31 and Appendix 13.

In the bands 156–156.7625 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 13).

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 frequency 156.8 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 and subject to agreement with affected administrations and taking into account current frequency usage and existing agreements.

5.227 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 Appendices 13 and 18.

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.
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Malawi, Mali, Senegal, Sierra Leone, Somalia, Tanzania and Zimbabwe, the band 174–223 MHz is also allocated to the fixed and mobile services on a secondary basis.

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, 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 by any administration which may be identified in the application of the procedure invoked under No. 9.21.

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 Syria, 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 230–236 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 235–238 MHz and 335.4–389.9 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.

5.255 The bands 312–315 MHz (Earth-to-space) and 367–380 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 234 MHz is the frequency in this band for use by survival craft stations and equipment used for survival purposes (see Appendix 13).

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, Japan, and Syria, 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 radio-navigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21.

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, Bosnia and Herzegovina, Bulgaria, Colombia, Costa Rica, Cuba, Egypt, the United Arab Emirates, Ecuador, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Liberia, Malaysia, Moldova, Nigeria, Uzbekistan, Pakistan, the Philippines, Qatar, Syria, Kyrgyzstan, Slovakia, Romania, the Russian Federation, Singapore, Somalia, Tajikistan, Turkmenistan, Ukraine and Yugoslavia, the band 400.05–401 MHz is also allocated to the fixed and mobile services on a primary basis.

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 radio beacons (see also Article 31 and Appendix 13).

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 $-153 + 0.077 \delta \text{dB(W/m}^2\text{)} + 148 \text{dB(W/m}^2\text{)}$ for $5^\circ \leq \delta \leq 70^\circ$ and $-153 \text{dB(W/m}^2\text{)}$ for $70^\circ \leq \delta \leq 90^\circ$, 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 Azerbaijan, Belarus, China, Estonia, India, Latvia, Lithuania, Kyrgyzstan and Turkmenistan, the band 420–460 MHz is also allocated to the aeronautical radio-navigation service (radio altimeters) on a secondary basis.

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 Denmark, Libya and Norway, 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 Bosnia and Herzegovina, Croatia, Estonia, Finland, Latvia, The Former Yugoslav Republic of Macedonia, Libya, Slovenia and Yugoslavia, 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.

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, Jordan, Kenya, Kuwait, Lebanon, Libya, Liechtenstein, Malaysia, Malta, Niger, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syria, 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.

5.277 Additional allocation: In Angola, Armenia, Azerbaijan, Belarus, Cameroon, Congo, Djibouti, Georgia, Hungary, Israel, Kazakhstan, Latvia, Mali, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, the Russian Federation, Rwanda, Tajikistan, Chad, Turkmenistan and Ukraine, the band 430–440 MHz is also allocated to the fixed service on a primary basis.

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 430–434 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. 5.280 In Germany, Austria, Bosnia and Herzegovina, Croatia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Portugal, Slovenia, Switzerland and Yugoslavia, 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.

5.281 Additional allocation: In the French Overseas Departments 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.
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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 agreement obtained under No. 9.21. 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.

5.286B 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 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, Mexico and Panama, the band 454–455 MHz is also allocated to the mobile-satellite service (Earth-to-space) on a primary basis.

5.286E Additional allocation: In Cape Verde, Indonesia, Nepal, Nigeria and Papua New Guinea, the bands 454–456 MHz and 459–460 MHz are also allocated to the mobile-satellite (Earth-to-space) service on a primary basis.

5.287 In the maritime mobile service, the frequencies 457.525 MHz, 467.550 MHz, 467.575 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 457.5625 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 regulations of the administration concerned. The characteristics of the equipment used shall conform to those specified in Recommendation ITU-R M.1174 (see Resolution 341 (WRC-97)).

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, 467.550 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.

5.289 Earth exploration-satellite service applications, other than the meteorological-satellite service, may also be used in the bands 490–497 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, Japan, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Russian Federation, 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.

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 and Venezuela, the allocation of the band 470–512 MHz to the fixed and mobile services, and in Argentina and Uruguay to the mobile service, is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

5.293 Different category of service: in Canada, Chile, Colombia, Cuba, the United States, Guyana, Honduras, Jamaica, Mexico,
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Panama and Peru, the allocation of the bands 470–512 MHz and 614–686 MHz to the fixed and mobile services 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.

5.294 Additional allocation: in Burundi, Cameroon, the Congo, Ethiopia, Israel, Kenya, Lebanon, Libya, Malawi, Senegal, Sudan, Syria, and Yemen, the band 470–582 MHz is also allocated to the fixed service on a secondary basis.

5.296 Additional allocation: in Germany, Austria, Belgium, Cyprus, Denmark, Spain, Finland, France, Ireland, Israel, Italy, Libya, Lithuania, Malta, Morocco, Monaco, Norway, the Netherlands, Portugal, Syria, 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.

5.297 Additional allocation: in 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.

5.298 Additional allocation: in India, the band 548.75–550.25 MHz is also allocated to the space operation service (space-to-Earth) on a secondary basis.

5.300 Additional allocation: in Israel, Libya, Syria and Sudan, the band 582–790 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

5.302 Additional allocation: in the United Kingdom, the band 590–599 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.

5.311 Within the frequency band 620–790 MHz, assignments may be made to television stations using frequency modulation in the broadcasting-satellite service subject to agreement between the administrations concerned and those having services, operating in accordance with the Table, which may be affected (see Resolutions 33 (Rev.WRC-97) and 507). Such stations shall not produce a power flux-density in excess of the value 129 dB(W/m²) for angles of arrival less than 20° (see Recommendation 705) within the territories of other countries without the consent of the administrations of those countries.

5.312 Additional allocation: in Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Hungary, Kazakhstan, Latvia, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 645–862 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.314 Additional allocation: in Austria, Italy, Moldova, Uzbekistan, the United Kingdom and Swaziland, the band 790–862 MHz is also allocated to the land mobile service on a secondary basis.

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, Israel, Kenya, The Former Yugoslav Republic of Macedonia, Libya, Liechtenstein, Monaco, Norway, the Netherlands, Portugal, Syria, Sweden, Switzerland and Yugoslavia, the band 790–839 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.
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 Administrations wishing to implement International Mobile Telecommunications-2000 (IMT-2000) may use those parts of the band 806–960 MHz which are allocated to the mobile service on a primary basis and are used or planned to be used for mobile systems (see Resolution 224 (WRC-2000)). 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.

5.318 Additional allocation: in Canada, the United States and Mexico, the bands 848–851 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 848–851 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, 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.

5.321 Alternative allocation: in Italy, the band 838–851 MHz is allocated to the broadcasting service on a primary basis as from 1 January 1995.

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, Libya, 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, Hungary, Kazakhstan, Latvia, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Russian Federation, 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 radio beacons in operation on 27 October 1997 until the end of their lifetime.

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.

5.328 The use of the band 960–1215 MHz by the aeronautical radio navigation 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 Additional allocation: the band 1164–1215 MHz is also allocated to the radiolocation-satellite service (space-to-Earth) (space-to-space) on a primary basis. The aggregate power flux-density produced by all the space stations of all radionavigation-satellite systems at the Earth’s surface shall not exceed the provisional value of –115 dB(W/m²) in any 1 MHz band for all angles of arrival. Stations in the radionavigation-satellite service shall not cause harmful interference to, nor claim protection from, stations of the aeronautical-radionavigation service. The provisions of Resolution 605 (WRC-2000) apply.

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. See also Resolution 606 (WRC-2000).

5.329A Use of systems in the radiolocation-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 other systems or services operating in accordance with the Table.
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, Japan, Jordan, Kuwait, Lebanon, Libya, Morocco, Mozambique, Nepal, Nigeria, Pakistan, the Philippines, Qatar, Syria, Somalia, Sudan, Sri Lanka, 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, Austria, Bahrain, Belgium, Benin, Bosnia and Herzegovina, Burundi, Cameroon, China, Croatia, Denmark, the United Arab Emirates, France, Greece, India, Iran (Islamic Republic of), Iraq, Kenya, The Former Yugoslav Republic of Macedonia, Liechtenstein, Luxembourg, Mali, Mauritania, Norway, Oman, the Netherlands, Portugal, Qatar, Senegal, Slovenia, Somalia, Sudan, Sri Lanka, Sweden, Switzerland, Turkey and Yugoslavia, the band 1215–1300 MHz is also allocated to the radionavigation service on a primary basis.

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.

5.333 In the bands 1215–1300 MHz, 3100–3300 MHz, 3520–3535 MHz, 8550–8650 MHz, 9500–9800 MHz and 13.4–14.0 GHz, radiolocation stations installed on spacecraft may also be employed for the earth exploration-satellite and space research services on a secondary basis. (SUP–WRC–97)

5.334 Additional allocation: in Canada and the United States, the bands 1240–1300 MHz and 1350–1370 MHz are 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 harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the aeronautical radionavigation service.

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 Azerbaijan, Bulgaria, Mongolia, Kyrgyzstan, Slovak and the Czech Republic, Romania and Turkmenistan, existing installations of the radionavigation service may continue to operate in the band 1350–1400 MHz.

5.339 The bands 1370–1400 MHz, 2640–2655 MHz, 4500–4900 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 Nos. 5.421 and 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.
- 21.6–24 GHz.
- 31.3–31.5 GHz.
- 31.5–31.8 GHz, in Region 2.
- 48.94–49.94 GHz from airborne stations.
- 50.2–50.4 GHz, except those provided for by No. 5.555A.
- 52.6–54.25 GHz.
- 86–92 GHz.
- 100–102 GHz.
- 116 GHz.
- 116.7 GHz.
- 148.5–151.5 GHz.
- 164–167 GHz.
- 182–185 GHz, except those provided for by No. 5.583.
- 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, Uzbekistan, Kyrgyzstan, the Russian Federation 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 1525–1530 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 services.

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 (WARC-92).

5.347 Different category of service: in Bangladesh, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Cuba, Denmark, Egypt, Greece, Ireland, Italy, Kenya, Mozambique, Portugal, Sri Lanka, Swaziland, Yemen, Yugoslavia and Zimbabwe, the allocation of the band 1452–1492 MHz to the broadcasting-satellite service and the broadcasting service is on a secondary basis until 1 April 2007.

5.348 The use of the band 1492–1525 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. However, no coordination threshold in Article 21 for space stations of the mobile-satellite service with respect to terrestrial services shall apply to the situation referred to in No. 5.343. With respect to the situation referred to in No. 5.345, the requirement for coordination in the band 1492–1525 MHz will be determined by band overlap.

5.348A In the band 1492–1525 MHz, the coordination threshold in terms of the power flux-density level 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 radars or used in conjunction with public switched telecommunication networks (PSTN) operating within the territory of Japan, shall be -150 dB(W/m²) in any 4 kHz band for all angles of arrival, instead of those given in Table 5-2 of Appendix 5. The above threshold level of the power flux-density shall apply until it is changed by a competent world radiocommunication conference.

5.349 Different category of service: in Saudi Arabia, Azerbaijan, Bahrain, Bosnia and Herzegovina, Cameroon, Egypt, France, Iran (Islamic Republic of), Iraq, Israel, Kazakhstan, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Morocco, Qatar, Syria, Kyrgyzstan, Turkmenistan, Yemen and Yugoslavia, the allocation of the band 1525–1530 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.32).

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, a mobile 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 1525–1544 MHz, 1545–1559 MHz, 1610–1626.5 MHz, 1626.5–1645.5 MHz, 1646.5–1660.5 MHz, 1980–2010 MHz, 2170–2200 MHz, 2483.5–2500 MHz, 2560–2590 MHz and 2670–2690 MHz by the mobile-satellite service, see Resolutions 212 (Rev.WRC-97) and 225 (WRC-2000).

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 territories in Region 3, Algeria, Saudi Arabia, Egypt, Guinea, India, Israel, Italy, Jordan, Kuwait, Mali, Malta, Morocco, Mauritania, Nigeria, Oman, Pakistan, Philippines, Qatar, Syria, 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 (WRC-2000) shall apply.)

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, Egypt, Eritrea, Iraq, Israel, Jordan, Kuwait, Lebanon, Malta, Morocco, Qatar, Syria, 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).
§ 2.106  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 shall have priority access and immediate availability 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 44, to the mobile-satellite service in the bands 1545–1555 MHz and 1646.5–1660.5 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 operating 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 (WRC–2000) shall apply.)

5.359 Additional allocation: In Germany, Saudi Arabia, Armenia, Austria, Azerbaijan, Belarus, Benin, Bosnia and Herzegovina, Bulgaria, Cameroon, Spain, France, Gabon, Georgia, Greece, Guinea, Guinea-Bissau, Hungary, Jordan, Kazakhstan, Kuwait, Latvia, Lebanon, Libya, Lithuania, Mali, Morocco, Mauritania, Moldova, Mongolia, Nigeria, Uganda, Uzbekistan, Pakistan, Poland, Kyrgyzstan, the Dem. People’s Rep. of Korea, Romania, the Russian Federation, Senegal, Swaziland, Tajikistan, Tanzania, Turkmenistan and Ukraine, and until 1 January 2010 in Saudi Arabia, Cameroon, Jordan, Kuwait, Lebanon, Libya, Mali, Morocco, Mauritania, Syria and Tunisia. After these dates, 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. 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.

5.362 Additional allocation: in Bahrain, Bangladesh, Congo, Egypt, Eritrea, Iraq, Israel, Jordan, Kuwait, Lebanon, Malta, Morocco, Qatar, Syria, 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.

5.363 Alternative allocation: in Sweden, the band 1590–1626.5 MHz is allocated to the aeronautical radionavigation service on a primary basis.

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-
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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 meteorological 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 5000–5100 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, Côte d’Ivoire, Eritrea, Ethiopia, India, Iran (Islamic Republic of), Israel, Jordan, Lebanon, Liberia, Libya, Madagascar, Mali, Pakistan, Papua New Guinea, Dem. Rep. of the Congo, Syria, Senegal, 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 1610–1631.5 MHz by stations of the radiodetermination-satellite and mobile-satellite services (No. 29.13 applies).

5.373 Mobile earth stations in the mobile-satellite service operating in the bands 1631.5–1645.5 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 1645.5–1656.5 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.

5.377 In the band 1675–1710 MHz, stations in the mobile-satellite service shall not cause harmful interference to, nor constrain the development of, the meteorological-satellite and meteorological aids services (see Resolution 213 (Rev.WRC–95) and the use of this band shall be subject to coordination under No. 9.11A.

5.378 Additional allocation: In Bangladesh, India, Indonesia, Nigeria and Pakistan, the band 1660.5–1688.4 MHz is also allocated to the meteorological aids service on a secondary basis.

5.379 Administrations are urged to give all practicable protection in the band 1660–1688.4 MHz for future research in radio astronomy, particularly by eliminating air-ground transmissions in the meteorological aids service in the band 1664.4–1668.4 MHz as soon as practicable.

5.380 The bands 1670–1675 MHz and 1800–1805 MHz are intended for use, on a worldwide basis, by administrations wishing to implement aeronautical public correspondence. The use of the band 1670–1675 MHz by stations in the systems for public correspondence with aircraft is limited to transmissions from aeronautical stations and the use of the band 1800–1805 MHz is limited to transmissions from aircraft stations.

5.381 Additional allocation: In Afghanistan, Costa Rica, Cuba, India, Iran (Islamic Republic of), Malaya, Pakistan and Sri Lanka, 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, Austria, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, Bulgaria, the Congo, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guinea, Hungary, Iraq, Israel, Jordan, Kazakhstan, Kuwait, the Former Yugoslav Republic of Macedonia, Lebanon, Mauritania, Moldova, Mongolia, Oman, Uzbekistan, Poland, Qatar, Syria, Kyrgyzstan, Romania, Russian Federation, Somalia, Tajikistan, Tanzania, Turkmenistan, Ukraine, Yemen and Yugoslavia, 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 and mobile, except aeronautical mobile, service on a secondary basis.

5.384 Additional allocation: In India, Indonesia and Japan, the band 1700–1710 MHz is

Note by the Secretariat: This Resolution was abrogated by WRC–2000.

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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 and 2300-2690 MHz, are identified for use by administrations wishing to implement International Mobile Telecommunications-2000 (IMT-2000) in accordance with Resolution 223 (WRC-2000). 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.

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, 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 Azerbaijan, Belarus, Georgia, Kazakhstan, Mali, 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.

5.388 The bands 1885-2025 MHz and 2110-2290 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-97). (See also Resolution 223 (WRC-2000).)

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 (WRC-2000). The 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.

5.388B The use of the bands 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, Central Africa, Chile, Cuba, Ecuador, the United States, Honduras, Jamaica, Mexico, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

5.388C The use of the bands 2010-2025 MHz and 2160-2170 MHz in Region 2 by the mobile-satellite service shall not commence before 1 January 2002 and is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (WRC-95).4

5.388D In Canada and the United States the use of the bands 2010-2025 MHz and 2160-2170 MHz by the mobile-satellite service shall not commence before 1 January 2000.

5.388E 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.

5.388F In Algeria, Benin, Cape Verde, Egypt, Iran (Islamic Republic of), Mali, Syria 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.

5.390 In Argentina, Brazil, Chile, Colombia, Cuba, Ecuador, Suriname and Uruguay, the use of the bands 2010-2025 MHz and 2160-2170 MHz by the mobile-satellite services shall not cause harmful interference to stations in the fixed and mobile services before 1 January 2005. After this date, the use of these bands is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (WRC-95).5

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

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4Note by the Secretariat: This Resolution was revised by WRC-2000.

5Note by the Secretariat: This Resolution was revised by WRC-2000.
bands between geostationary and non-geostationary satellites.

5.392A Additional allocation: in Russian Federation, the band 2189–2290 MHz is also allocated to the space research service (space-to-Earth) on a primary basis until 1 January 2005. Stations in the space research service shall not cause harmful interference to, or claim protection from, stations in the fixed and mobile services operating in this frequency band.

5.393 Additional allocation: in 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 (WARC-92), with the exception of resolves 3 in regard to the limitation on broadcasting-satellite systems in the upper 23 MHz.

5.394 In the United States, the use of the band 2300–2360 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services. In Canada, the use of the band 2300–2483.5 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services.

5.395 In France, 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-97). Complementary terrestrial broadcasting stations shall be subject to bilateral coordination with neighbouring countries prior to their bringing into use.

5.397 Different category of service: in France, the band 2493.5–2500 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), Jordan, Lebanon, Liberia, Libya, Madagascar, Mali, Pakistan, Papua New Guinea, Dem. Rep. of the Congo, Syria, 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 2530–2535 MHz (until 1 January 2005 the band 2500–2535 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.

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/m² 4 kHz)) in Argentina, unless otherwise agreed by the administrations concerned.

5.409 Administrations shall make all practicable efforts to avoid developing new tropospheric scatter systems in the band 2500–2690 MHz.

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.

5.411 When planning new tropospheric scatter radio-relay links in the band 2500–2690 MHz, all possible measures shall be taken to avoid directing the antennae of these links towards the geostationary-satellite orbit.

5.412 Alternative allocation: in Azerbaijan, Bulgaria, Kyrgyzstan and Turkmenistan, the band 2500–2690 MHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.
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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 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) shall be effective on 1 January 2005 and is subject to coordination under No. 9.11A.

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. In the direction space-to-Earth, the power flux-density at the Earth’s surface shall not exceed the values given in Article 21, Table 21–4.

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 power flux-density at the Earth’s surface shall not exceed the values given in Article 21, Table 21–4.

5.418 Additional allocation: in Bangladesh, Belarus, Korea (Rep. of), India, Japan, Pakistan, Singapore, Sri Lanka and Thailand, the band 2535–2555 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 (WARC-92). 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 (WRC-2000).

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, 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), and No. 22.2 does not apply. Resolution 539 (WRC-2000) applies.

5.419 The allocation of the frequency band 2670–2690 MHz to the mobile-satellite service shall be effective from 1 January 2005. When introducing systems of the mobile-satellite service in this band, 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.

5.420 The band 2655–2670 MHz (until 1 January 2005 the band 2655–2690 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.

5.420A Additional allocation: in India and Japan, subject to agreement obtained under No. 9.21, the band 2670–2690 MHz may also be used for the aeronautical mobile-satellite service (Earth-to-space) for operation limited to within their national boundaries.

5.421 Additional allocation: in Germany and Austria, the band 2690–2695 MHz is also allocated to the fixed service on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

5.422 Additional allocation: in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, Brunei Darussalam, Congo, Cote d’Ivoire, Cuba, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Georgia, Guinea, Guinea-Bissau, Iran (Islamic Republic of), Iraq, Israel, Jordan, Lebanon, Malaysia, Mali, Mauritania, Moldova, Mongolia, Oman, Pakistan, the Philippines, Qatar, Syria, Kyrgyzstan, the Dem. Rep. of the Congo, Romania, the Russian Federation, Somalia, Tajikistan, Tunisia,
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Turkmenistan, Ukraine, Yemen and Yugoslavia, 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.

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.

5.425 In the band 2900–3100 MHz, the use of the shipborne interrogator-transponder system (SIT) 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 3300–3500 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, Bulgaria, Cuba, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3100–3300 MHz is also allocated to the radionavigation service on a primary basis.

5.429 Additional allocation: in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, the Congo, Korea (Rep. of), the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Libya, Malaysia, Oman, Pakistan, Qatar, Syria, 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.

5.430 Additional allocation: in Azerbaijan, Bulgaria, Cuba, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3300–3400 MHz is also allocated to the radionavigation service on a primary basis.

5.431 Additional allocation: in Germany, Israel, Nigeria and the United Kingdom, the band 3400–3475 MHz is also allocated to the amateur service on a secondary basis.

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).

5.433 In Regions 2 and 3, in the band 3400–3600 MHz the radio-location service is allocated on a primary basis. However, all administrations operating radio-location 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.

5.435 In Japan, in the band 3620–3700 MHz, the radio-location service is excluded.

5.436 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).

5.438 Additional allocation: in Iran (Islamic Republic of) and Libya, 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 4302 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.

5.441 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.

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 also No. 5.33).

5.443A Additional allocation: The band 5000–5010 MHz is also allocated to the radio-navigation-satellite service (Earth-to-space) on a primary basis. See Resolution 603 (WRC-2000).

5.443B Additional allocation: The band 5010–5030 MHz is also allocated to the radio-navigation-satellite service (space-to-Earth) (space-to-space) on a primary basis. 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/m²)” in a 150 kHz band. In order not to cause harmful interference to the radio astronomy service in the band 4990–5000 MHz, the aggregate power flux-density produced in the 4990–5000 MHz band by all the space stations within any radionavigation-satellite service (space-to-Earth) system operating 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 “171 dB(W/m²)” in a 10 MHz band at any radio astronomy observatory site for more than 2% of the time. For the use of this band, Resolution 604 (WRC-2000) applies.

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. The requirements of this system shall take precedence over other uses of this band. For the use of this band, No. 5.444A and Resolution 114 (WRC-95) apply.

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 mobile-satellite systems and is subject to coordination under No. 9.11A.

In the band 5091–5150 MHz, the following conditions also apply:

—Prior to 1 January 2010, 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 (WRC-95);

—Prior to 1 January 2010, 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 2008, no new assignments shall be made to stations providing feeder links of non-geostationary mobile-satellite systems;

—After 1 January 2010, the fixed-satellite service will become secondary to the aeronautical radionavigation service.

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. 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 produced by the radiodetermination-satellite service operating in the bands 1610–1626.5 MHz and/or 2483.5–2500 MHz, the aggregate power flux-density at the Earth’s surface produced by the radionavigation-satellite service operating in the bands 1610–1626.5 MHz and/or 2483.5–2500 MHz, the aggregate power flux-density at the Earth’s surface produced by all the space stations with non-geostationary mobile-satellite service, in any 4 kHz band for all angles of arrival.

5.447 Additional allocation: in Germany, Austria, Belgium, Denmark, Spain, Estonia, Finland, France, Greece, Israel, Italy, Japan, Jordan, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, Pakistan, the Netherlands, Portugal, Syria, the United Kingdom, Sweden, Switzerland and Tunisia, the band 5150–5250 MHz is also allocated to the fixed-satellite service on a primary basis, subject to agreement obtained under No. 9.21.

5.447A Additional allocation: the band 5150–5216 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.

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 “159 dB(W/m²)” 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.
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 No. 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.

5.448 Additional allocation: in Austria, Azerbaijan, Bulgaria, Libya, Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Romania and Turkmenistan, the band 5250–5350 MHz is also allocated to the radionavigation service on a primary basis.

5.448A The use of the frequency band 5250–5350 MHz by the earth exploration-satellite (active) and space research (active) services shall not constrain the future development and deployment of the radiolocation service.

5.448B The earth exploration-satellite (active) service operating in the band 5350–5460 MHz shall not cause harmful interference to, or constrain the use and development of, the aeronautical radionavigation service.

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, Bulgaria, Iran (Islamic Republic of), Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Turkmenistan and Ukraine, the band 5470–5650 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.451 Additional allocation: in the United Kingdom, the band 5470–5650 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, Brunei Darussalam, Cameroon, China, Congo, Korea (Rep. of), Egypt, the United Arab Emirates, Gabon, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syria, the Dem. People’s Rep. of Korea, Singapore, Swaziland, Tanzania, Chad and Yemen, the band 5650–5850 MHz is also allocated to the fixed and mobile services on a primary basis.

5.454 Different category of service: in Azerbaijan, Belarus, Georgia, Mongolia, Uzbekistan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 5670–5725 MHz to the space research service is on a primary basis (see No. 5.33).

5.455 Additional allocation: in Armenia, Azerbaijan, Belarus, Bulgaria, Cuba, Georgia, Hungary, Kazakhstan, Latvia, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 5670–5850 MHz is also allocated to the fixed service on a primary basis.

5.456 Additional allocation: in Germany and in Cameroon, the band 5755–5850 MHz is also allocated to the fixed service on a primary basis.

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 7075–7205 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 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 Additional allocation: the band 7145–7235 MHz is also allocated to the space research (Earth-to-space) service on a primary basis, subject to agreement obtained under
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No. 9.21. The use of the band 7145–7190 MHz is restricted to deep space; no emissions to deep space shall be effected in the band 7190–7235 MHz.

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:

- $-174 + 5 \theta$ dB(W/m$^2$) in a 4 kHz band for $0 \leq \theta < 5^\circ$,

- $-174 + 5 \theta$ dB(W/m$^2$) in a 4 kHz band for $5^\circ \leq \theta < 25^\circ$,

- $-164$ dB(W/m$^2$) in a 4 kHz band for $25^\circ \leq \theta < 90^\circ$.

These values are subject to study under Resolution 124 (WRC-97).\(^6\)

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, Malaysia, 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).

5.467 Alternative allocation: in the United Kingdom, the band 8400–8500 MHz is allocated to the radiolocation and space research services on a primary basis.

5.468 Additional allocation: in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burundi, Cameroon, China, the Congo, Costa Rica, Egypt, the United Arab Emirates, Gabon, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, Qatar, Syria, 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, Bulgaria, Georgia, Hungary, Lithuania, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 8900–9750 MHz is 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 radio-location 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, the United Arab Emirates, France, Greece, Indonesia, Iran (Islamic Republic of), Libya, 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.

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, Bulgaria, Cuba, Georgia, Hungary, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the bands 8850–9000 MHz and 9200–9300 MHz are also allocated to the maritime radionavigation service on a primary basis.

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. In the band 9300–9500 MHz, ground-based radars used for meteorological purposes have priority over other radiolocation devices.

5.476 In the band 9300–9320 MHz in the radionavigation service, the use of shipborne radars, other than those existing on 1 January 1976, is not permitted until 1 January 2001.

5.476A In the band 9500–9800 MHz, stations in the earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, or

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\(^6\) Note by the Secretariat: This Resolution was revised by WRC-2000.
constrain the use and development of, stations of the radionavigation and radio-location services.

5.477 Different category of service: in Algeria, 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, the Dem. People’s Rep. of Korea, Singapore, Somalia, Sudan, Sweden, 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).

5.478 Additional allocation: in Azerbaijan, Bulgaria, Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Turkmenistan and Ukraine, the band 9975–10025 MHz is also allocated to the radionavigation service on a secondary basis.

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, Peru, Uruguay and Venezuela, the band 10.45–10.55 GHz is also allocated to the fixed and mobile services on a primary basis.

5.481 Additional allocation: in Germany, Angola, Brazil, China, Costa Rica, El Salvador, Ecuador, Spain, Guatemala, Japan, Morocco, Nigeria, Oman, Uzbekistan, Paraguay, Peru, the Dem. People’s Rep. of Korea, Sweden, Tanzania, Thailand and Uruguay, the band 10.45–10.55 GHz is also allocated to the fixed and mobile services on a primary basis.

5.482 In the band 10.6–10.68 GHz, stations of the fixed and mobile, except aeronautical mobile, services shall be limited to a maximum equivalent isotropically radiated power of 40 dBW and the power delivered to the antenna shall not exceed 3 dBW. These limits may be exceeded subject to agreement obtained under No. 9.21. However, in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, China, the United Arab Emirates, Georgia, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kazakhstan, Kuwait, Latvia, Lebanon, Moldova, Mongolia, Uzbekistan, Qatar, Kyrgyzstan, the Dem. People’s Rep. of Korea, Romania, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, Yemen and Yugoslavia, 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 1983.

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, 12.75–13.75 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 provisions of 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 syrinx systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.485A 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 the provisions of Resolution 77 (WRC-2000). 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.

5.491 Additional allocation: in Region 3, the band 12.2–12.5 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. The power flux-density limits in Table 21–4 of Article 21 shall apply to this frequency band. The introduction of the service in relation to the broadcasting-satellite service in Region 1 shall follow the procedures specified in Article 7 of Appendix 30, with the applicable frequency band extended to cover 12.2–12.5 GHz.

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(m² · 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., the Congo, Côte d’Ivoire, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Madagascar, Mali, Morocco, Mongolia, Nigeria, Qatar, Dem. Rep. of the Congo, Syria, Senegal, 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, Croatia, Denmark, France, Greece, Liechtenstein, Monaco, Uganda, Portugal, Romania, Slovenia, Switzerland, Tanzania, Tunisia and Yugoslavia, the band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

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,
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Kuwait, Lebanon, Madagascar, Malaysia, Mali, Malta, Morocco, Mauritania, Nigeria, Pakistan, Qatar, Syria, Senegal, 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 Austria, Azerbaijan, Hungary, Japan, Mongolia, Kyrgyzstan, Romania, the United Kingdom and Turkmenistan, the band 13.4–14 GHz is also allocated to the radionavigation service on a primary basis.

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 radio-location service.

5.502 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 radio-location or radionavigation services shall not exceed 59 dBW. The protection of assignments to receiving space stations in the fixed-satellite service operating with earth stations that, individually, have an e.i.r.p. of less than 68 dBW shall not impose constraints on the operation of the radio-location and radionavigation stations operating in accordance with the Radio Regulations. No. 5.43A does not apply. See Resolution 7/3 (WRC–2000).

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:

—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 the 6 MHz band from 13.772 to 13.778 GHz;

—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 the 6 MHz band in this frequency range 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 the 6 MHz band in clear-sky conditions.

5.503A Until 1 January 2000, stations in the fixed-satellite service shall not cause harmful interference to non-geostationary space stations in the space research and Earth exploration-satellite services. After that date, these non-geostationary space stations will operate on a secondary basis in relation to the fixed-satellite service. Additionally, when planning earth stations in the fixed-satellite service to be brought into service between 1 January 2000 and 1 January 2001, in order to accommodate the needs of spaceborne precipitation radars operating in the band 13.793–13.805 GHz, advantage should be taken of the consultation process and the information given in Recommendation ITU-R S.A.1071.

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.

5.505 Additional allocation: in Algeria, Angola, Saudi Arabia, Bahrain, Bangladesh, Botswana, Brunei Darussalam, Cameroon, China, Congo, Korea (Rep. of), Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lesotho, Lebanon, Malaysia, Mali, Morocco, Mauritania, Oman, Pakistan, the Philippines, Qatar, Syria, the Democratic People’s Republic of Korea, Senegal, Singapore, Somalia, Sudan, Swaziland, Tanzania, Chad and Yemen, the band 14–14.3 GHz is allocated to the fixed service on a primary basis.

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.

5.508 Additional allocation: in Germany, Bosnia and Herzegovina, France, Greece, Ireland, Iceland, Italy, The Former Yugoslav Republic of Macedonia, Libya, Liechtenstein, Portugal, the United Kingdom, Slovenia, Switzerland and Yugoslavia, the band 14.25–14.3 GHz is also allocated to the fixed service on a primary basis.

5.509 Additional allocation: in Japan the band 14.25–14.3 GHz is also allocated to the mobile, except aeronautical mobile, service on a primary basis.

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, Ethiopia, Guinea, Iran (Islamic Republic of), Iraq, Israel, Kuwait, Lebanon, Libya, Pakistan, Qatar, Syria, Slovenia, Somalia and Yugoslavia, the band 15.43–15.63 GHz shall be in accordance with Recommendation ITU-R S.1340. The minimum earth station elevation angle 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 may not exceed the level of -156 dB(W/m²·MHz) in a 50 MHz bandwidth, into any radio astronomy observatory site for more than 2% of the time.

5.513 Additional allocation: in Algeria, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Bosnia and Herzegovina, Brunei Darussalam, Cameroon, the Congo, Costa Rica, Egypt, El Salvador, the United Arab Emirates, Finland, Guatemala, India, Indonesia, Iran (Islamic Republic of), Jordan, Kuwait, Libya, Malaysia, Morocco, Mozambique, Nepal, Nicaragua, Oman, Pakistan, Qatar, Singapore, Slovenia, Somalia, Sudan, Swaziland, Tanzania, Chad, Yemen and Yugoslavia, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis.

5.513A Spaceborne active sensors operating in the bands 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, Germany, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Bosnia and Herzegovina, Cameroon, Costa Rica, El Salvador, the United Arab Emirates, Finland, Guatemala, Honduras, India, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Libya, Nepal, Nicaragua, Oman, Pakistan, Qatar, Slovenia, Sudan and Yugoslavia, 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.

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.
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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.

5.517 In Region 2, the allocation to the broadcasting-satellite service in the band 17.7–17.8 GHz shall come into effect on 1 April 2007. After that date, use of the fixed-satellite (space-to-Earth) service in the band 17.7–17.8 GHz shall not claim protection from and shall not cause harmful interference to operating systems in the broadcasting-satellite service.

5.518 **Different category of service:** in Region 2, the allocation of the band 17.7–17.8 GHz to the mobile service is on a primary basis until 31 March 2007.

5.519 **Additional allocation:** 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.

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, Greece and Slovakia, 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, 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 20,000 km.

5.522C In the band 18.6–18.8 GHz, in Algeria, Saudi Arabia, Bahrain, Egypt, the United Arab Emirates, Jordan, Lebanon, Libya, Morocco, Oman, Qatar, Syria, 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 29.6–29.1 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. 5.522C 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
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complete Appendix 4 coordination information, or notification information is consid-
ered as having been received by the Bureau by 21 November 1997.

5.531  Additional allocation: in Japan, the band 21.4–22 GHz shall come into effect on 1 April 2007. The use of this band by the broad-
casting-satellite service after that date and on an interim basis prior to that date is sub-
ject to the provisions of Resolution 263 (WARC–92).

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 mo-
bile, 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.

5.534  Additional allocation: in Japan, the band 24.65–25.25 GHz is also allocated to the radionavigation service on a primary basis until 2008.

5.535  In the band 24.75–25.25 GHz, feeder links to stations of the broadcasting-sat-
eellite 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 serv-
ice 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 applica-
tion of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2, except as indicated in Nos. 5.526C and 5.526E 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 proce-
dures, and to the provisions of No. 22.2.

5.536  Use of the 25.25–25.75 GHz band by the inter-satellite service is limited to space research and Earth exploration-satellite appli-
cations, and also transmissions of data origi-
nating from industrial and medical activities in space.

5.536A  Administrations installing Earth exploration-satellite service earth stations cannot claim protection from stations in the fixed and mobile services operated by neighbouring administrations. In addition, earth stations operating in the Earth explo-
ration-satellite service should take into ac-

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, Jordan, Kenya, Kuwait,
Lebanon, Libya, Liechtenstein, Lithuania, Moldova, Norway, Oman, Uganda, Pakistan,
the Philippines, Poland, Portugal, Syria, Slovakia, the Czech Rep., Romania, the

band 21.4–22 GHz shall come into effect on 1 April 2007. The use of this band by the broad-
casting-satellite service after that date and on an interim basis prior to that date is sub-
ject to the provisions of Resolution 263 (WARC–92).
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United Kingdom, Singapore, Sweden, Switzerland, Tanzania, Turkey, Viet Nam and Zimbabwe, earth stations operating in the Earth exploration-satellite service in the band 27.5–27.7 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 intersatellite service in the band 27–27.5 GHz are exempt from the provisions of No. 22.2.

5.537A In Bhutan, Indonesia, Iran (Islamic Republic of), Japan, Maldives, Mongolia, Myanmar, Pakistan, the Dem. People’s Rep. of Korea, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 27.5–28.35 GHz may also be used by high altitude platform stations (HAPS). The use of the band 27.5–28.35 GHz by HAPS is 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.

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. In the band 27.500–27.501 GHz, such space-to-Earth transmissions shall not produce a power flux-density in excess of the values specified in Article 21, Table 21–4 on the Earth’s surface.

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 in 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 shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services.

5.542 Additional allocation: in Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, Congo, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guinea, India, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Pakistan, the Philippines, Qatar, Syria, 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.

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, Indonesia, Iran (Islamic Republic of), Japan, Maldives, Mongolia, Myanmar, Pakistan, 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 high altitude platform stations (HAPS) in the ground-to-HAPS direction. The use of the band 31–31.3 GHz by systems using HAPS shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems or other co-primary services, taking into account No. 5.545. The use of HAPS in the band 31–31.3 GHz shall not cause harmful interference to the passive services having a primary allocation in the band 31.3–31.8 GHz, taking into account the interference criteria given in Recommendations ITU-R SA.1029 and ITU-R RA.769. The administrations of the countries listed above are urged to limit the deployment of HAPS in the band 31–31.3 GHz to the lower half of this band (31–31.15 GHz) until WRC-03.

5.544 In the band 31–31.5 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, Azerbaijan, Belarus, Georgia, Mongolia, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 31–31.3 GHz to the space research service is on a primary basis (see No. 5.33).

5.546 Different category of service: in Saudi Arabia, Armenia, Azerbaijan, Belarus, Egypt, the United Arab Emirates, Spain, Estonia, Finland, Georgia, Hungary, Iran (Islamic Republic of), Israel, Jordan, Latvia, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, Syria, Kyrgyzstan, Romania, the

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United Kingdom, the Russian Federation, Tajikistan, Turkmenistan, Turkey and Ukraine, the allocation of the band 31.5–31.8 GHz to the fixed and mobile, except aeronautical mobile, services as a primary basis (see No. 5.33).

5.547 The bands 31.8–33.4 GHz, 37–40 GHz, 40.5–43.5 GHz, 41.5–42 GHz, 51.4–52.6 GHz, 55.76–59 GHz and 64–66 GHz are available for use in high-density applications in the fixed service (see Resolutions 75 (WRC–2000) and 79 (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, administrations should further take into account potential constraints to high-density applications in the fixed service, as appropriate (see Resolution 84 (WRC–2000)).

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 inter-satellite, 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 and radionavigation services 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, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Malta, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, Dem. Rep. of the Congo, Syria, Senegal, 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.

5.550 Different category of service: in Armenia, Azerbaijan, Belarus, Georgia, Mongolia, Uzbekistan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 31.5–33.2 GHz to the space research service is on a primary basis (see No. 5.33).

5.551 Radars located on spacecraft may be operated on a primary basis in the band 35.5–35.6 GHz. (SUP—WRC–97)

5.551A In the band 35.5–36.0 GHz, 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 deployment of the radio-location service, the meteorological aids service and other services allocated on a primary basis.

5.551AA 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).

5.551G In order to protect the radio astronomy service in the band 42.5–43.5 GHz, the aggregate power flux-density in the 42.5–43.5 GHz band produced by all the space stations in any non-geostationary-satellite system in the fixed-satellite service (space-to-Earth) or in the broadcasting-satellite service (space-to-Earth) system operating in the 41.5–42.5 GHz band shall not exceed—167 dB(W/m²) in any 1 MHz band at the site of a radio astronomy station for more than 2% of the time. The power flux-density in the band 42.5–43.5 GHz produced by any geostationary station in the fixed-satellite service (space-to-Earth) or in the broadcasting-satellite service (space-to-Earth) operating in the band 42–42.5 GHz shall not exceed—167 dB(W/m²) in any 1 MHz band at the site of a radio astronomy station. These limits are provisional and will be reviewed in accordance with Resolution 128 (Rev.WRC–2000).

5.552 The allocation of the spectrum for the fixed-satellite service in the bands 42.43.5 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 49.5–49.9 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 (WRC-97).7

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 radiocommunications services to which these bands are allocated (see No. 5.45).

5.554 In the bands 43.5–47 GHz, 66–71 GHz, 95–100 GHz, 123–130 GHz, 191.8–200 GHz and 232–265 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radio-navigation-satellite service.

5.555 Additional allocation: the band 48.94–49.04 GHz is also allocated to the radio astronomy service on a primary basis.

5.555A The band 50.2–50.4 GHz is also allocated, on a primary basis, to the fixed and mobile services until 1 July 2000.

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 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. 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, 157–174.8 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. 5.49).

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. 5.49).

5.559A The band 75.5–76 GHz is also allocated to the amateur and amateur-satellite services on a primary basis until the year 2006.

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 1800 km above the Earth’s surface in the vicinity of 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.
of all geostationary orbital positions occupied by passive sensors, shall not exceed \(-148\ \text{dB(W/m}^2\cdot\text{MHz})\) 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 \(-144\ \text{dB(W/m}^2\cdot\text{MHz})\) for all angles of arrival.

5.563 Additional allocation: in the United Kingdom, the band 182–185 GHz is also allocated to the fixed and mobile services on a primary basis.

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:


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.

II. Old Numbering Scheme

459 In the Region 2 polar areas (north of 60°N and south of 60°S), which are subject to auroral disturbances, the aeronautical fixed service is the primary service in the band 160–190 kHz.

471 The bands 490–495 kHz and 505–510 kHz shall be subject to the provisions of No. 3018 until the entry into force of the reduced guardband in accordance with Resolution 210 (Mob–87).

472 The frequency 500 kHz is the international distress and calling frequency for Morse radiotelegraphy. The conditions for its use are prescribed in Articles 37, 38, N 38 and 60.

472A In the maritime mobile service, the frequency 490 kHz is, from the date of full implementation of the GMDSS (see Resolution 331 (Mob–87)), to be used exclusively for the transmission by coast stations of navigational and meteorological warnings and urgent information to ships, by means of narrowband direct-printing telegraphy. The conditions for the use of the frequency 490 kHz are prescribed in Articles N 38 and 60, and Resolution 329 (Mob–87). In using the band 415–495 kHz for the aeronautical radio-navigation service, administrations are requested to ensure that no harmful interference is caused to the frequency 490 kHz.

474 The conditions for the use of frequency 518 kHz by the maritime mobile service are prescribed in Articles 36, N 38 and 60 (see Resolution 324 (Mob–87) and Article 14A).

490 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.)

In Region 2, in the band 1625–1705 kHz, the relationship between the broadcasting, fixed and mobile services is shown in No. 419. However, the examination of frequency assignments to stations of the fixed and mobile services in the band 1625–1705 kHz under No. 1291 shall take account of the allotments appearing in the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

591 Subject to agreement obtained under the procedure set forth in Article 14, the band 117.975–137 MHz is also allocated to the aeronautical mobile-satellite (I) service on a secondary basis and on the condition that harmful interference is not caused to the aeronautical mobile (I) service.

599A The use of the band 137–138 MHz by the mobile-satellite service is subject to the
application of the coordination and notification procedures set forth in Resolution 46. However, coordination of a space station of the mobile-satellite service with respect to terrestrial services is required only if the power flux-density produced by the station exceeds \(-125 \text{ dB(W/m}^2\text{/kHz)}\) at the Earth’s surface. The above power flux-density limit shall apply until such time as a competent world administrative radio conference revises it. In making assignments to the space stations in the mobile-satellite service in the above bands, administrations shall take all practicable steps to protect the radio astronomy service in the 150.05–153 MHz band from harmful interference from unwanted emissions.

599B The use of the bands 137–138 MHz, 148–149.9 MHz and 400.15–401 MHz by the mobile-satellite service and the band 149.9–150.05 MHz by the land mobile-satellite service is limited to non-geostationary-satellite systems.

608A The use of the band 148–149.9 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution 46 (WARC-92). The mobile-satellite service shall not constrain the development and use of fixed, mobile and space operation services in the band 148–149.9 MHz. Mobile earth stations in the mobile-satellite service shall not produce a power flux-density in excess of \(-150 \text{ dB(W/m}^2\text{/kHz)}\) outside national boundaries.

608B The use of the band 149.9–150.05 MHz by the land mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution 46 (WARC-92). The mobile-satellite service shall not constrain the development and use of the radiocommunication-satellite service in the band 149.9–150.05 MHz. Land mobile earth stations of the land mobile-satellite service shall not produce power flux-density in excess of \(-150 \text{ dB(W/m}^2\text{/kHz)}\) outside national boundaries.

647B The use of the band 400.15–401 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution 46. However, coordination of a space station of the mobile-satellite service with respect to terrestrial services is required only if the power flux-density produced by the station exceeds \(-125 \text{ dB(W/m}^2\text{/kHz)}\) at the Earth’s surface. The above power flux-density limit shall apply until such time as a competent world administrative radio conference revises it. In making assignments to the space stations in the mobile-satellite service in the above bands, administrations shall take all practicable steps to protect the radio astronomy service in the band 406.1–410 MHz from harmful interference from unwanted emissions.

669 In the maritime mobile service, the frequencies 457.525 MHz, 457.550 MHz, 457.575 MHz, 467.325 MHz, 467.550 MHz and 467.575 MHz may be used by onboard communication stations. 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 Appendix 20.

792A The use of the bands 4500–4800 MHz, 6725–7025 MHz, 10.7–10.95 GHz, 11.2–11.45 GHz and 12.75–13.25 GHz by the fixed-satellite service shall be in accordance with the provisions of Appendix 30B.

917 In the bands 140.69–140.98 GHz all emissions from airborne stations, and from space stations in the space-to-Earth direction, are prohibited.

UNITED STATES (US) FOOTNOTES

(These footnotes, each consisting of the letters US followed by one or more digits, denote stipulations applicable to both Government and non-Government stations.)

US7 In the band 420–450 MHz and within the following areas, the peak envelope power output of a transmitter employed in the amateur service shall not exceed 50 watts, unless expressly authorized by the Commission after mutual agreement, on a case-by-case basis, between the Federal Communications Commission Engineer in Charge at the applicable district office and the military area frequency coordinator at the applicable military base. For areas (a) through (j), the appropriate military coordinator is located at Peterson AFB, CO.

(a) Those portions of Texas and New Mexico bounded on the south by latitude 31° 45’ North, on the east by longitude 104° 00’ West, on the north by latitude 34° 15’ North, and on the west by longitude 107° 30’ West;
(b) The entire State of Florida including the Key West area and the areas enclosed within a 322-kilometer (200-mile) radius of Patrick Air Force Base, Florida (latitude 28° 21’ North, longitude 80° 45’ West), and within a 322-kilometer (200-mile) radius of Eglin Air Force Base, Florida (latitude 30° 30’ North, longitude 86° 30’ West);
(c) The entire State of Arizona;
(d) Those portions of California and Nevada south of latitude 37° 10’ North, and the area enclosed within a 322-kilometer (200-mile) radius of Point Mugu, California (latitude 34° 09’ North, longitude 119° 11’ West);
(e) In the State of Massachusetts within a 160-kilometer (100-mile) radius around locations at Otis Air Force Base, Massachusetts (latitude 41° 45’ North, longitude 70° 32’ West);
(f) In the State of California within a 240-kilometer (150-mile) radius around locations
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at Beale Air Force Base, California (latitude 39° 08′ North, longitude 121° 26′ West).

(c) In the State of Alaska within a 160-kilometer (100-mile) radius of Clear, Alaska (latitude 64° 17′ North, longitude 149° 10′ West).

(h) In the State of North Dakota within a 160-kilometer (100-mile) radius of Concrete, North Dakota (latitude 48° 43′ North, longitude 97° 54′ West).

(i) In the States of Alabama, Georgia and South Carolina within a 200-kilometer (124-mile) radius of Warner Robins Air Force Base, Georgia (latitude 32° 38′ North, longitude 83° 35′ West).

(j) In the State of Texas within a 200-kilometer (124-mile) radius of Goodfellow Air Force Base, Texas (latitude 31° 25′ North, longitude 100° 24′ West).

US8 The use of the frequencies 170.475, 171.025, 171.0425, 171.050 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 by the U.S. Government, the following frequencies may be authorized except for locations within 150 miles of New York City; and use of these frequencies by the public safety radio services will not be authorized except for locations within 150 miles of New York City. Licensees holding a valid authorization on June 11, 1962, to operate on the frequencies 169.575, 170.375 or 171.975 MHz may continue in operation until December 20, 1974, using a larger bandwidth are permitted to continue in operation until December 20, 1979) in the continental United States (excluding Alaska) only, except within the area 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, Illinois, and radius equal to the airline distance between Springfield, Illinois, and Montgomery, Alabama, subtended between the foregoing west and north boundaries, on the condition that harmful interference will not be caused to Government stations present or future in the Government band 162–174 MHz. The use of these frequencies by remote pickup broadcast stations will not be authorized for locations within 150 miles of New York City; and use of these frequencies by the public safety radio services will not be authorized except for locations within 150 miles of New York City.

US13 For the specific purpose of transmitting hydrological and meteorological data in cooperation with agencies of the Federal Government, the following frequencies may be authorized to non-Government fixed stations on the condition that harmful interference will not be caused to Government stations.

<table>
<thead>
<tr>
<th>MHz</th>
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<tbody>
<tr>
<td>169.425</td>
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<tr>
<td>169.450</td>
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<tr>
<td>169.475</td>
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<tr>
<td>169.500</td>
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<td>169.525</td>
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<td>170.225</td>
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<td>170.250</td>
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<td>170.300</td>
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<tr>
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<td>171.025</td>
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<td>171.050</td>
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<tr>
<td>171.075</td>
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<td>171.100</td>
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</tbody>
</table>

US14 When 500 kHz is being used for distress purposes, ship and coast stations using morse telegraph may use 512 kHz for calling.

US18 Navigation aids in the US and possessions in the bands 9–14 kHz, 90–110 kHz, 190–415 kHz, 510–535 kHz, 2700–2900 MHz are normally operated by the U.S. Government. However, authorizations may be made by the FCC for non-Government operation in these bands subject to the conclusion of appropriate arrangements between the FCC and the Government agencies concerned and upon special showing of need for service which the Government is not yet prepared to render.

US25 The use of frequencies in the band 25.65–26.1 MHz may be authorized in any area to non-Government remote pickup broadcast base and mobile stations on the condition that harmful interference is not caused to stations in the broadcasting service.

US26 The bands 117.975–121.425 MHz, 123.5675–128.8125 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 121.9375–123.875 MHz is available to FAA aircraft for communications pursuant to flight inspection functions.
in accordance with the Federal Aviation Act of 1958.

US31 Except as provided below the band 121.9375–123.0875 MHz is for use by private aircraft stations. The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 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 noninterference 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 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 private aircraft stations only, except that 122.000 and 122.050 MHz may also be used for communication with air carrier aircraft stations concerning weather information.

US32 Except for the frequencies 123.3 and 123.5 MHz, which are not authorized for Government 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 noninterference 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.

US41 The Government radiolocation service is permitted in the band 2550–2500 MHz on condition that harmful interference is not caused to non-Government services.

US44 The non-Government radiolocation service may be authorized in the band 2900–3100 MHz on the condition that no harmful interference is caused to Government services.

US48 The non-Government radiolocation service may be authorized in the bands 5350–5400 MHz and 9000–9200 MHz on the condition that it does not cause harmful interference to the aeronautical radionavigation service or to the Government radiolocation service.

US49 The non-Government radiolocation service may be authorized in the band 5460–5470 MHz on the condition that it does not cause harmful interference to the aeronautical or maritime radionavigation service or to the Government radiolocation service.

US50 The non-Government radiolocation service may be authorized in the band 5470–5600 MHz on the condition that it does not cause harmful interference to the maritime radionavigation service or to the Government radiolocation service.

US51 In the band 5690–5650 MHz and 9300–9500 MHz, the non-Government radiolocation service shall not cause harmful interference to the Government radiolocation service.

US53 In view of the fact that the band 13.25–13.4 GHz is allocated to doppler navigation aids, Government, and non-Government 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 8590–10000 MHz.

US54 Temporarily, and until certain operations of the radiolocation service in the band 9000–9200 MHz can be transferred to other appropriate frequency bands, the aeronautical radionavigation service may, in certain geographical areas, be subject to receiving some degree of interference from the radiolocation service.

US55 In the band 10000–10500 MHz, pulsed emissions are prohibited, except for weather radars on board meteorological satellites in the band 10000–10250 MHz. The amateur service and the non-Government radiolocation service, which shall not cause harmful interference to the Government radiolocation service, are the only non-Government services permitted in this band. The non-Government radiolocation service is limited to survey operations as specified in footnote US108.

US56 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.

US57 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.

US74 In the bands 25.55-25.67, 73.0-74.6, 406.1-410.0, 608-614, 1400-1427, 1660.5-1670.0, 22139.5 kHz may be authorized on a shared or incidental basis, and 22180 kHz may be authorized for operation at fixed locations, subject to such conditions as may be required.

US77 Government 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.

US78 In the mobile service, the frequencies between 1435 and 1535 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, 1524.5 and 1525.5 MHz.

US80 Government stations may use the frequency 122.9 MHz subject to the following conditions:
(a) All operations by Government stations shall be restricted to the purpose for which the frequency is authorized to non-Government stations, and shall be in accordance with the appropriate provisions of the Commission’s Rules and Regulations, Part 97, Aviation Services;
(b) Use of the frequency is required for coordination of activities with Commission licensees operating on this frequency; and
(c) Government stations will not be authorized for operation at fixed locations.

US81 The band 38.0-38.25 MHz is used by both Government and non-Government radio astronomy observatories. No new fixed or mobile assignments are to be made and Government stations in the band 38.0-38.25 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 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 the Chief Engineer, Federal Communications Commission, Washington, D.C. 20554.

US82 Until July 1, 1991, the assignable frequencies in the bands 4143.6-4166.6 kHz, 6218.6-6224.6 kHz, 12439.5 kHz, 12442.6 kHz, 12448.7 kHz, 16387.1-16500 kHz and 22124-22139.5 kHz may be authorized on a shared nonpriority basis to Government and non-Government ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW). Effective July 1, 1991, the assignable frequencies in the bands 4148-4152 kHz, 6224-6228 kHz, 12439.5 kHz, 16500-16549 kHz, 18825-18846 kHz, 22159-22180 kHz, and 25100-25121 kHz may be authorized on a shared nonpriority basis to Government and non-Government ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW).

US83 The frequency 340 MHz, with maximum emission bandwidth of 500 kHz, may be used by Government and non-Government stations for space telecommand at specific locations, subject to such conditions as may be applied on a case-by-case basis.

US89 In the band 2320-2341 MHz, the power flux-density at the Earth’s surface produced by emissions from a space station in the space operation, Earth exploration-satellite,
Federal Communications Commission

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or space research services 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) \(-154 \text{ dBW/m}^2\) for angles of arrival above the horizontal plane \((\delta)\) of 0° to 5°,
(b) \(-154 + 0.5\delta - 5 \text{ dBW/m}^2\) for \(\delta\) of 5° to 25°, and
(c) \(-144 \text{ dBW/m}^2\) for \(\delta\) of 25° to 90°.

US03 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 not shall the authorization of a VOR test facility on 108 MHz preclude the Commission from authorizing additional FM broadcasting stations.

US09 In the band 1688.4-1670.0 MHz, the meteorological aids service (radiosonde) will avoid operations to the maximum extent practicable. Whenever it is necessary to operate radiosondes in the band 1688.4-1670 MHz within the United States, notification of the operations shall be sent as far in advance as is possible to the Electromagnetic Management Unit, National Science Foundation, Washington, D.C. 20550.

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 The LORAN Radionavigation System has priority in band 90-110 kHz in the United States and possessions. Radio located by the use of LORAN type equipment may be authorized to both Government and non-Government on a secondary service basis for offshore radio-location 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 radio-location operators. Such authorizations to stations in the radio-locational service are further subject to showing of need for service which is not currently provided and which the Government is not yet prepared to render by way of the radionavigation service.

US106 The frequency 156.75 MHz is available for assignment to non-Government and Government stations for environments in accordance with an agreed plan.

US107 The frequency 156.8 MHz is the national distress, safety and calling frequency for the maritime mobile VHF radiotelephone service for use by Government and non-Government ship and coast stations. Guard bands of 156.7625-156.7875 and 156.8125-156.8375 MHz are maintained.

US108 Within the bands 3300-3300 MHz and 10000-10500 MHz, survey operations, using transmitters with a peak power not to exceed five watts into the antenna, may be authorized for Government and non-Government use on a secondary basis to other Government radio-location operations.

US110 In the bands 3100-3300 MHz, 3500-3650 MHz, 5250-5500 MHz, 8500-9000 MHz, 9200-9300 MHz, 9500-10000 MHz, 13.4-14.0 GHz, 15.7-17.3 GHz, 24.05-24.25 GHz and 33.4-36.0 GHz, the non-Government radio-location service shall be secondary to the Government radio-location service and to airborne doppler radars at 8800 MHz, and shall provide protection to airport surface detection equipment (ASDE) operating between 15.7-16.2 GHz.

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 Government radio stations after July 10, 1970 except on case-by-case basis, to experimental stations and to additional stations of existing networks in Alaska. Government assignments existing prior to July 10, 1970 may be continued. All other existing Government assignments shall be on a secondary basis to stations in Alaska may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustment or removal from the bands 890-902 MHz, 928-932 MHz and 936-941 MHz at the request of the FCC.

US117 In the band 406.1-419 MHz, all new authorizations will be limited to a maximum 7 watts per kHz of necessary bandwidth; existing authorizations as of November 30, 1970 exceeding this power are permitted to continue in use.

New authorizations in this band stations, other than mobile stations, within the following areas are subject to prior coordination by the applicant through the Electromagnetic Spectrum Management Unit, National Science Foundation, Washington, D.C. 20550, (202-357-9606)

Arecibo Observatory:
The power flux produced at the earth may be authorized for space-to-earth communications in the earth exploration-satellite service as provided by footnote US13.

Limited to the radio astronomy service and or the Continental Divide whichever is farther east.

The non-Government use of this band is limited to the radio astronomy service as provided by footnote US13.

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 produced at the earth’s surface by any space station in this band shall not exceed –152 dBW/m² kHz.

US203 Radio astronomy observations of the formaldehyde line frequencies 4825–4835 MHz and 14,470–14,500 MHz may be made at certain radio astronomy observatories as indicated below:

<table>
<thead>
<tr>
<th>4 GHz</th>
<th>14 GHz</th>
<th>Observatory</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>X</td>
<td>National Astronomy and Ionosphere Center, Arecibo, Puerto Rico.</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>National Radio Astronomy Observatory, Socorro, New Mexico.</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>Hat Creek Observatory (U of Calif.), Hat Creek, Cal.</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>Haystack Radio Observatory (MIT-Lincoln Lab), Tyngsboro, Mass.</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>Owens Valley Radio Observatory (Cal. Tech.), Big Pine, Cal.</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>Five College Radio Astronomy Observatory, Quabbin Reservoir (near Amherst), Massachusetts.</td>
</tr>
</tbody>
</table>

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.

US325 Tropospheric scatter systems are prohibited in the band 2500–2690 MHz.

US328 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.


US3210 In the sub-band 40.66–40.7 MHz and 216–220 MHz, frequencies may be authorized to Government and non-Government 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: (a) Section 8.2.42 of the NTIA Manual for Government use, or (b) 47 CFR 90.248 for non-Government use. After January 1, 2002, no new assignments shall be authorized in the band 216–217 MHz.

US3211 In the bands 1670–1690, 5000–5250 MHz and 10.7–11.7, 15.1950–15.35, 15.4–15.7, 22.5–22.55, 24–24.05, 31.0–31.3, 31.8–32.0, 40.5–42.5, 84–86, 102–105, 116–126, 151–164, 176.5–182, 185–190, 231–235, 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 lands from harmful interference; however, US74 applies.

US3212 In 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).

US3213 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.

US3214 The frequency 157.1 MHz is the primary frequency for liaison communications between ship stations and stations of the United States Coast Guard.

US3215 Emissions from microwave ovens manufactured on and after January 1, 1980, for operation on the frequency 915 MHz must be confined within the band 902–928 MHz.
§ 2.106

Emissions from microwave ovens manufactured prior to January 1, 1980, for operation on the frequency 915 MHz must be confined within the band 902-940 MHz. Radiocommunications services operating in the band 928-940 MHz must accept any harmful interference from the operation of microwave ovens manufactured before January 1, 1980.

US216 The frequencies 150.775 and 150.790, and the bands 152-152.0150, 163.2375-163.3625, 462.9375-463.1875 and 467.9375-468.1875 MHz are authorized for Government/non-Government operations in medical radio communications systems.

US217 Pulse-ranging radionavigation systems may be utilized by the aeronautical radionavigation service to provide for Location and Monitoring Service (LMS) with 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.

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 Government stations authorized in these bands. These systems must tolerate interference from the operation of industrial, scientific, and medical (ISM) devices and the operation of Government stations authorized in these bands.

US219 The frequencies 36.25 and 41.71 MHz may be authorized to Government stations and non-Government 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.

US220 Use of the mobile service in the bands 325-335 kHz and 1605-1615 kHz is limited to distribution of public service information from Travelers Information stations operating on 520 kHz and 1610 kHz.

US221 In the band 2425-2435 MHz geostationary operational environmental satellite 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 the sites listed below:

- Wallops Is., Va. 37°50’48” N., 75°27’33” W.
- Seattle, Wash. 47°34’15” N., 122°33’10” W.
- Honolulu, Hawaii 21°21’12”N., 157°52’36” W.

US222 Within 75 miles of the United States/Canada border on the Great Lakes, the St. Lawrence Seaway, and the Puget Sound and the Strait of Juan de Fuca and its approaches, use of cochannel frequencies for oil spill containment or cleanup operations in bands

US223 In the State of North Dakota, within a 160 kilometer (100 mile) radius of Beale Air Force Base, Massachusetts (latitude 41°45’ North, longitude 70°32’ West).

US224 Government 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 Government use, the frequency band 510-525 kHz is available to Government and non-Government 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-Government ship-helicopter operations when beyond 100 nautical miles from shore and required for aeronautical radionavigation.

US226 In the State of Hawaii, stations in the aeronautical radionavigation service shall not cause harmful interference to U.S. Navy reception from its station at Honolulu on 198 kHz.

US227 Applicants for operation in the band 420 to 450 MHz under the provisions of US217 should not expect to be accommodated. All stations operating in accordance with this provision will be secondary to stations operating in accordance with the Table of Frequency Allocations.

US228 In the State of North Dakota, within a 160 kilometer (100 mile) radius of Beale Air Force Base, Massachusetts (latitude 39°08’ North, longitude 121°26’ West).

US229 In the State of Alaska, within a 160 kilometer (100 mile) radius of Clear, Alaska (latitude 64°17’ North, longitude 149°10’ West).

US230 In the State of North Dakota, within a 160 kilometer (100 mile) radius of Concrete, North Dakota (latitude 48°45’ North, longitude 97°54’ West).

(f) Those portions of Texas and New Mexico bounded on the south by latitude 31°45’ North, on the east by longitude 109°100’ West,
on the north by latitude 34°30’ North, and on the West by longitude 107°30’ West.

g) In the state of Alaska within a 160 kilometer (100 mile) radius of Clear, Alaska (latitude 64 degrees 17 north, longitude 149 degrees 10 west).

(h) In the state of North Dakota within a 160 kilometer (100 mile) radius of Concrete, North Dakota (latitude 48 degrees 43 north, longitude 97 degrees 54 west).

(i) In the States of Alabama, Florida, Georgia and South Carolina within a 200 kilometer (124 mile) radius of Goodfellow Air Force Base, Texas (latitude 31°25 North, longitude 100°24 West).

US229 In the band 216-220 MHz, the fixed, aeronautical mobile, land mobile, and radio-location services are allocated on a secondary basis for Government operations. The use of the fixed, aeronautical mobile, and land mobile services are limited to tele-metering and associated telecommand operations. After January 1, 2002, no new assignments shall be authorized in the band 216-217 MHz. Further, Government and non-Government assignments in the sub-band 216.88-217.06 MHz shall protect the Navy’s SPASUR system, which operates on a primary basis at the following sites:

<table>
<thead>
<tr>
<th>Transmit frequency of 216.98 MHz</th>
<th>Receive frequencies of 216.965-216.995 MHz</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Location</strong></td>
<td><strong>North latitude/west longitude</strong></td>
</tr>
<tr>
<td>Lake Kickapoo, TX</td>
<td>33°32’08”45’</td>
</tr>
<tr>
<td>Jordan Lake, AL</td>
<td>32°39’08”15’</td>
</tr>
<tr>
<td>Gila River, AZ</td>
<td>33°06’112”01’</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

US230 Non-government land mobile service is allocated on a primary basis in the bands 422.1875-425.4875 and 427.1875-429.9875 MHz within 50 statute miles of Detroit, MI, and Cleveland, OH, and in the bands 432.8125-434.8125 and 438.8125-438.9875 MHz within 50 statute miles of Buffalo, NY.

US231 When an assignment cannot be obtained in the bands between 200 and 525 kHz, which are allocated to aeronautical radionavigation, assignments may be made to aeronautical radio beacons (AWOS), automatic terminal information services-broadcast (ATIS), flight information services-broadcast (FIS–B), and
airport control tower communications. Existing operational meteorological satellites in the band 136–137 MHz may continue to operate on a not-to-interfere basis to aeronautical mobile (R) stations, until January 1, 2002. No new assignments will be made to stations in the meteorological-satellite service.

US245 The fixed-satellite service is limited to international inter-continental systems and subject to case-by-case electromagnetic compatibility analysis.

US246 No station shall be authorized to transmit in the following bands:

<table>
<thead>
<tr>
<th>Band</th>
<th>Frequency Range</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>608–614 MHz</td>
<td>except for medical telemetry equipment&lt;sup&gt;1&lt;/sup&gt;, 1900–1427 MHz, 1660.5–1688.4 MHz, 2890–2700 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, 105–116 GHz, 182–185 GHz, 217–231 GHz</td>
<td></td>
</tr>
<tr>
<td>10100–10150 kHz</td>
<td>allocated to the fixed service on a primary basis outside the United States and possessions. Transmissions of 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.</td>
<td></td>
</tr>
<tr>
<td>12.75–14 GHz</td>
<td>The bands 2110–2120 MHz, 7145–7190 MHz, and 94.2–94.7 GHz are also allocated for Earth-to-space transmissions in the space research service, limited to deep space communications at Goldstone, California.</td>
<td></td>
</tr>
<tr>
<td>16.8–18.6 GHz</td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>18.6–18.8 GHz</td>
<td>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&lt;sup&gt;2&lt;/sup&gt;) for all angles of arrival. This limit may be exceeded by up to 3 dB for no more than 5% of the time.</td>
<td></td>
</tr>
<tr>
<td>1718.8–1722.2 MHz</td>
<td>Radio astronomy observations may be made in the band 1718.8–1722.2 MHz on an unprotected basis. Agencies providing other services in this band in the geographic areas listed below should bear in mind that their operations may affect those observations, and those agencies are encouraged to minimize potential interference to the observations insofar as it is practicable.</td>
<td></td>
</tr>
</tbody>
</table>

<sup>1</sup>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 85.1119.

<table>
<thead>
<tr>
<th>Station</th>
<th>Location</th>
<th>Mission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hat Creek Observatory, Hat Creek, California.</td>
<td>Owens Valley Radio Observatory, Big Pine, California.</td>
<td></td>
</tr>
<tr>
<td>National Radio Astronomy Observatory, Green Bank, West Virginia.</td>
<td>Rectangle between latitudes 40° 00′ N and 42° 00′ N and between latitudes 120° 15′ W and 122° 15′ W.</td>
<td></td>
</tr>
<tr>
<td>Two contiguous rectangles, one between 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 30° 00′ N and between longitudes 118° 00′ W and 118° 50′ W.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rectangle between latitudes 41° 00′ N and 43° 00′ N and between longitudes 71° 00′ W and 73° 00′ W.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rectangle between latitudes 17° 30′ N and 19° 00′ N and between longitudes 65° 15′ W and 68° 00′ W.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rectangle between latitudes 37° 30′ N and 39° 15′ N and between longitudes 78° 30′ W and 80° 30′ W.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

US258 In the band 8025–8400 MHz, the non-Government earth exploration-satellite service (space-to-earth) is allocated on a primary basis. Authorizations are subject to a case-by-case electromagnetic compatibility analysis.

US259 Stations in the radiolocation service in the band 17.3–17.7 GHz, shall be restricted to operating powers of less than 51 dBW eirp after feeder link stations for the broadcasting-satellite service are authorized and brought into use.

US260 Aeronautical mobile communications which are an integral part of aeronautical radionavigation systems may be satisfied in the bands 1559–1628.5 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 use of the band 31.9–32.3 GHz by the space research service (deep space) (space-to-Earth) is limited to Goldstone, California.

US263 In the bands 21.2–21.4 GHz, 22.2–22.5 GHz, 36–37 GHz, 56–58.2 GHz, 116–126 GHz, 150–151 GHz, 174.5–176.5 GHz, 200–202 GHz, and 235–238 GHz, the space research and the 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 910.68 GHz, the fixed service shall be limited to a maximum equivalent isotropically radiated power of 40 dBW and the power delivered to the antenna shall not exceed 34 dBW per 250 kHz.

US266 Licensees in the public safety radio services holding a valid authorization on June 30, 1958, to operate in the frequency band 156.27–157.47 MHz or on the frequencies 161.85, 161.91 or 161.97 MHz may, upon proper application, continue to be authorized for such operations, 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 service.

US267 In the band 902–928 MHz, amateur radio stations shall not operate within the States of Colorado and Wyoming, bounded by the area of latitude 39°N. to 42°N. and longitude 103°W. to 108°W.

US268 The bands 890–902 MHz and 928–942 MHz are also allocated to the radiolocation service for Government ship stations (offshore ocean areas) on the condition that harmful interference is not caused to non-Government land mobile stations. The provisions of footnote US116 apply.

US269 In the band 2590–2690 MHz, applicants for space station assignments are urged to take all practicable steps to protect radio astronomy observations in the adjacent band, 2690–2700 MHz, from harmful interference. Further, all applicants are urged to coordinate their proposed system through the Electromagnetic Management Unit, National Science Foundation, Washington, D.C. 20550, prior to system development.

US270 The band 72.77–72.91 GHz is also allocated to the radio astronomy service. Applicants for frequency assignments in this band are urged to take all practicable steps to protect radio astronomy observations from harmful interference.

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 74.6–74.8 MHz and 75.2–75.4 MHz bands 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 Government 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°11′ 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 in this note, use on a secondary basis by Government stations in the industrial radio service for telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles or major components thereof. The following four frequencies are shared on a co-equal basis by Government and non-Government stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles whether or not such operations involve flight testing: 2332.5 MHz, 2364.5 MHz, 2370.5 MHz, and 2382.5 MHz. All other mobile telemetering uses shall be secondary to the uses listed elsewhere in this note.

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 U.S. Census Bureau. The following radio astronomy sites have been coordinated for observations in this band: National Radio Astronomy Observatory, Green Bank, West Virginia; (38°26’08″ N.; 79°49’14″ W.) National Radio Astronomy Observatory, Socorro, New Mexico; (31°04’43″ N.; 107°37’04″ W.), Harvard Radio Astronomy Station, Fort Davis, Texas; (30°38’08″ N.; 103°56’42″ W.), Hat Creek Observatory, Hat Creek, California; (37°15’54″ N.; 118°17’36″ W.), Owens Valley Radio Observatory, Big Pine, California; (39°09’03″ N.; 121°26’24″ W.), Owens Valley Radio Observatory, Big Pine, California; (37°13’54″ N.; 118°17’36″ W.), Naval Research Laboratory, Maryland Point, Maryland; (38°22’26″ N.; 77°14’00″ W.).

US278 In the 22.55–23.55 and 32–33 GHz bands non-geostationary intersatellite links may operate on a secondary basis to geostationary intersatellite 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 the reporting of maritime distress traffic, and emergency and safety signals and messages.

US281 In the band 25.07–25.11 MHz non-Government stations in the industrial radio services shall not cause harmful interference
to, and must accept interference from, stations in the maritime mobile service operating in accordance with the International Table of Frequency Allocations.

US282 In the band 4650–4700 kHz frequencies may be authorized for non-Government communication with helicopters in support of off-shore drilling operations on the outer continental shelf. Such interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

US283 In the bands 2650–3025 kHz, 3400–3500 kHz, 4560–4700 kHz, 5450–5680 kHz, 6525–6685 kHz, 10005–10100 kHz, 11275–11400 kHz, 13290–13360 kHz and 17900–17970 kHz frequencies in these bands may be authorized for non-Government 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 frequency 2635, 2638, and 2738 kHz may be authorized to coastal 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 1625–1705 kHz band.

US291 Television pickup stations in the mobile service may be authorized to use frequencies in the band 38.6–40 GHz on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

US292 In the band 14.0–14.2 GHz stations in the radionavigation service shall operate on a secondary basis to the fixed-satellite service.

US294 In the spectrum below 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 Part 15 of the Federal Communications Commission’s Rules and Regulations and Chapter 7 of the National Telecommunications and Information Administration’s Manual of Regulations and Procedures for Federal Radio Frequency Management, on an unprotected and noninterference basis with respect to authorized radio users. Notification of intent to place new or revised radio frequency assignments or PLC frequency uses in the bands below 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 degree practicable. This footnote does not provide any allocation status to PLC radio frequency uses.

US296 In the bands designated for ship wide-band telegraphy, facsimile and special transmission systems, the following assignable frequencies are available to non-Federal government stations on a shared basis with Federal government stations: 2070.5, 2072.5, 2074.5, 2076.5, 4154.5, 4199.5, 6265.5, 6290.5, 8392.5, 8338.5, 12370.5, 12418.5, 16551.5, 16614.5, 18947.5, 18968.5, 22181.5, 22238.5, 25123.5, and 25159.3 kHz.

US297 The bands 47.2–49.2 GHz and 74.0–75.5 GHz are also available for feeder links for the broadcasting-satellite service.

US298 Channels 27555, 27615, 27635, 27655, 27755, and 27860 kHz are available to eligibles in the Forest Products Radio Service on a secondary basis to Government operations including experimental stations. Operations in the Forest Products Radio Service on these channels will not exceed 150 watts 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 The 1615–1705 kHz band in Alaska is also allocated to the maritime mobile services and the Alaska fixed service on a secondary basis to Region 2 broadcast operations.


US301 Except as provided in US302, 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.

US302 The band 942–944 MHz in Puerto Rico is allocated as an alternative allocation to the fixed service for broadcast auxiliary stations only.

US303 In the band 2280–2290 MHz, non-Federal government 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 government stations. The power flux density at the Earth’s surface from such non-Federal government stations shall not exceed –144 to –154 dBm/14 kHz, depending on angle of arrival, in accordance with ITU Radio Regulation S21.16.

US304 The sub-band 5150–5216 MHz is also allocated for space-to-Earth transmissions in the fixed satellite service for feeder links in conjunction with the radiodetermination satellite service operating in the bands 1610–1636.5 MHz and 2483.5–2500 MHz. The total power flux density at the earth’s surface

Federal Communications Commission § 2.106
Transmissions in the bands 1549.5–1559 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 Transmissions in the bands 1549.5–1559 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. Transmissions in the band 1646.5–1660.5 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.

US310 In the band 14.896–15.121 GHz, non-Government 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 Government stations. The power flux density at the earth’s surface from such non-Government stations shall not exceed $-138$ to $-148$ dBW/m²/kHz, depending on the angle of arrival, in accordance with CCIR Recommendation 510-1.

US311 Radio astronomy observations may be made in the bands 1350–1400 MHz and 4950–4990 MHz on an unprotected basis at the following radio astronomy observatories:

<table>
<thead>
<tr>
<th>Long Baseline Array Stations</th>
<th>Latitude (North)</th>
<th>Longitude (West)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allen Telescope Array, Hat Creek, California</td>
<td>Rectangle between latitudes 40° 00’ N and 42° 00’ N and between longitudes 120° 15’ W and 122° 15’ W.</td>
<td>80 kilometers (50 mile) radius centered on:</td>
</tr>
<tr>
<td>NASA Goldstone Deep Space Communications Complex, Goldstone, California.</td>
<td>Rectangle between latitudes 17° 30’ N and 19° 00’ N and between longitudes 65° 10’ W and 68° 00’ W.</td>
<td>80 kilometers (50 mile) radius centered on:</td>
</tr>
<tr>
<td>National Astronomy and Ionosphere Center, Arecibo, Puerto Rico.</td>
<td>Rectangle between latitudes 32° 30’ N and 35° 30’ N and between longitudes 106° 00’ W and 109° 00’ W.</td>
<td>80 kilometers (50 mile) radius centered on:</td>
</tr>
<tr>
<td>National Radio Astronomy Observatory, Socorro, New Mexico.</td>
<td>Rectangle between latitudes 37° 30’ N and 39° 15’ N and between longitudes 78° 30’ W and 80° 30’ W.</td>
<td>80 kilometers (50 mile) radius centered on:</td>
</tr>
<tr>
<td>National Radio Astronomy Observatory, Green Bank, West Virginia.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Every practicable effort will be made to avoid the assignment of frequencies in the bands 1350–1400 MHz and 4900–4990 MHz 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.

US312 The frequency 173.075 MHz may also be authorized on a primary basis to non-Government stations in the Police Radio Service (with a maximum authorized bandwidth of 20 kHz) for stolen vehicle recovery systems.

US315 In the frequency bands 1530–1544 MHz and 1625.5–1645.5 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 2000–3100 MHz is also allocated on a primary basis to the Meteorological Aids Service. Operations in this service are limited to Government Next Generation Weather Radar (NEXRAD) systems where accommodation in the 2700–2900 MHz band is not technically practical and are subject to coordination with existing authorized stations.

US318 Until January 1, 2000, the use of the 137–138 MHz band by the mobile-satellite service will be secondary to Government satellite operations in the subbands: 137.335–137.367, 137.485–137.515, 137.605–137.635 and 137.735–137.765 MHz.

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 government stations in the mobile-satellite service shall be limited to earth stations operating with non-Federal government space stations.

US320 Use of the 137–138, 148–149.9, and 400.15–401 MHz bands 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.

US321 The 355–1705 kHz band is also allocated to the mobile service on a secondary basis for the distribution of public service information from non-government Travelers Information Stations operating in the Local Government Radio Service on 10 kHz spaced channels from 546 to 1708 kHz.

US322 Use of the bands 149.9–150.5 MHz and 399.9–400.05 MHz by the mobile-satellite service (Earth-to-space) is limited to non-voice, non-geostationary satellite systems, including satellite links between land earth stations.

US323 In the 148–149.9 MHz band, 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/4kHz 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 Government and non-Government satellite systems in the 400.15–401 MHz band 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. Government 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.
§ 2.106  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.

US328 In the band 2320–2345 MHz, the mobile and radiolocation services are allocated on a primary basis until a broadcasting-satellite (sound) service has been brought into use in such a manner as to affect or be affected by the mobile and radiolocation services in those service areas. The broadcasting-satellite (sound) service during implementation should also take cognizance of the expendable and reusable launch vehicle frequency 2392.5 MHz, to minimize the impact on this mobile service use to the extent possible.

US334 In the band 17.0–20.2 GHz, Government 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 Government 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 Government fixed-satellite systems and non-Government 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 at the surface of the Earth produced by emissions from a Government GSO space station or from a Government 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:

US333 The primary Government and non-Government allocations for the various segments of the 220–222 MHz band are divided as follows: (1) the 220.0–220.55 MHz band is allocated for exclusive Government use; (2) the 220.55–221.0 MHz band is allocated for exclusive Government use; and (3) the 221.0–222.0 MHz band is allocated for shared Government and non-Government use. The exclusive non-Government band segments are also available for temporary fixed geophysical telemetry operations on a secondary basis to the fixed and mobile services.

US337 In the band 13.75–13.80 GHz, earth stations in the fixed-satellite service shall be coordinated on a case-by-case basis through the frequency assignment subcommittee 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 In the 2305–2310 MHz band, space-to-Earth operations are prohibited. Additionally, in the 2305–2320 MHz band, all Wireless Communications Service (WCS) operations within 50 kilometers of 35° 28’ North Latitude and 116° 33’ West Longitude shall be coordinated through the Frequency Assignment Subcommittee of the Interdepartment Radio Advisory Committee in order to minimize harmful interference to NASA’s Goldstone Deep Space facility.

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 co-equal basis by Government and non-Government 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 (sound) service 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 2–30 MHz band is available on a secondary noninterference basis to Government and non-Government maritime and aeronautical stations for the purposes of measuring the quality of reception on radio channels. See 47 C.F.R. § 71.149 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.

<table>
<thead>
<tr>
<th>Frequency Range</th>
<th>Lower Limit</th>
<th>Upper Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>13300–13410 kHz</td>
<td>13300 kHz</td>
<td>13410 kHz</td>
</tr>
<tr>
<td>37.5–38.25 MHz</td>
<td>37.5 MHz</td>
<td>38.25 MHz</td>
</tr>
<tr>
<td>322–328.6 MHz*</td>
<td>322 MHz</td>
<td>328.6 MHz*</td>
</tr>
<tr>
<td>1330–1400 MHz*</td>
<td>1330 MHz</td>
<td>1400 MHz*</td>
</tr>
<tr>
<td>1610.6–1613.8 MHz*</td>
<td>1610.6 MHz</td>
<td>1613.8 MHz*</td>
</tr>
<tr>
<td>1660–1670 MHz</td>
<td>1660 MHz</td>
<td>1670 MHz</td>
</tr>
<tr>
<td>3260–3267 MHz*</td>
<td>3260 MHz</td>
<td>3267 MHz*</td>
</tr>
<tr>
<td>3332–3339 MHz*</td>
<td>3332 MHz</td>
<td>3339 MHz*</td>
</tr>
<tr>
<td>3345.5–3352.5 MHz*</td>
<td>3345.5 MHz</td>
<td>3352.5 MHz*</td>
</tr>
<tr>
<td>4825–4835 MHz*</td>
<td>4825 MHz</td>
<td>4835 MHz*</td>
</tr>
<tr>
<td>14.47–14.5 GHz*</td>
<td>14.47 GHz</td>
<td>14.5 GHz*</td>
</tr>
<tr>
<td>22.01–22.21 GHz*</td>
<td>22.01 GHz</td>
<td>22.21 GHz*</td>
</tr>
<tr>
<td>22.21–22.5 GHz</td>
<td>22.21 GHz</td>
<td>22.5 GHz</td>
</tr>
</tbody>
</table>

In making assignments to stations of other services to which the following bands:

<table>
<thead>
<tr>
<th>Frequency Range</th>
<th>Lower Limit</th>
<th>Upper Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>23.07–23.12 GHz</td>
<td>23.07 GHz</td>
<td>23.12 GHz</td>
</tr>
<tr>
<td>31.2–31.5 GHz</td>
<td>31.2 GHz</td>
<td>31.5 GHz</td>
</tr>
<tr>
<td>36.48–36.5 GHz*</td>
<td>36.48 GHz</td>
<td>36.5 GHz*</td>
</tr>
<tr>
<td>42.5–43.5 GHz</td>
<td>42.5 GHz</td>
<td>43.5 GHz</td>
</tr>
<tr>
<td>48.94–49.04 GHz*</td>
<td>48.94 GHz</td>
<td>49.04 GHz*</td>
</tr>
<tr>
<td>93.07–93.27 GHz*</td>
<td>93.07 GHz</td>
<td>93.27 GHz*</td>
</tr>
<tr>
<td>97.88–98.08 GHz*</td>
<td>97.88 GHz</td>
<td>98.08 GHz*</td>
</tr>
<tr>
<td>140.68–140.98 GHz*</td>
<td>140.68 GHz</td>
<td>140.98 GHz*</td>
</tr>
<tr>
<td>144.68–144.98 GHz*</td>
<td>144.68 GHz</td>
<td>144.98 GHz*</td>
</tr>
<tr>
<td>145.45–145.75 GHz*</td>
<td>145.45 GHz</td>
<td>145.75 GHz*</td>
</tr>
<tr>
<td>146.82–147.12 GHz*</td>
<td>146.82 GHz</td>
<td>147.12 GHz*</td>
</tr>
<tr>
<td>150–151 GHz*</td>
<td>150 GHz</td>
<td>151 GHz*</td>
</tr>
</tbody>
</table>

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 Nos. 4.5 and 4.6 and Article 29 of the ITU Radio Regulations).

US344 In the band 5091–5250 MHz, non-Government earth stations in the fixed-satellite service (Earth-to-space) shall be coordinated through the Frequency Assignment Subcommittee (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-Government tracking and telecommand operations should be conducted in the band 5150–5250 MHz.

US345 In the band 492–495 MHz, the mobile, except mobile aeronautical, service is allocated on a secondary basis and is limited to, with the exception of military tactical mobile stations, Medical Implant Communications Service (MICS) operations. MICS 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 MICS stations accept interference from stations in the meteorological aids, meteorological-satellite, and earth exploration-satellite services.

US346 Except as provided by footnote US22, the use of the band 2025–2110 MHz by the Government 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-Government terrestrial receiving stations at fixed sites and Government earth station transmitters, coordination is required. To facilitate compatible operations between non-Government terrestrial transmitting stations and Government spacecraft receivers, the terrestrial transmitters shall not be high-density systems (see Recommendations ITU-R S.1154 and ITU-R F.1247).

US347 In the band 2025–2110 MHz, non-Government 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 Government and non-Government stations operating in accordance with the Table of Frequency Allocations.

US348 The band 3650–3700 MHz is also allocated to the Government radiolocation service on a primary basis at the following sites: St. Inigoes, MD (38° 10' N., 76° 23' W.); Pensacola, MS (30° 22' N., 88° 26' W.); and Pensacola, FL (30° 21' 26' N., 87° 16' 26' W.). All fixed and fixed satellite operations within 80 kilometers of these sites shall be coordinated through the Frequency Assignment Subcommittee of the Interdepartmental Radio Advisory Committee on a case-by-case basis.

US349 The band 3650–3700 MHz is also allocated to the Government 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-Government operations.
§ 2.106 47 CFR Ch. I (10–1–02 Edition)

US350 In the bands 608–614 MHz and 1395–1400 MHz the Government and non-Government land mobile service is limited to medical telemetry and medical telecommand operations. Availability and use of medical telemetry and telecommand and non-medical telemetry and telecommand in the band 1427–1432 MHz are described further:

<table>
<thead>
<tr>
<th>Location (see §§ 90.259(b)(4) and 95.630(b) of this chapter for a detailed description)</th>
<th>1427–1429 MHz</th>
<th>1431.5–1432 MHz</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austin/Georgetown, Texas</td>
<td>Non-Government land mobile service is limited to telemetry and telecommand operations.</td>
<td>Government and non-Government land mobile service is limited to medical telemetry and telecommand operations.</td>
</tr>
<tr>
<td>Battle Creek, Michigan</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detroit, Michigan</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pittsburgh, Pennsylvania</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Richmond/Norfolk, Virginia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spokane, Washington</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington, DC metropolitan area</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rest of U.S.</td>
<td>Government and non-Government land mobile service is limited to medical telemetry and telecommand operations. Non-Government telemetry and telecommand use is permitted on a secondary basis.</td>
<td>Non-Government telemetry and telecommand use is permitted on a secondary basis.</td>
</tr>
</tbody>
</table>

US351 In the band 1390–1400 MHz, Government operations, except for medical telemetry operations in the sub-band 1395–1400 MHz, are on a non-interference basis to authorized non-Government operations and shall not hinder implementation of any non-Government operations. However, Government operations authorized as of March 22, 1995 at 17 sites identified below will be continued on a fully protected basis until January 1, 2009:

<table>
<thead>
<tr>
<th>Sites</th>
<th>Last/Long</th>
<th>Radius (km)</th>
<th>Sites</th>
<th>Last/Long</th>
<th>Radius (km)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eglin AFB, FL</td>
<td>30°28′N/088°31′W</td>
<td>80</td>
<td>Fl. Greely, AK</td>
<td>63°47′N/145°52′W</td>
<td>80</td>
</tr>
<tr>
<td>Dugway PG, UT</td>
<td>40°11′N/112°53′W</td>
<td>80</td>
<td>Ft. Rucker, AL</td>
<td>31°13′N/085°49′W</td>
<td>80</td>
</tr>
<tr>
<td>China Lake, CA</td>
<td>35°41′N/117°41′W</td>
<td>80</td>
<td>Redstone, AL</td>
<td>34°35′N/086°35′W</td>
<td>80</td>
</tr>
<tr>
<td>Ft. Huachuca, AZ</td>
<td>31°33′N/110°18′W</td>
<td>80</td>
<td>Utah Test Range, UT</td>
<td>40°57′N/113°50′W</td>
<td>80</td>
</tr>
<tr>
<td>Cherry Point, NC</td>
<td>34°57′N/076°56′W</td>
<td>80</td>
<td>WSM Range, NM</td>
<td>32°10′N/106°21′W</td>
<td>80</td>
</tr>
<tr>
<td>Patuxent River, MD</td>
<td>38°17′N/076°25′W</td>
<td>80</td>
<td>Holloman AFB, NM</td>
<td>33°29′N/106°50′W</td>
<td>80</td>
</tr>
<tr>
<td>Aberdeen PG, MD</td>
<td>39°39′N/076°08′W</td>
<td>80</td>
<td>Yuma, AZ</td>
<td>32°29′N/114°20′W</td>
<td>80</td>
</tr>
<tr>
<td>Wright-Patterson AFB, OH</td>
<td>39°50′N/084°03′W</td>
<td>80</td>
<td>Pacific Missile Range, CA</td>
<td>34°07′N/119°30′W</td>
<td>80</td>
</tr>
<tr>
<td>Edwards AFB, CA</td>
<td>34°54′N/117°53′W</td>
<td>80</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

US352 In the band 1427–1432 MHz, Government operations, except for medical telemetry and medical telecommand operations, are on a non-interference basis to authorized non-Government operations and shall not hinder the implementation of any non-Government operations. However, Government operations authorized as of March 22, 1995 at the 14 sites identified in the following table may continue on a fully protected basis until January 1, 2009:

<table>
<thead>
<tr>
<th>Location</th>
<th>North latitude/west longitude</th>
<th>Operating radius</th>
<th>Location</th>
<th>North latitude/west longitude</th>
<th>Operating radius</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patuxent River, MD</td>
<td>38°17′/076°25′</td>
<td>70 km</td>
<td>Mountain Home AFB, ID</td>
<td>43°01′/115°50′</td>
<td>160 km</td>
</tr>
<tr>
<td>NAS Oceana, VA</td>
<td>36°49′/076°02′</td>
<td>100 km</td>
<td>NAS Fallon, NV</td>
<td>39°24′/118°43′</td>
<td>100 km</td>
</tr>
<tr>
<td>MCAS Cherry Point, NC</td>
<td>34°54′/070°52′</td>
<td>100 km</td>
<td>Nellis AFB, NV</td>
<td>36°14′/115°02′</td>
<td>100 km</td>
</tr>
<tr>
<td>Beaufort MCAS, SC</td>
<td>32°26′/080°40′</td>
<td>160 km</td>
<td>NAS Lemoore, CA</td>
<td>36°18′/119°47′</td>
<td>120 km</td>
</tr>
<tr>
<td>NAS Cecil Field, FL</td>
<td>30°13′/081°52′</td>
<td>160 km</td>
<td>Yuma MCAS, AZ</td>
<td>32°39′/114°35′</td>
<td>160 km</td>
</tr>
<tr>
<td>NAS Whidby IS, WA</td>
<td>48°19′/122°24′</td>
<td>70 km</td>
<td>China Lake, CA</td>
<td>35°29′/117°16′</td>
<td>80 km</td>
</tr>
<tr>
<td>Yakima Firing Ctr AAF, WA</td>
<td>46°40′/120°15′</td>
<td>70 km</td>
<td>MCAS Twenty Nine Palms, CA</td>
<td>34°15′/116°03′</td>
<td>80 km</td>
</tr>
</tbody>
</table>

US353 In the sub-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, 60.61–60.63 GHz, 60.631–60.632 GHz, and 60.635–60.637 GHz, the Federal only. The Federal government only.
and 62.461-62.511 GHz, space-based radio astronomy observations may be made on an unprotected basis.

US354 In the sub-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:

<table>
<thead>
<tr>
<th>Observatory</th>
<th>West longitude</th>
<th>North latitude</th>
<th>Elevation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arecibo Obs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Green Bank Telescope (GBT)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Large Array (VLA)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Long Baseline Array (VLBA) Stations:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pie Town, NM</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kitt Peak, AZ</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Los Alamos, NM</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ft. Davis, TX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N. Liberty, IA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brewster, WA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owens Valley, CA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>St. Croix, VI</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hancock, NH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mauna Kea, HI</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 towards the geostationary-satellite orbit 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.B3A 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 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 51 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-Government feeder links of non-geostationary systems in the mobile-satellite service. These non-Government earth stations shall be coordinated through the Frequency Assignment Subcommittee (see Annex 3 of Recommendation ITU-R S.1140).

US360 In the band 33-36 GHz, the Government fixed-satellite service (space-to-Earth) is also allocated on a primary basis. Coordination between Government fixed-satellite service systems and non-Government systems operating in accordance with the United States Table of Frequency Allocations is required.

US361 In the band 1432-1435 MHz, Government stations in the fixed and mobile services may operate indefinitely on a primary basis at the 23 sites listed in the following table. All other Government stations in the fixed and mobile services shall operate in the band 1432-1435 MHz on a primary basis until re-accommodated in accordance with the National Defense Authorization Act of 1999. The table follows:
§ 2.106 Protection Radius for Each of the Following Sites is 100 km:

<table>
<thead>
<tr>
<th>Location</th>
<th>North Latitude/West Longitude</th>
<th>Operating Radius</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patuxent River, MD</td>
<td>39° 51′/117° 44′</td>
<td>80 km</td>
</tr>
<tr>
<td>NAS Cecil Field, FL</td>
<td>30° 13′/80° 52′</td>
<td>160 km</td>
</tr>
<tr>
<td>NAS Oceana, VA</td>
<td>36° 49′/76° 01′</td>
<td>100 km</td>
</tr>
<tr>
<td>NAS Whidbey Island, WA</td>
<td>48° 21′/122° 39′</td>
<td>70 km</td>
</tr>
<tr>
<td>NAS Fallon, NV</td>
<td>39° 30′/118° 46′</td>
<td>100 km</td>
</tr>
<tr>
<td>Fort Huachuca, AZ</td>
<td>31° 33′/110° 18′</td>
<td>80 km</td>
</tr>
<tr>
<td>Fort Greely, AK</td>
<td>63° 47′/145° 52′</td>
<td>80 km</td>
</tr>
<tr>
<td>NAS JPAF, CA</td>
<td>36° 20′/119° 57′</td>
<td>120 km</td>
</tr>
<tr>
<td>Redstone Arsenal, AL</td>
<td>34° 35′/086° 35′</td>
<td>80 km</td>
</tr>
<tr>
<td>Nellis AFB, NV</td>
<td>30° 13′/80° 52′</td>
<td>160 km</td>
</tr>
<tr>
<td>Naval Space Operations Center,</td>
<td>44° 24′/068° 01′</td>
<td>80 km</td>
</tr>
<tr>
<td>China Lake, CA</td>
<td>35° 40′/117° 41′</td>
<td>100 km</td>
</tr>
<tr>
<td>Cape Canaveral, FL</td>
<td>28° 33′/086° 34′</td>
<td>100 km</td>
</tr>
<tr>
<td>China Lake, CA</td>
<td>35° 40′/117° 41′</td>
<td>100 km</td>
</tr>
<tr>
<td>Pueblo, CO</td>
<td>34° 49′/086° 36′</td>
<td>100 km</td>
</tr>
<tr>
<td>Edwards AFB, CA</td>
<td>34° 54′/117° 53′</td>
<td>100 km</td>
</tr>
</tbody>
</table>

US362 The band 1670–1675 MHz is allocated to the meteorological-satellite service (space-to-Earth) on a primary basis for Government use. Earth station use of this allocation is limited to Wallops Island, VA (37°56′47″ N, 75°27′37″ W), Fairbanks, AK (64°58′36″ N, 147°31′03″ W), and Greenbelt, MD (38°30′00″ N, 70°50′31″ W). Applicants for non-Government 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.

US363 (a) Until January 1, 2005, the band 2835–2890 MHz is allocated to the Government mobile and radiolocation services on a primary basis and to the Government fixed service on a secondary basis. Use of the mobile service is limited to aeronautical telemetry and associated telemetered operations for flight testing of manned or unmanned aircraft, missiles or major components thereof. Use of the radiolocation service is limited to the military services.

(b) After January 1, 2005, Government stations in the mobile and radiolocation services shall continue to operate on a primary basis until re-accommodated in accordance with the National Defense Authorization Act of 1999, except at the sites identified in the following table where Government stations may not be re-accommodated until January 1, 2007:

<table>
<thead>
<tr>
<th>Location</th>
<th>North Latitude/West Longitude</th>
<th>Operating Radius</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection Radius for Each of the Following Sites is 100 km:</td>
<td>30° 13′/80° 52′</td>
<td>160 km</td>
</tr>
<tr>
<td>Edwards AFB, CA</td>
<td>34° 54′/117° 53′</td>
<td>100 km</td>
</tr>
<tr>
<td>Patuxent River, MD</td>
<td>38° 17′/076° 25′</td>
<td>80 km</td>
</tr>
</tbody>
</table>

(c) In addition, non-Government flight test operations may continue at the sites identified in the following table on a primary basis until January 1, 2007:

<table>
<thead>
<tr>
<th>Location</th>
<th>North Latitude/West Longitude</th>
<th>Operating Radius</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection Radius for Each of the Following Sites is 100 km:</td>
<td>37° 26′/04° 105° 52′</td>
<td>30′ 03′</td>
</tr>
<tr>
<td>Alamitos, CA</td>
<td>37° 26′/04° 105° 52′</td>
<td>100 km</td>
</tr>
<tr>
<td>Albuquerque, NM</td>
<td>35° 11′/106° 34′</td>
<td>80 km</td>
</tr>
<tr>
<td>Amarillo, TX</td>
<td>35° 12′/101° 42′</td>
<td>100 km</td>
</tr>
<tr>
<td>Arlington, TX</td>
<td>32° 40′/097° 05′</td>
<td>100 km</td>
</tr>
</tbody>
</table>

542
US368 The band 1390-1392 MHz is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis and the band 1430-1432 MHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis, limited to feeder links for the Non-Voice Non-Geostationary Mobile-Satellite Service, and contingent on (1) the completion of sharing studies including the measurement of emissions from equipment that would be employed in operational systems and demonstrations to validate the studies as called for in Resolution 127 (WRC-2000), (2) the adoption of worldwide feeder link allocations at the 2003 World Radiocommunication Conference (WRC-03), and (3) compliance with any technical and operational requirements that may be imposed at WRC-03 to protect passive services in the 1400-1427 MHz band from unwanted emissions associated with such allocations. These allocations become effective upon adoption of worldwide allocations at WRC-03. If no such allocations are adopted by WRC-03, these allocations shall not be completed until the feeder downlink system is tested and certified to be in conformance with the technical and operational requirements for the protection of passive services in the 1400-1427 MHz band. Certification and all supporting documentation shall be submitted to the Commission and FAS prior to launch.

US369 Additional allocation: the bands 150-151 GHz, 174.42-175.02 GHz, 177-177.4 GHz, 178.2-178.6 GHz, 181-181.46 GHz, 186.2-186.6 GHz and 257.5-258 GHz are also allocated to the radio astronomy service on a secondary basis for spectral line observations.

US370 The band 5000-5150 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, ITU Radio Regulation No. 5.44A and Resolution 114 (WRC-95) apply.

US371 In the bands 134-142 GHz and 190-191.8 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radio-navigation-satellite service.

US372 Additional allocation: the bands 140.68-140.98 GHz, 144.68-144.98 GHz, 145.45-145.75 GHz, 146.82-147.12 GHz, 250-251 GHz and 262.24-262.76 GHz are also allocated to the radio astronomy service on a primary basis.

US373 In the bands 116-134 GHz, 174.8-182 GHz and 185-190 GHz, stations in the aeronautical mobile service may be operated subject to not causing harmful interference to the inter-satellite service (see ITU Radio Regulation No. 5.43).

US374 In the band 126-134 GHz, airborne radars in the radiolocation service may be operated subject to not causing harmful interference to the inter-satellite service (see ITU Radio Regulation No. 5.43).

US375 The frequency band 275-400 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: 278-280 GHz and 343-348 GHz;

Earth exploration-satellite service (passive) and space research service (passive): 275-277 GHz, 300-302 GHz, 324-326 GHz, 345-347 GHz, 363-365 GHz and 379-381 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 next competent world radiocommunication conference.

US376 In the bands 95-100 GHz, 134-142 GHz, 190-200 GHz and 252-263 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).

US377 In the band 84-86 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to broadcasting-satellite stations operating in accordance with the decisions of the appropriate frequency assignment planning conference for the broadcasting-satellite service.

Non-Federal Government (NG) Footnotes
(These footnotes, each consisting of the letters “NG” followed by one or more digits,
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denote stipulations applicable only to the non-Federal Government.)

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 152.64-153.38 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.

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.

NG12 Frequencies in the bands 454.40-455 MHz and 456.40-460 MHz may be assigned to domestic public land and mobile stations to provide a two-way air-ground public radio-telephone service.

NG17 Stations in the land transportation radio services authorized as of May 15, 1968 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.

NG19 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 this band on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

NG23 Frequencies in the band 2100-2200 MHz may also be assigned to stations in the International Public Radiocommunication Services located south of 25° 30’ North Latitude in the State of Florida and in U.S. insular areas in the Caribbean, except that no new assignments in the band 2150-2162 MHz will be made to such stations after February 23, 1974 and no new assignments in the band 2165-2200 MHz will be made to such stations after June 27, 2000.

NG28 The frequency band 160.86-161.40 MHz is available for assignment to remote pickup base and remote pickup mobile stations in Puerto Rico and the Virgin Islands only on a shared basis with the land transportation radio service.

NG31 Stations in the Rural Radio Service licensed for Basic Exchange Telecommunications Radio Service may be authorized to use some frequencies in the bands 816-820 MHz (fixed subscriber) and 861-865 MHz (central office or base), on a co-primary basis with private land mobile radio licensees, pursuant to part 22 subpart H.

NG41 Frequencies in the bands 3700-4200 MHz, 5925-6425 MHz, and 10.7-11.7 GHz may also be assigned to stations in the international fixed public and international control services located in U.S. Possessions in the Caribbean area.

NG42 Non-Government stations in the radiolocation service shall not cause harmful interference to the amateur service.

NG47 In Alaska, frequencies within the band 2655-2690 MHz are not available for assignment to terrestrial stations.

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:

<table>
<thead>
<tr>
<th>MHz</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>72.02</td>
<td>72.22</td>
</tr>
<tr>
<td>72.04</td>
<td>72.29</td>
</tr>
<tr>
<td>72.06</td>
<td>72.26</td>
</tr>
<tr>
<td>72.08</td>
<td>72.28</td>
</tr>
<tr>
<td>72.10</td>
<td>72.30</td>
</tr>
<tr>
<td>72.12</td>
<td>72.32</td>
</tr>
<tr>
<td>72.14</td>
<td>72.34</td>
</tr>
<tr>
<td>72.16</td>
<td>72.36</td>
</tr>
<tr>
<td>72.18</td>
<td>72.38</td>
</tr>
<tr>
<td>72.20</td>
<td>72.40</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>MHz</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>72.44</td>
<td>75.44</td>
</tr>
<tr>
<td>72.48</td>
<td>75.48</td>
</tr>
<tr>
<td>72.52</td>
<td>75.52</td>
</tr>
<tr>
<td>72.56</td>
<td>75.56</td>
</tr>
<tr>
<td>72.60</td>
<td>75.60</td>
</tr>
</tbody>
</table>

NG51 In Puerto Rico and the Virgin Islands only, the bands 150.8-150.98 MHz and
150.98–151.49 MHz are allocated exclusively to the business radio service.

NG53 In the band 12.7-13.15 GHz, television pickup stations and CARS pickup stations shall be assigned channels on a co-equal basis and shall operate on a secondary basis to fixed stations operating in accordance with the Table of Frequency Allocations. In the 13.15-13.20 GHz band television pickup stations and CARS pickup stations shall be assigned on an exclusive basis in the top one hundred markets, as set out in Section 76.51.

NG56 In the bands 72.0–73.0 and 75.4–76.0 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 systems. To remote control of industrial equipment operating in the 72–76 MHz band, or to the reception of television signal on channels 4 (69-72 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.

NG63 Television Broadcast translator stations holding valid licenses on November 15, 1971, to operate in the frequency band 806–890 MHz (channels 70–83), may continue to operate in this band, pursuant to periodic license renewals, on a secondary basis to the land mobile radio service.

NG66 The frequency band 470–512 MHz is allocated for use in the broadcasting and land mobile radio services. In the land mobile services, it is available for assignment in the domestic public, public safety, industrial, and land transportation radio services at, or in the vicinity of 11 urbanized areas of the United States, as set forth in the following table. Additionally, in the land mobile services, TV channel 16 is available for assignment in the public safety radio services at, or in the vicinity of, Los Angeles. Such use in the land mobile services is subject to the conditions set forth in parts 22 and 90 of this chapter.

<table>
<thead>
<tr>
<th>Urbanized area</th>
<th>TV channel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Houston, TX</td>
<td>17</td>
</tr>
<tr>
<td>Dallas, TX</td>
<td>16</td>
</tr>
</tbody>
</table>

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.

NG101 The use of the band 2500–2690 MHz by the broadcasting-satellite service is limited to domestic and regional systems for community reception of educational television programming and public service information. Such use is subject to agreement among administrations concerned and those having services operating in accordance with the table, which may be affected. Unless such agreement includes the use of higher values, the power flux density at the earth’s surface produced by emissions from a space station in this service shall not exceed those values set forth in Part 73 of the rules for this frequency band.

NG102 Use of the fixed-satellite service in the bands 2500–2655 MHz (space-to-Earth) and 2655–2690 MHz (Earth-to-space) is limited as follows:

(a) For common carrier use in Alaska, for intra-Alaska service only, and in the mid-western-Pacific areas, including American Samoa, Guam, the Northern Mariana Islands, and Hawaii, and under the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands.

(b) For educational use in the contiguous United States, Alaska, and the mid-western-Pacific areas, including American Samoa, Guam, the Northern Mariana Islands, and Hawaii.

Such use is subject to agreement with administrations having services operating in accordance with the Table, which may be affected. In the band 2500-2655 MHz, unless such agreement includes the use of higher values, the power flux density at the earth’s surface produced by emissions from a space station in this service shall not exceed the values set forth in Part 25 of the Rules for this frequency band.

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 petroleum radio service for use primarily in oil spill containment and cleanup operations.
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and secondarily in regular land mobile communication.

NG114 In the Gulf of Mexico offshore from the Louisiana–Texas coast, the frequency bands 88–90 MHz (TV channels 15, 16 and 17) is allocated to the Domestic Public and Private Land Mobile Radio Services in accordance with the regulations set forth in parts 73.901 and 90 respectively.

NG115 In the 174 to 216 MHz band wireless microphones may be authorized to operate on a secondary, non-interfering basis, subject to terms and conditions set forth in part 74 of these Rules and Regulations.

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, 5675–7125 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 Within designated segments of the bands that comprise 30.85–47.41 MHz, 150.8–159.465 MHz, and 453.0125–512.875 MHz, police licensees are authorized to operate low power radio transmitters on a secondary, non-interference basis in accordance with the provisions of 47 CFR 2.803 and 90.20(e)(5).

NG127 In Hawaii, the frequency band 488–494 MHz is allocated exclusively to the fixed service for use by common carrier control and repeater stations for point-to-point inter-island communications only.

NG129 In the band 536–1706 kHz, AM broadcast licensees or 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 or 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 614–806 MHz, TV broadcast licensees or permittees are permitted to use subcarriers on a secondary basis for both broadcast and non-broadcast purposes.

NG129 In Alaska, the bands 76–88 MHz and 88–108 MHz are also allocated to the Fixed service on a secondary basis. Broadcast stations operating in these bands shall not cause interference to non-Government fixed operations authorized prior to January 1, 1962.

NG134 In the band 10.45–10.5 GHz non-Government stations in the radiolocation service shall not cause harmful interference to the amateur and amateur-satellite services.

NG135 In the 420–430 MHz band the amateur service is not allocated north of line A (def. § 2.1).

NG141 The frequencies 42.40 MHz and 44.10 MHz are authorized on a primary basis in the State of Alaska for meteor burst communications by fixed stations in the Rural Radio Service operating under the provisions of part 22 of this chapter. The frequencies 44.20 MHz and 45.90 MHz are authorized on a primary basis in Alaska for meteor burst communications by fixed private radio stations operating under the provisions of part 90 of the chapter. 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.

NG142 TV broadcast stations authorized to operate in the bands 54–72, 76–88, 174–216, 470–512, and 512–806 MHz may use a portion of the television vertical blanking interval for the transmission of telecommunication signals, on the condition that harmful interference will not be caused to the reception of primary services, and that such telecommunication services must accept any interference caused by primary services operating in these bands.

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 Regulations 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 5.488.

NG144 Stations authorized as of September 9, 1983 to use frequencies in the bands 17.7–18.58 GHz and 19.3–19.7 GHz may, upon proper application, continue operations. Fixed stations authorized in the band 18.58–19.3 GHz that remain co-primary under the provisions of §§ 21.901(e), 74.502(c), 74.602(g), 78.18(a)(4), and 101.174(r) of this chapter may continue operations consistent with the provisions of those sections.

NG145 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.

NG147 Stations in the broadcast auxiliary service and private radio services licensed as of July 25, 1985, may continue to operate on a primary basis with the mobile-satellite service and the radiodetermination satellite service.

NG148 The frequencies 154.385 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 radio-location and associated telecommand operations.

NG149 The frequency 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 part 73 of the rules.

NG150 In the frequency bands 824–849 MHz and 869–894 MHz, cellular land mobile licensees are permitted to offer auxiliary services on a secondary basis subject to the provisions of part 22.

NG152 The band 219–220 MHz is also allocated to the amateur service on a secondary basis for stations participating, as forwarder stations, in point-to-point fixed digital message forwarding systems, including internet packet backbone networks.

NG153 The bands 2110–2150 MHz and 2160–2185 MHz are 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.

NG155 The bands 159.500–159.675 MHz and 161.375–161.550 MHz are allocated to the maritime service as described in Part 80 of this chapter. Additionally, the frequencies 159.550, 159.575 and 159.600 MHz are available for low-power intership communications.

NG156 The band 1990–2025 MHz is also allocated to the fixed and mobile services on a primary basis for facilities where the receipt date of the initial application was prior to June 27, 2000, and on a secondary basis for all other initial applications. Not later than September 6, 2010, the band 1990–2025 MHz is allocated to the fixed and mobile services on a secondary basis.

NG158 The frequency bands 764–776 MHz and 794–806 MHz are available for assignment exclusively to the public safety services, to be defined in Docket No. WT 96–86.

NG159 Full power analog television stations licensed and new digital television (DTV) broadcasting operations in the band 698–806 MHz shall be entitled to protection from harmful interference until the end of the DTV transition period. Low power television and television translators in the band 746–806 MHz must cease operations in the band at the end of the DTV transition period. Low power television and television translators in the band 698–746 MHz are secondary to all other operations in the band 698–746 MHz.

NG160 In the 5850–5925 MHz band, the use of the non-Federal government mobile service is limited to Dedicated Short Range Communications operating in the Intelligent Transportation System radio service.

NG161 The allocation to the broadcasting-satellite service in the band 17.3–17.7 GHz shall come into effect on 1 April 2007.

NG162 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.

NG163 The use of the band 19.3–19.7 GHz by the fixed-satellite service (space-to-Earth) is limited to systems in non-geostationary-satellite orbits.

NG164 The use of the band 24.75–25.25 GHz is limited to feeder links for the mobile-satellite service.

NG165 The use of the fixed-satellite service (Earth-to-space) in the band 17.3–17.7 GHz is limited to systems in the geostationary-satellite orbit.

NG166 The allocation to the broadcasting-satellite service in the band 24.75–25.25 GHz is limited to feeder links for the broadcasting-satellite service operating in the band 17.3–17.7 GHz. The allocation to the fixed-satellite service (Earth-to-space) in the band 24.75–25.25 shall come into effect on 1 April 2007.

NG167 The use of the fixed-satellite service (Earth-to-space) in the band 3650–3700 MHz is limited to feeder links for the broadcasting-satellite service operating in the band 17.3–17.7 GHz. The allocation to the fixed-satellite service (Earth-to-space) in the band 24.75–25.25 shall come into effect on 1 April 2007.

NG168 The band 2165–2200 MHz is also allocated to the fixed and mobile services on a primary basis for facilities where the receipt date of the initial application was prior to January 16, 1992, and on a secondary basis for all other initial applications. Not later than September 6, 2010, the band 2165–2200 MHz is allocated to the fixed and mobile services 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 1, 1996, and prior to December 1, 2000, shall not be accepted unless the proposed facilities are in the vicinity (i.e., within 10 miles) of an authorized primary earth station operating in the band.
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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 existing 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.

NG170 In the band 3650–3700 MHz, the mobile except aeronautical mobile service is limited to base station operations. These base stations are subject to the same coordination procedures as fixed service operations in the band 3650–3700 MHz.

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: (1) in the band 7025–7075 MHz, Brewster, Washington (48°08′46.7″ N, 119°42′3.0″ W); and, (2) in the band 7025–7055 MHz, Clifton, Texas (31°47′38.5″ N, 97°36′46.7″ W) and Finca Pascual, Puerto Rico (17°39′41.8″ N, 67°8′12.5″ W). All coordinates are specified in terms of the North American Datum of 1983.

NG173 In the band 216–220 MHz, secondary telemetry operations are permitted subject to the requirements of § 90.259 of this chapter. After January 1, 2002, no new assignments shall be authorized in the band 216–217 MHz.

NG174 In Puerto Rico, frequencies within the band 2385–2390 MHz are not available for assignment to stations in the aeronautical mobile service.

FEDERAL GOVERNMENT (G) FOOTNOTES

(These footnotes, each consisting of the letter “G” followed by one or more digits, denote stipulations applicable only to the Federal Government.)

G2 In the bands 216–225 MHz, 420–450 MHz (except as provided by USC17), 900–902 MHz, 928–942 MHz, 1290–1300 MHz, 2310–2385 MHz, 2417–2450 MHz, 2700–2900 MHz, 5650–5925 MHz, and 9000–9200 MHz, the Government radio-location service is limited to the military services.

G5 In the bands 162.0125–173.2, 173.4–174, 406.1–410 and 410–420 MHz, the fixed and mobile services are all allocated on a primary basis to the Government non-military agencies.

G6 Military tactical fixed and mobile operations may be conducted nationally on a secondary basis: (1) To the meteorological aids service in the band 403–406 MHz; and (2) 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 Government radio control operations are permitted in the band 420–450 MHz.

G11 Government 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 radio-location installations will be fully coordinated with the meteorological aids and aeronautical radio-navigation 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 radio-navigation service.

G19 Use of the band 9000–9200 MHz by military fixed and shipborne air defense radio-location installations will be fully coordinated with the aeronautical radio-navigation 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 radio-navigation services.

G27 In the bands 255–258.6 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.

G31 In the 3300–3500 MHz, the Government radio-location is limited to the military services, except as provided by footnote.

G32 Except for weather radars on meteorological satellites in the band 9775–10025 MHz and for Government survey operations (see footnote US108), Government radio-location in the band 10000–10500 MHz 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 radio-location devices. All other non-military radio-location in the band 33.4–36.0 GHz shall be secondary to the military services.

G42 Space command, control, range and range rate systems for earth station transmission only (including installations on certain Navy ships) may be accommodated on a co-equal basis with the fixed and mobile services in the band 1761–1842 MHz. Specific
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frequencies required to be used at any location will be satisfied on a coordinated case-by-case basis.

G56 Government radiolocation in the bands 1215–1390 kHz, 3300–3650 MHz and 9300–9500 MHz is primarily for the military services; however, limited secondary use is permitted by other Government agencies in support of emergency communication, and research programs. In addition, limited secondary use is permitted for survey operations in the band 2000–3100 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 Government non-military radiolocation shall be secondary to military radio-location, 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.

G101 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.

G106 The bands 2501–2502 kHz, 5003–5005 kHz, 10000–10005 kHz and 19995 kHz, 20005–20010 kHz and 25005–25010 kHz are also allocated on a secondary basis, to the space research service. The space research transmissions are subject to immediate temporary or permanent shutdown in the event of interference to the reception of the standard frequency and time broadcasts.

G110 Government fixed stations may be authorized in the conterminous United States, assign-ments 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, 17.8–21.2 GHz, 30–31 GHz, 33–36 GHz, 39.5–40.5 GHz, 43.5–45.5 GHz, and 50.4–51.1 GHz, the Government fixed-satellite and mobile-satellite services are limited to military systems.

G118 Government fixed stations may be authorized in the band 1700–1710 MHz only if spectrum is not available in the band 1710–1850 MHz.

G120 Development of airborne primary radars in the band 2310–2385 MHz with peak transmitter power in excess of 250 watts for use in the United States is not permitted.

G122 In the bands 2390–2400 MHz, 2402–2417 MHz, and 4940–4990 MHz, Government operations may be authorized on a non-interference basis to authorized non-Government operations, but shall not hinder the implementation of any non-Government operations.

G123 The bands 2390–2310 and 2400–2402 MHz were identified for reallocation, effective August 10, 1995, for exclusive non-Government use under Title VI of the Omnibus Budget Reconciliation Act of 1993. Effective August 10, 1995, any Government operations in these bands are on a non-interference basis to authorized non-Government operations and shall not hinder the implementation of any non-Government operations.

G124 The band 2417–2450 MHz was identified for reallocation, effective August 10, 1995, for mixed Government and non-Government use under Title VI of the Omnibus Budget Reconciliation Act of 1993.

G126 Use of the band 50.4–51.1 GHz by intersatellite systems is limited to transmissions between satellites in geostationary 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...
§ 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.

(b) The name and mailing address of the operator.

(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) A minimum of three symbols are used to describe the basic characteristics of radio waves. Emissions are classified and symbolized according to the following characteristics:

(1) First symbol—type of modulation of the main character;

(2) Second symbol—nature of signal(s) modulating the main carrier;

(3) Third symbol—type of information to be transmitted.

Note: A fourth and fifth symbol are provided for additional information and are shown in Appendix 6, part A of the ITU Radio
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Regulations. Use of the fourth and fifth symbol is optional. Therefore, the symbols may be used as described in Appendix 6, but are 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

(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 multiplex ................. 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

---

1Emissions 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).

2In 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.
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be preceded by the necessary bandwidth of the emission as indicated in § 2.202(b)(1).

[49 FR 48697, Dec. 14, 1984]

§ 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 multi-channel 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).

(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.

(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 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.

(c) The necessary bandwidth may be determined by one of the following methods:
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Nc = 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 Bn 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:

<table>
<thead>
<tr>
<th>Number of message circuits</th>
<th>Multiplying factors</th>
<th>Limits of X (Pavg (dBmO))</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 3, but less than 12</td>
<td>4.47×[a factor specified by the equipment manufacturer or station licensee, subject to Commission approval].</td>
<td>X: -2 to +2.6.</td>
</tr>
<tr>
<td>At least 12, but less than 60</td>
<td>3.76 antilog (X+2 log10 Nc) / 20</td>
<td>X: -5.6 to -1.0.</td>
</tr>
<tr>
<td>At least 60, but less than 240</td>
<td>3.76 antilog (X+4 log10 Nc) / 20</td>
<td></td>
</tr>
<tr>
<td>240 or more</td>
<td>3.76 antilog (X+10 log10 Nc) / 20</td>
<td>X: -19.6 to -15.0.</td>
</tr>
</tbody>
</table>

Where X represents the average power in a message circuit in dBmO; Nc 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 (Bn) 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)(i) of this section, the necessary bandwidth (Bn) 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:

<table>
<thead>
<tr>
<th>Description of emission</th>
<th>Necessary bandwidth</th>
<th>Designation of emission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuous wave emission.</td>
<td>N0N (zero)</td>
<td>I. NO MODULATING SIGNAL</td>
</tr>
</tbody>
</table>

II. AMPLITUDE MODULATION

1. Signal With Quantized or Digital Information

Continuous wave telegraphy. Bn=8K, K=5 for fading circuits, K=3 for non-fading circuits 25 words per minute; B=20, K=5, Bandwidth: 100 Hz 100HA1A
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Necessary bandwidth: Designation of emission

<table>
<thead>
<tr>
<th>Description of emission</th>
<th>Formula</th>
<th>Sample calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telegraphy by on-off keying of a tone modulated carrier.</td>
<td>( B_n = BK + 2M ),  ( K = 5 ) for fading circuits,  ( K = 3 ) for non-fading circuits</td>
<td>25 words per minute;  ( B = 20 ),  ( M = 1000 ),  ( K = 5 ), Bandwidth: 2100 Hz=2.1 kHz</td>
</tr>
<tr>
<td>Selective calling signal, single-sideband full carrier.</td>
<td>( B_n = M )</td>
<td>Maximum code frequency is: 2110 Hz,  ( M = 2110 ), Bandwidth: 2110 Hz=2.11 kHz</td>
</tr>
<tr>
<td>Direct-printing telegraphy using a frequency shifted modulating sub-carrier single-sideband suppressed carrier.</td>
<td>( B_n = BM + 2DK ),  ( M = B/2 )</td>
<td>( B = 50 ),  ( D = 35 ) Hz (70 Hz shift),  ( K = 1.2 ), Bandwidth: 134 Hz</td>
</tr>
<tr>
<td>Telegraphy, single-sideband reduced carrier.</td>
<td>( B_n = \text{central frequency} + M + DK ),  ( M = B )</td>
<td>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</td>
</tr>
<tr>
<td>2. Telephony (Commercial Quality)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telephony double-sideband.</td>
<td>( B_n = 2M )</td>
<td>( M = 3000 ), Bandwidth=6000 Hz=6 kHz</td>
</tr>
<tr>
<td>Telephony, single-sideband, full carrier.</td>
<td>( B_n = 2M )</td>
<td>( M = 3000 ), Bandwidth: 3000 Hz=3 kHz</td>
</tr>
<tr>
<td>Telephony, single-sideband suppressed carrier.</td>
<td>( B_n = M ) – lowest modulation frequency</td>
<td>( M = 3000 ), lowest modulation frequency is 3000 Hz,  ( M = 2700 ) Hz Bandwidth: 2700Hz=2.7 kHz</td>
</tr>
<tr>
<td>Telephony with separate frequency modulated signal to control the level of demodulated speech signal, single-sideband, reduced carrier.</td>
<td>( B_n = M )</td>
<td>Maximum control frequency is 2990 Hz,  ( M = 2990 ), Bandwidth: 2990 Hz=2.99 kHz</td>
</tr>
<tr>
<td>Telephony with privacy, single-sideband, suppressed carrier (two or more channels).</td>
<td>( B_n = N ),  ( M ) – lowest modulation frequency in the lowest channel</td>
<td>( N = 2 ),  ( M = 3000 ) lowest modulation frequency is 250 Hz,  ( M = 5750 ) Hz Bandwidth: 5750 Hz=5.75 kHz</td>
</tr>
<tr>
<td>Telephony, independent sideband (two or more channels).</td>
<td>( B_n = \text{sum of } M \text{ for each sideband} )</td>
<td>2 channels,  ( M = 3000 ), Bandwidth: 6000 Hz=6 kHz</td>
</tr>
<tr>
<td>3. Sound Broadcasting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sound broadcasting, double-sideband.</td>
<td>( B_n = 2M ),  ( M ) may vary between 4000 and 10000 depending on the quality desired</td>
<td>Speech and music,  ( M = 4000 ), Bandwidth: 8000 Hz( = 8 ) kHz</td>
</tr>
<tr>
<td>Sound broadcasting, single-sideband reduced carrier (single channel).</td>
<td>( B_n = M ),  ( M ) may vary between 4000 and 10000 depending on the quality desired</td>
<td>Speech and music,  ( M = 4000 ), Bandwidth: 4000 Hz( = 4 ) kHz</td>
</tr>
<tr>
<td>Sound broadcasting, single-sideband, suppressed carrier.</td>
<td>( B_n = M ) – lowest modulation frequency</td>
<td>Speech and music,  ( M = 4500 ), lowest modulation frequency=50 Hz, Bandwidth: 4450 Hz( =4.45 ) kHz</td>
</tr>
<tr>
<td>4. Television</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Television, vision and sound.</td>
<td>Refer to CCIR documents for the bandwidths of the commonly used television systems</td>
<td>Number of lines=525; Nominal video bandwidth: 4.2 MHz, Sound carrier relative to video carrier=4.5 MHz</td>
</tr>
<tr>
<td>Total vision bandwidth: 5.75 MHz; FM aural bandwidth including guardbands: 250,000 Hz</td>
<td>Number of lines=525; Nominal video bandwidth: 4.2 MHz, Sound carrier relative to video carrier=4.5 MHz</td>
<td></td>
</tr>
<tr>
<td>Total bandwidth: 6 MHz</td>
<td></td>
<td>250KF3E</td>
</tr>
</tbody>
</table>

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Description of emission  Necessary bandwidth  Designation of emission

<table>
<thead>
<tr>
<th>Formula</th>
<th>Sample calculation</th>
</tr>
</thead>
</table>

### 5. Facsimile

- **Analogue facsimile by sub-carrier frequency modulation of a single-sideband emission with reduced carrier.**
  \[ B_n = C - N \div 2 + DK, \quad K = 1.1 \text{ (typically)} \]
  \[ N = 1100, \text{corresponding to an index of cooperation of 352 and a cycle rotation speed of 60 rpm. Index of cooperation is the product of the drum diameter and number of lines per unit length C=1900, D=400 Hz, Bandwidth=2.890 Hz=2.89 kHz} \]
  \[ 2K89R3C \]

- **Analogue facsimile; frequency modulation of an audio frequency sub-carrier which modulates the main carrier, single-sideband suppressed carrier.**
  \[ B_n = 2M + 2DK, \quad M = N \div 2, \quad K = 1.1 \text{ (typically)} \]
  \[ N = 1100, D=400 \text{ Hz}, \text{Bandwidth: 1980 Hz=1.98 kHz} \]
  \[ 1K96J3C \]

### 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 bandwidth=328,000 Hz=328 kHz
  \[ 328KA8E \]

- **Double-sideband emission of VOR with voice (VOR=VHF omnidirectional radio range).**
  \[ B_n = 2C_m + 2M + 2DK, \quad K = 1 \text{ (typically)} \]
  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_m=9960, M=30, D=480 Hz, Bandwidth: 20,940 Hz=20.94 kHz
  \[ 20K9A9W \]

- **Independent sidebands; several telegraph channels together with several telephone channels.**
  \[ B_n = \text{sum of } M \text{ for each sideband} \]
  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).**
  \[ B_n = 2M + 2DK, \quad M = B \div 2, \quad K = 1.2 \text{ (typically)} \]
  \[ B=100, D=85 \text{ Hz (170 Hz shift), Bandwidth: 304 Hz} \]
  \[ 304HF1B \]

- **Four-frequency duplex telegraphy.**
  \[ B_n = 2M + 2DK, \quad B = \text{Modulation rate in bands of the faster channel. If the channels are synchronized} \]
  \[ M = B \div 2, \text{otherwise } M = 2B, \quad K = 1.1 \text{ (typically)} \]
  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.**
  \[ B_n = 2M + 2DK, \quad K = 1 \text{ (typically), but under conditions a higher value may be necessary} \]
  For an average case of commercial telephony, M=3,000, Bandwidth: 16,000 Hz=16 kHz
  \[ 16K0F3E \]

#### 3. Sound Broadcasting

- **Sound broadcasting.**
  \[ B_n = 2M + 2DK, \quad K = 1 \text{ (typically)} \]
  Monaural, D=75,000 Hz, M=15,000, Bandwidth: 18,000 Hz=180 kHz
  \[ 180KF3E \]
### § 2.202

**Description of emission** | Necessary bandwidth | Designation of emission
--- | --- | ---

**4. Facsimile**

<table>
<thead>
<tr>
<th>Formula</th>
<th>Sample calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ B_n = 2M + 2DK ]</td>
<td>[ M = \frac{N}{2}, K = 1.1 ]</td>
</tr>
</tbody>
</table>

- **Facsimile by direct frequency modulation of the carrier; black and white.**
  - \[ B_n = 2M + 2DK \] (typically)
  - \[ M = N/2, K = 1.1 \]
  - \[ N = 1100 \text{ elements/sec}; D = 400 \text{ Hz}, \text{Bandwidth: 1980 Hz=1.98 kHz} \]
  - Designation: 1K98F1C

- **Analogue facsimile**
  - \[ B_n = 2M + 2DK \] (typically)
  - \[ M = N/2, K = 1.1 \]
  - \[ N = 1100 \text{ elements/sec}; D = 400 \text{ Hz}, \text{Bandwidth: 1980 Hz=1.98 kHz} \]
  - Designation: 1K98F3C

**5. Composite Emissions (See Table III-B)**

<table>
<thead>
<tr>
<th>Formula</th>
<th>Sample calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ B_n = 2P ] (Microwave radio relay system specifications: 60 telephone channels occupying baseband between 60 and 300 kHz; rms per-channel deviation 200 kHz; continuity pilot at 6199 kHz produces 140 kHz rms deviation of main carrier. Computation of [ B_n ]: [ D = (200 \times 10^3 \times 3.76 \times 2.565) = 1.93 \times 10^6 \text{ Hz}; M = 2.54 \times 10^6 \text{ Hz}; 2DK \leq 2P \text{ Bandwidth: 17} \times 10^6 \text{ Hz} ])</td>
<td>[ 2DK \leq 2P \text{ Bandwidth: 17} \times 10^6 \text{ Hz} ]</td>
</tr>
</tbody>
</table>

- **Radio-relay system, frequency division multiplex.**
  - \[ B_n = 2P + 2DK, K = 1 \]
  - \[ M = \frac{N}{2}, K = 1.6 \] (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 \( t_{1-t} \), only components down to 27 dB from the strongest are considered) Then \( t_{2x} \text{ range resolution} = \text{velocity of light} \times 2 \times 150 = 3 \times 10^4 \times 1 \times 10^{-6} \text{ seconds, Bandwidth: } 3 \times 10^4 \text{ Hz}=3 \text{ MHz} \) |

| Designation | 2M00P0N |

- **Unmodulated pulse emission.**
  - \[ B_n = 2K \times t, K \text{ depends upon the ratio of pulse rise time. Its value usually falls between 1 and 10 and in many cases it does not need to exceed 6} \]

**6. Composite Emissions**

<table>
<thead>
<tr>
<th>Formula</th>
<th>Sample calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ B_n = 2K \times t, K = 1.6 ] (Radio relay system pulse position modulated by 36 voice channel baseband; pulse width at half amplitude=0.4 us, Bandwidth: ( 8 \times 10^6 \text{ Hz}=8 \text{ MHz} ) (Bandwidth independent of the number of voice channels))</td>
<td>( 8M00M7E )</td>
</tr>
</tbody>
</table>

Subpart D—Call Signs and Other Forms of Identifying Radio Transmissions


§ 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]

<table>
<thead>
<tr>
<th>Class of station</th>
<th>Composition of call sign</th>
<th>Call sign blocks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coast (Class I) except for coast telephone in Alaska.</td>
<td>3 letters</td>
<td>KAA through KZZ.</td>
</tr>
<tr>
<td>Coast (Classes II and III) and maritime radio determination.</td>
<td>3 letters, 3 digits</td>
<td>WAA through WZZZ.</td>
</tr>
<tr>
<td>Coast telephone in Alaska</td>
<td>3 letters, 2 digits</td>
<td>KAA200 through KZZ999.</td>
</tr>
<tr>
<td></td>
<td>3 letters, 3 digits</td>
<td>WAA200 through WZZ999.</td>
</tr>
<tr>
<td></td>
<td>(for stations assigned frequencies above 30 MHz).</td>
<td></td>
</tr>
<tr>
<td>Fixed</td>
<td>3 letters, 2 digits</td>
<td>KAA20 through KZZ99.</td>
</tr>
<tr>
<td></td>
<td>3 letters, 3 digits</td>
<td>WAA20 through WZZ999.</td>
</tr>
<tr>
<td></td>
<td>(for stations assigned frequencies above 30 MHz).</td>
<td></td>
</tr>
<tr>
<td>Marine receiver test</td>
<td>3 letters, 3 digits</td>
<td>WAA200 through WZZ999.</td>
</tr>
<tr>
<td>Ship telegraph</td>
<td>3 letters</td>
<td>WAA20 through WZZ999.</td>
</tr>
<tr>
<td></td>
<td>3 letters, 3 digits</td>
<td>WAA200 through WZZ999.</td>
</tr>
<tr>
<td></td>
<td>(plus general geographic location when required).</td>
<td></td>
</tr>
<tr>
<td>Ship telephone</td>
<td>2 letters, 4 digits, or 3 letters, 4 digits</td>
<td>WAA20 through WZZ999.</td>
</tr>
<tr>
<td>Ship telegraph plus telephone</td>
<td>4 letters</td>
<td>WAA200 through WZZ999.</td>
</tr>
<tr>
<td>Ship radar</td>
<td>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.</td>
<td>WZZ9999.</td>
</tr>
<tr>
<td>Ship survival craft</td>
<td>Call sign of the parent ship followed by 2 digits.</td>
<td>KAA200 through KZZ999.</td>
</tr>
<tr>
<td>Cable-repair ship marker buoy</td>
<td>Call sign of the parent ship followed by the letters “BT” and the identifying number of the buoy.</td>
<td>WAA20 through WZZ999.</td>
</tr>
<tr>
<td>Marine utility</td>
<td>2 letters, 4 digits</td>
<td>KAA2000 through KZZ999.</td>
</tr>
<tr>
<td>Shipyard mobile</td>
<td>2 letters, 4 digits</td>
<td>KAA2000 through KZZ999.</td>
</tr>
<tr>
<td>Aircraft telegraph</td>
<td>5 letters</td>
<td>KAA2000 through KZZ999.</td>
</tr>
<tr>
<td>Aircraft telegraph and telephone</td>
<td>5 letters</td>
<td>WAAA through WZZZZ.</td>
</tr>
<tr>
<td></td>
<td>5 letters</td>
<td>KAAA through KZZZZZ.</td>
</tr>
<tr>
<td></td>
<td>(whenever a call sign is assigned).</td>
<td></td>
</tr>
<tr>
<td>Aircraft telephone</td>
<td>5 letters</td>
<td>WAAA through WZZZZZ.</td>
</tr>
<tr>
<td></td>
<td>5 letters</td>
<td>KAAA through KZZZZZ.</td>
</tr>
<tr>
<td></td>
<td>(whenever a call sign is assigned).</td>
<td></td>
</tr>
<tr>
<td>Aircraft survival craft</td>
<td>Whenever a call sign is assigned, call sign of the parent aircraft followed by a single digit other than 0 or 1.</td>
<td>WAAA through WZZZZZ.</td>
</tr>
<tr>
<td>Aeronautical</td>
<td>3 letters, 1 digit</td>
<td>KAA2 through KZZ9.</td>
</tr>
<tr>
<td>Land mobile (base)</td>
<td>3 letters, 3 digits</td>
<td>WAA2 through WZZ9.</td>
</tr>
</tbody>
</table>

§ 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 APA 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.)

<table>
<thead>
<tr>
<th>Class of station</th>
<th>Composition of call sign</th>
<th>Call sign blocks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coast (Class I)</td>
<td>3 letters</td>
<td>KAA through KZZ.</td>
</tr>
<tr>
<td></td>
<td>3 letters, 3 digits</td>
<td>WAA through WZZZ.</td>
</tr>
<tr>
<td></td>
<td>(for stations assigned frequencies above 30 MHz).</td>
<td></td>
</tr>
<tr>
<td>Fixed</td>
<td>3 letters, 2 digits</td>
<td>KAA20 through KZZ99.</td>
</tr>
<tr>
<td></td>
<td>3 letters, 3 digits</td>
<td>WAA20 through WZZ999.</td>
</tr>
<tr>
<td></td>
<td>(for stations assigned frequencies above 30 MHz).</td>
<td></td>
</tr>
<tr>
<td>Marine receiver test</td>
<td>3 letters, 3 digits</td>
<td>WAA200 through WZZ999.</td>
</tr>
<tr>
<td>Ship telegraph</td>
<td>3 letters</td>
<td>WAA20 through WZZ999.</td>
</tr>
<tr>
<td>Ship telephone</td>
<td>2 letters, 4 digits, or 3 letters, 4 digits</td>
<td>WAA200 through WZZ999.</td>
</tr>
<tr>
<td>Ship telegraph plus telephone</td>
<td>4 letters</td>
<td>WZZ9999.</td>
</tr>
<tr>
<td>Ship radar</td>
<td>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.</td>
<td>WZZ9999.</td>
</tr>
<tr>
<td>Ship survival craft</td>
<td>Call sign of the parent ship followed by 2 digits.</td>
<td>KAA200 through KZZ999.</td>
</tr>
<tr>
<td>Cable-repair ship marker buoy</td>
<td>Call sign of the parent ship followed by the letters “BT” and the identifying number of the buoy.</td>
<td>WAA20 through WZZ999.</td>
</tr>
<tr>
<td>Marine utility</td>
<td>2 letters, 4 digits</td>
<td>KAA2000 through KZZ999.</td>
</tr>
<tr>
<td>Shipyard mobile</td>
<td>2 letters, 4 digits</td>
<td>KAA2000 through KZZ999.</td>
</tr>
<tr>
<td>Aircraft telegraph</td>
<td>5 letters</td>
<td>KAA2000 through KZZ999.</td>
</tr>
<tr>
<td>Aircraft telegraph and telephone</td>
<td>5 letters</td>
<td>WAAA through WZZZZZ.</td>
</tr>
<tr>
<td>Aircraft telephone</td>
<td>5 letters</td>
<td>KAAA through KZZZZZ.</td>
</tr>
<tr>
<td>Aircraft survival craft</td>
<td>Whenever a call sign is assigned, call sign of the parent aircraft followed by a single digit other than 0 or 1.</td>
<td>WAAA through WZZZZZ.</td>
</tr>
<tr>
<td>Aeronautical</td>
<td>3 letters, 1 digit</td>
<td>KAA2 through KZZ9.</td>
</tr>
<tr>
<td>Land mobile (base)</td>
<td>3 letters, 3 digits</td>
<td>WAA2 through WZZ9.</td>
</tr>
</tbody>
</table>
§ 2.303 Forms of identification of stations

<table>
<thead>
<tr>
<th>Class of station</th>
<th>Composition of call sign</th>
<th>Call sign blocks</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Mobile Radio Service, temporary</td>
<td>4 letters, 1 digit</td>
<td>KAAA2 through KZZZ9.</td>
</tr>
<tr>
<td>conditional permit</td>
<td></td>
<td>WAAA through WZZZ9.</td>
</tr>
<tr>
<td>Part 90 temporary permit</td>
<td>2 letters, 7 digits</td>
<td>WT plus local telephone number.</td>
</tr>
<tr>
<td>Business radio temporary permit</td>
<td>2 letters, 7 digits</td>
<td>WT plus local telephone number.</td>
</tr>
<tr>
<td>Broadcast (standard)</td>
<td>4 letters¹ (plus location of station)</td>
<td>KAAA through KZZZ.</td>
</tr>
<tr>
<td>Broadcasting (FM)</td>
<td>4 letters (plus location of station)</td>
<td>WAAA through WZZZ.</td>
</tr>
<tr>
<td>Broadcasting with suffix “FM”</td>
<td>6 letters¹ (plus location of station)</td>
<td>KAAA—FM through KZZZ—FM.</td>
</tr>
<tr>
<td>Broadcasting (television)</td>
<td>4 letters (plus location of station)</td>
<td>WAAA—FM through WZZZ—FM.</td>
</tr>
<tr>
<td>Broadcasting with suffix “TV”</td>
<td>6 letters² (plus location of station)</td>
<td>WAAA through WZZZ.</td>
</tr>
<tr>
<td>Television broadcast translator</td>
<td>1 letter—output channel number—2 letters.</td>
<td>K02AA through K83ZZ.</td>
</tr>
<tr>
<td>Disaster station, except U.S. Government</td>
<td>4 letters, 1 digit</td>
<td>KAAA2 through KZZZ9.</td>
</tr>
<tr>
<td>Experimental (letter “X” follows the digit)</td>
<td>2 letters, 1 digit, 3 letters</td>
<td>WAAA2 through WZZZ9.</td>
</tr>
<tr>
<td>Amateur (letter “X” may not follow digit)</td>
<td>1 letter, 1 digit, 1 letter⁴</td>
<td>K1A through K0Z.</td>
</tr>
<tr>
<td>Amateur</td>
<td>1 letter, 1 digit, 2 letters⁴</td>
<td>K1AA through K02Z.</td>
</tr>
<tr>
<td>Do</td>
<td>1 letter, 1 digit, 3 letters⁴</td>
<td>K1AAA through K02ZZ.</td>
</tr>
<tr>
<td>Do</td>
<td>2 letters, 1 digit, 1 letter⁴</td>
<td>W1A through W0ZZ.</td>
</tr>
<tr>
<td>Do</td>
<td>2 letters, 1 digit, 2 letters⁴</td>
<td>W1AA through W02ZZ.</td>
</tr>
<tr>
<td>Amateur (letter “X” may not follow digit)</td>
<td>2 letters, 1 digit, 3 letters⁴</td>
<td>K1AAA through K02ZZ.</td>
</tr>
<tr>
<td>Standard frequency</td>
<td></td>
<td>WWV, WWVB through WWVI, WWVL, WWVS.</td>
</tr>
<tr>
<td>Personal radio, temporary permit</td>
<td>3 letters, 4 digits, or 4 letters, 4 digits</td>
<td>KAAA0001 through K2Z9999.</td>
</tr>
<tr>
<td>Personal radio in trust territories</td>
<td>1 letter, 4 digits</td>
<td>KAAA0001 through K2Z9999.</td>
</tr>
<tr>
<td>Business radio temporary permit</td>
<td>2 letters, 7 digits</td>
<td>K001 through K9999.</td>
</tr>
<tr>
<td>Part 90 temporary permit</td>
<td>2 letters, 7 digits</td>
<td>WT plus local telephone number.</td>
</tr>
<tr>
<td>General Mobile Radio Service, temporary</td>
<td>2 letters, 7 digits</td>
<td>WT plus business or residence telephone number.</td>
</tr>
</tbody>
</table>

Note: The symbol 0 indicates the digit zero.
¹ Ships with transmitter-equipped survival craft shall be assigned four letter call signs.
²See § 2.303.
³A 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”.
⁴Plus other identifying data as may be specified.


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 distinguishable 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.

<table>
<thead>
<tr>
<th>Class of station</th>
<th>Identification, other than assigned call sign</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft (U.S. registry) telephone</td>
<td>Registration number preceded by the type of the aircraft, or the radiotelephony designator of the aircraft operating agency followed by the flight identification number.</td>
</tr>
<tr>
<td>Aircraft (foreign registry) telephone</td>
<td>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.</td>
</tr>
<tr>
<td>Aeronautical</td>
<td>Name of the city, area, or airfield served together with such additional identification as may be required.</td>
</tr>
<tr>
<td>Aircraft survival craft</td>
<td>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.</td>
</tr>
<tr>
<td>Ship telegraph</td>
<td>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.</td>
</tr>
<tr>
<td>Public coast (radiotelegraph) and Limited Coast (Radiotelephone)</td>
<td>The approximate geographic location in a format approved by the Commission.</td>
</tr>
<tr>
<td>Public coast (radiotelegraph)</td>
<td>Coast station identification number.</td>
</tr>
<tr>
<td>Fixed</td>
<td>Coast station identification number.</td>
</tr>
<tr>
<td>Fixed: Rural subscriber service</td>
<td>Geographic location. When an approved method of superimposed identification is used, QTT DE (abbreviated name of company or station). Assigned telephone number.</td>
</tr>
<tr>
<td>Land mobile: Public safety, forestry conservation, highway maintenance, local government, shipyard, land transportation, and aviation services.</td>
<td>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.</td>
</tr>
<tr>
<td>Land mobile: Industrial service</td>
<td>Mobile unit not 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. Special mobile unit designation assigned by licensee or by assigned telephone number.</td>
</tr>
<tr>
<td>Land mobile: Domestic public and rural radio service</td>
<td>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.</td>
</tr>
<tr>
<td>Land mobile: Railroad radio service</td>
<td>Identification of associated broadcasting station.</td>
</tr>
<tr>
<td>Land mobile: Broadcasting (remote pickup)</td>
<td>Call sign of the broadcasting station with which it is associated.</td>
</tr>
<tr>
<td>Broadcasting (Emergency Broadcast System)</td>
<td>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.</td>
</tr>
<tr>
<td>Broadcasting (aural STL and intercity relay)</td>
<td>Retransmission of the call sign of the primary station.</td>
</tr>
<tr>
<td>Broadcasting (television auxiliary)</td>
<td>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.</td>
</tr>
<tr>
<td>Disaster station</td>
<td></td>
</tr>
</tbody>
</table>

(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
§ 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
§ 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), import, ship, or distribute for

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.

Subpart I—Marketing of Radio-frequency 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.


§ 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), import, ship, or distribute for
The purpose of selling or leasing or offering for sale or lease, any radio frequency device unless:

(a) 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

(b) 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 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.

(i) 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.

(ii) 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) 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)
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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
§ 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 radio-frequency 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.


§ 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.


§ 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) After April 27, 1978, 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 or amplifier kit capable of operation on any frequency or frequencies between 24 and 35 MHz.

NOTE: For purposes of this part, the amplifier will be deemed incapable of operation between 24 and 35 MHz if:

(1) The amplifier has no more than 6 decibels of gain between 24 and 26 MHz and between 28 and 35 MHz. (This gain is determined by the ratio of the input RF driving signal (mean power measurement) to the mean RF output power of the amplifier:); and

(2) The amplifier exhibits no amplification (0 decibels of gain) between 26 and 28 MHz.

(c) 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 or amplifier kit capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of type acceptance in accordance with subpart J of this part and subpart C of part 97 or other relevant parts of this chapter. No more than 10 external radio frequency power amplifiers or amplifier kits may be constructed for evaluation purposes in preparation for the submission of an application for a grant of type acceptance.

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NOTE: For the purposes of this part, an amplifier will be deemed incapable of operation below 144 MHz if the amplifier is not capable of being easily modified to increase its amplification characteristics below 120 MHz, and either:

(1) The mean output power of the amplifier decreases, as frequency decreases from 144 MHz, to a point where 0 decibels or less gain is exhibited at 120 MHz and below 120 MHz; or

(2) The amplifier is not capable of even short periods of operation below 120 MHz without sustaining permanent damage to its amplification circuitry.

(d) The proscription in paragraph (b) of this section shall not apply to the marketing, as defined in paragraph (b) of this section, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier fabricated in not more than one unit of the same model in a calendar year by that operator provided the amplifier is for the amateur operator’s personal use at his licensed amateur radio station and the requirements of §§ 97.315 and 97.317 of this chapter are met.

(e) The proscription in paragraph (c) of this section shall not apply in the marketing, as defined in paragraph (c) of this section, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier if the amplifier is for the amateur operator’s personal use at his licensed amateur radio station and the requirements of §§ 97.315 and 97.317 of this chapter are met.

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§ 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.


§ 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.


[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].”

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.


§ 2.913 Submittal of equipment authorization application or information to the Commission.

(a) Unless otherwise directed, applications with fees attached for the equipment authorization, pursuant to § 1.1103 of this chapter, must be submitted following the procedures described in § 0.401(b) of this chapter. The address for applications submitted by mail is: Federal Communications Commission, Equipment Approval Services, P. O. Box 358315, Pittsburgh, PA 15251-5315. 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 Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th floor, Room 153–2713, Pittsburgh, Pennsylvania 15259–0001, Attention: Wholesale Lockbox Supervisor.

(b) Any information or 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, Equipment Authorization Division, 7435 Oak-land Mills Road, Columbia, Maryland 21046.

(c) Effective October 5, 1999, all applications for equipment authorization must be filed electronically. The Commission will be amenable to consideration of waiver requests from small businesses that find it a hardship to file applications electronically. Information on the procedures for electronically filing equipment authorization applications can be obtained from the address in paragraph (b) of this section.


§ 2.915 Grant of application.

(a) The Commission will grant an application for certification if it finds from an examination of the application
§ 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 required by the Commission to file additional documents or information and fails to submit the requested material within 60 days, the application may be dismissed.

§ 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 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.

§ 2.925 Identification of equipment.

(a) Each equipment covered in an application for equipment authorization shall bear a nameplate or label listing the following:

Example: FCC ID XXX123. XXX—Grantee Code 123—Equipment Product Code
§ 2.925

(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.
§ 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 submit a written request to the Commission for assignment of a grantee code at any time. However, it is preferred that grantee codes be requested prior to filing applications for equipment authorization. If a grantee code is not requested in advance, one will be assigned at the time an application is received by the FCC Laboratory and the applicant will be notified to make any necessary label revisions in order to comply fully with application procedural rules.

(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.

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.


§ 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.

(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, written notice of such change(s) shall be submitted to the Commission 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 in writing 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]

§ 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.

(e) Manufacturers must take steps to ensure that only software that has been approved with a software defined radio can be loaded into such a radio. The software must not allow the user to operate the transmitter with frequencies, output power, modulation types or other parameters outside of those that were approved. Manufacturers may use authentication codes or any other means to meet these requirements and must describe the methods in their application for equipment authorization.


§ 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.

§ 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.


§ 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.

§ 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.

§ 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.

§ 2.944

Submission of radio software.

The grantee or other party responsible for compliance of a software defined radio, or the applicant for authorization of a software defined radio shall submit a copy of the software that controls the radio frequency operating parameters upon request by the Commission. Failure to comply with such a request within 14 days or such additional time as the Commission may allow may be cause for denial of authorization, forfeiture pursuant to §1.80 of this chapter, or other administrative sanctions.

§ 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.

§ 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.

§ 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.
§ 2.948 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.

(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 8x10 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,
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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) A plot of site attenuation data.

(i) For a measurement facility that will be used for testing radiated emissions from a digital device on or after May 1, 1994, or for testing intentional and other unintentional radiators authorized under part 15 of the rules on or after June 1, 1995, the site attenuation data shall be taken pursuant to the procedures contained in Sections 5.4.6 through 5.5 of the following procedure: American National Standards Institute (ANSI) C63.4–1992, entitled “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 Institute of Electrical and Electronics Engineers, Inc. on July 17, 1992 as document number SH15180. 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 ANSI C63.4–1992 may be obtained from: IEEE Standards Department, 455 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855–1331, telephone 1–800–678–4333. Copies of ANSI C63.4–1992 may be inspected at the following locations:

(A) Federal Communications Commission, 445 12th Street, SW., Office of Engineering and Technology, Washington, DC 20554.

(B) Federal Communications Commission Laboratory, 7425 Oakland Mills Road, Columbia, MD 21046, or

(C) Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(ii) For a measurement facility that will be used for testing radiated emissions from a digital device prior to May 1, 1994, or from intentional and other unintentional radiators authorized under part 15 prior to June 1, 1995, or from devices authorized under part 18 of the rules, the site attenuation data shall be taken pursuant to either ANSI C63.4–1992, Sections 5.4.6 through 5.5, or FCC/OET Bulletin 55.

(iii) This requirement does not apply to equipment that is not measured on an open field test site.

(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) If the equipment is to be authorized under a Declaration of Conformity, the party performing the measurements shall be accredited for performing such measurements by an authorized accreditation body based on the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 25, “General Requirements for the Competence of Calibration and Testing Laboratories.” Accreditation bodies must be approved by the FCC’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 required to be filed or retained by the testing party shall comply with the requirements established by the accrediting organization.

(i) In addition to meeting the above requirements, the accreditations of laboratories located outside of the United States or its possessions will be acceptable only under one of the following conditions:

(i) If there is a mutual recognition agreement between that country and the United States and that laboratory is covered by the agreement;

(ii) If there is an agreement between accrediting bodies that permits similar accreditation of U.S. facilities to perform testing for products marketed in that country; or

(iii) If the country already accepts the accreditation of U.S. laboratories.
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(2) Organizations outside of the United States that seek to become accreditors may seek agreements with approved United States accrediting bodies to mutually recognize the accreditation of laboratories. The Commission will review such agreements and will consult with the Office of the United States Trade Representative and other Executive Branch agencies before accepting them for purposes of the DoC procedure in order to ensure that the respective foreign countries accept United States accreditations and do not impose additional barriers upon United States companies. Accrediting bodies located outside of the United States will only be permitted to accredit laboratories within their own country for DoC testing.

(3) To facilitate use of the DoC procedure, the FCC will accept a laboratory that submits documentation to OET’s Equipment Authorization Division stating that it has filed an application for accreditation with an approved laboratory accreditation body and provides evidence that it meets all aspects of ISO/IEC Guide 25. Such labs will be provisionally accepted by the FCC for a period of one year (until August 19, 1997) or until the application for accreditation has been acted upon, whichever is sooner. A laboratory that is denied accreditation by an approved accreditation body will lose its provisional acceptance. However, any DoCs that were issued will remain valid.


VERIFICATION


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
§ 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.

§ 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.


§ 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.


§ 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 telecommunication 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
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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 Guide 25 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 Guides 25 and 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.

(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 TCBs. (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) TCBs 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) TCBs 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 certification body determines that a product fails to comply with the applicable technical regulations, the 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).


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
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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 x 29.7 cm) or 8x10 inches (20.3 cm x 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 x 29.7 cm) or 8.5x11 inch (21.6 cm x 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.

(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.
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(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) 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.

§ 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.

§ 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
§ 2.1043 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, modulation type, output power or maximum field strength outside the parameters previously approved. 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 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. A copy of the software shall be submitted to the Commission upon request. 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
§ 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.
§ 2.1047 Measurements required: Modulation characteristics.

(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 −26 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.

(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.

(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.

§ 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 50 percent modulation. The input level shall be established at the frequency of maximum response of the audio modulating circuit.

(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 such 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.

(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.

§ 2.1049  

(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
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level by the number of decibels determined using the appropriate formula in the following table:

<table>
<thead>
<tr>
<th>Number of message circuits that modulate the transmitter</th>
<th>Number of dB by which the average power (P_{avg}) level test signal shall exceed the modulation reference level</th>
<th>Limits of P_{avg} (dBm0)</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 3, but less than 12 ..........................</td>
<td>To be specified by the equipment manufacturer subject to FCC approval.</td>
<td>X: -2 to +2.6</td>
</tr>
<tr>
<td>At least 12, but less than 60 ..........................</td>
<td>(X + 2 \log_{10} N_c) ..........................</td>
<td>X: -5.6 to -1.0</td>
</tr>
<tr>
<td>At least 60, but less than 240 ..........................</td>
<td>(X + 4 \log_{10} N_c) ..........................</td>
<td>X: -19.6 to -15.0</td>
</tr>
<tr>
<td>240 or more .......................................</td>
<td>(X + 10 \log_{10} N_c) ..........................</td>
<td>X: -19.6 to -15.0</td>
</tr>
</tbody>
</table>

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, 1903; 47 U.S.C. 154, 303, 307)

§ 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
§ 2.1055 Measurements required: Frequency stability.

(a) The frequency stability shall be measured with variation of ambient temperature as follows:

1. From $-30^\circ$ to $+50^\circ$ centigrade for all equipment except that specified in paragraphs (a) (2) and (3) of this section.

2. From $-20^\circ$ to $+50^\circ$ 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 Radio Beacons (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, and equipment licensed for use aboard aircraft in the Aviation Services under part 87 of this chapter.

(b) Frequency measurements shall be made at the extremes of the specified temperature range and at intervals of not more than $10^\circ$ 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, $0^\circ$ centigrade and $+30^\circ$ 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
§ 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) Any supplier of an external radio frequency power amplifier kit as defined by §97.3(a)(17) of this chapter
§ 2.1061 Submission of technical information for application reference.

An application for station authorization in some services requires a detailed technical description of the equipment proposed to be used. In order to simplify the preparation and processing of applications by eliminating the need for the submission of equipment specifications with each application, the Commission will accept for application reference purposes detailed technical specifications of equipment designed for use in these services. Manufacturers desiring to avail themselves of this procedure should submit all information required by the application form and the rules for the services in which the equipment is to be used. An application for a station authorization submitted subsequent to such filing may refer to the technical information so filed.

§ 2.1063 Disclaimer re technical information filed for application reference.

Receipt by the Commission of data for application purposes does not imply that the Commission has made or intends to make any finding regarding the acceptability of the equipment for licensing and such equipment will not be included on the list of equipment acceptable for licensing. Each applicant is expected to exercise appropriate care in the selection of equipment to insure that the unit selected will comply with the rules governing the service in which it is proposed to operate.

§ 2.1065 Identification and changes in equipment information filed for application reference.

(a) Each type of equipment, for which information is filed for application reference purposes, shall be identified by
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§ 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
§ 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
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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 chapter;

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.

4. Copies of the compliance information statements for each modular component used in the system that is authorized under a Declaration of Conformity.

Note: You can find all the relevant sections of the Federal Communications Commission (FCC) regulations for the Federal Register at https://www.federalregister.gov/.

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§ 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 Service, the General Wireless Communications Service, the Maritime Services and the Specialized Mobile Radio Service authorized under part 22 of this chapter, part 24 of this chapter, part 25 of this chapter, part 26 of this chapter, part 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 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 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.


§ 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 Wireless Medical Telemetry Service (WMTS) and the Medical Implant Communications Service (MICS), authorized under subpart H of part 22 of this chapter, part 24 of this chapter, part 25 of this chapter, part 26 of this chapter, part 27 of this chapter, part 80 of this chapter (ship earth station devices only), part 90 of this chapter, subparts H and I of part 95, and unlicensed personal communication service, unlicensed NII devices and millimeter wave devices authorized under subparts D and E, §15.253 and §15.255 of part 15 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.
§ 2.1201  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.


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.


§ 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.
§ 2.1205 (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 granted entry into the United States or is a medical implant programmer/controller transmitter associated with such an implanted 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 Implant Communications Service 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.

(b) The ultimate consignee must be able to document compliance with the selected import condition and the basis for determining the import condition applied.


§ 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) For points of entry where electronic filing with Customs is available, submit the following information to
Federal Communications Commission

§ 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 73.689 (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
§ 2.1501

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).

Subpart N—FCC Procedure for Testing Class A, B and S Emergency Position Indicating Radiobeacons (EPIRBs)

§ 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 vertical 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 ambient field strengths 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.
§ 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
§ 2.1509

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 (l) 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 +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.

(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 has been 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 1986), 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 EPIRBs 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...
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§ 2.1511 Measurements of radiated emissions.

The Commission’s Rules require that the peak effective 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

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 temperature 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 using 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 temperature and frequency in each case and plot the frequency vs temperature from −20° to +55 °C.

(1) 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.

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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 using 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 temperature and frequency in each case and plot the frequency vs temperature from −20° to +55 °C.

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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.

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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 using 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 temperature and frequency in each case and plot the frequency vs temperature from −20° to +55 °C.

(1) 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 effective 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
§ 2.1511 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:

\[
\text{PERP} = 75 \times \log_{10}\left[\frac{\text{dBm}_{\text{meas}} - \text{dBm}_{\text{ref}}}{10}\right]
\]

where:

- \(\text{dBm}_{\text{meas}}\) is the measured receiver reading in dBM, and
- \(\text{dBm}_{\text{ref}}\) 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:

\[
\text{dBm}_{\text{spur}} = \text{dBm}_{\text{meas}} + \text{AF}_{121.5} - \text{AF}_{\text{spurfreq}} - 30
\]

where:

- \(\text{dBm}_{\text{meas}}\) = measured receiver reading (Section 2.1511(c), step 5).
- \(\text{AF}_{121.5}\) = tuned dipole antenna factor at 121.5 MHz.
- \(\text{AF}_{\text{spurfreq}}\) = 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:
\[ F = \frac{1}{T} \]

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:
\[ F_{\text{range}} = F_{\text{high}} - F_{\text{low}} \]

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:
\[ M = \frac{V_{\text{max}} - V_{\text{min}}}{V_{\text{max}} + V_{\text{min}}} \]

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.
§ 2.1515

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:

L.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 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:

$$\text{carrier power} = \log_{10}\left\{\frac{\text{dBc} - \text{dB_T}}{10}\right\}$$

$$\text{total power} = \frac{\text{carrier power}}{\text{dBc}} = \text{carrier power in step 6}$$

$$\text{dB_T} = \text{total power in step 4}$$

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.

(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: 20 kHz/div.
Video filter: OFF or as wide as possible
Scan time: 100 ms./div.
Amplitude scale: 10 dB/div.
Scan width: 20 kHz/div.
Center frequency: 121.5 MHz

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.

(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.

(§ 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 - Measurement Site
Frequency:  \[ f = \frac{1}{T} \]

Duty cycle:  \[ D = \frac{t_p}{T} \]

Modulation factor:  \[ M = \frac{V_{\text{max}} - V_{\text{min}}}{V_{\text{max}} + V_{\text{min}}} \]

*Figure 2 - Typical Audio Waveform*
Figure 3 - Example of ideal EPIRB Spectrum
PART 3—AUTHORIZATION AND ADMINISTRATION OF ACCOUNTING AUTHORITIES IN MARITIME AND MARITIME MOBILE-SATELLITE RADIO SERVICES

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§ 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) is responsible for developing international telecommunications recommendations relating to standardization of international telecommunications services and facilities, including matters related to international charging and accounting principles and the settlement of international telecommunications accounts.

Such recommendations are, effectively, the detailed implementation

1At 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.
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 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). 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.

§ 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 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

Identical.
§ 3.11

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
§ 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

§ 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
§ 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 application 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 3.601 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.
§ 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.
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 basic 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


§ 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;
§ 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.
§ 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.
§ 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 airports 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.

§ 5.57 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
§ 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, in 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
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applicant is notified otherwise by the Commission.

(c) An application for special temporary authorization may be filed in letter form 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 isotropically 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]

§ 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 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.

§ 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:
§ 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/m² power flux density assuming a free space characteristic impedance of 120 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/m²) 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.
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§ 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, must notify the Commission within 30 days after the date on which the application for a station license or construction permit is filed. The notice shall include the name and address of the person notifying the Commission and a statement indicating that such interference is likely to occur and the nature of the proposed station or modification.

§ 5.92 Application to modify or cancel a station license.

An application to modify or cancel a station license shall be filed in letter form and must comply with the provisions of §5.63, except where specified below. The application must be accompanied by a signed statement from a member of the 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.
- 462.535–467.475 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.

(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]
§ 5.93 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.

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,
§ 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

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; and
(c) Any telecommunications carrier.

Subpart B—Definitions

§ 6.3 Definitions.

(a) The term accessible shall mean that:
(i) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:
(ii) Operable without vision. Provide at least one mode that does not require user vision.
(iii) 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.
(iv) Operable with little or no color perception. Provide at least one mode that does not require user color perception.
(v) Operable without hearing. Provide at least one mode that does not require user auditory perception.
(vi) Operable with limited manual dexterity. Provide at least one mode that does not require user fine motor control or simultaneous actions.
(vii) Operable with limited reach and strength. Provide at least one mode that is operable with user limited reach and strength.
(viii) Operable with a Prosthetic Device. Controls shall be operable without requiring body contact or close body proximity.
(ix) Operable without time-dependent controls. Provide at least one mode that does not require a response time or allows response time to be bypassed or adjusted by the user over a wide range.
(x) Operable without speech. Provide at least one mode that does not require user speech.
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(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.

(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
§ 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.
§ 6.15 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.

§ 6.11 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;

(3) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(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.
§ 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 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 232 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.

§ 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.
§ 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

§ 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:
(i) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:
(ii) Operable without vision. Provide at least one mode that does not require user vision.
(iii) 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.
(iv) Operable with little or no color perception. Provide at least one mode that does not require user color perception.
(v) Operable without hearing. Provide at least one mode that does not require user auditory perception.
(vi) Operable with limited manual dexterity. Provide at least one mode that does not require user fine motor control or simultaneous actions.
(vii) Operable with limited reach and strength. Provide at least one mode that is operable with user limited reach and strength.
(viii) Operable with a Prosthetic Device. Controls shall be operable without requiring body contact or close body proximity.
(ix) 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.
(x) Operable without speech. Provide at least one mode that does not require user speech.

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.
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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...
§ 7.5 General Obligations—What Must Covered Entities Do?

(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

tionship 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 messaging 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.
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, non-proprietary, 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:
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(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
§ 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 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 AM, FM and TV broadcast stations, cable systems 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.
§11.11 The Emergency Alert System (EAS).

(a) The EAS is composed of broadcast networks; cable networks and program suppliers; AM, FM Low Power FM (LPFM) and TV broadcast stations; Class A television (CA) stations; Low Power TV (LPTV) stations; cable systems; wireless cable systems which may consist of Multipoint Distribution Service (MDS), and Multichannel Video Programming Distribution (MPVD) systems.

(b) The EAS is composed of broadcast networks; cable networks and program suppliers; AM, FM Low Power FM (LPFM) and TV broadcast stations; Class A television (CA) stations; Low Power TV (LPTV) stations; cable systems; wireless cable systems which may consist of Multipoint Distribution Service (MDS), or Instructional Television Fixed Service (ITFS) stations; and other entities and industries operating on an organized basis during emergencies at the National, State and local levels. It requires that at a minimum all participants use a common EAS protocol, as defined in §11.31, to send and receive emergency alerts in accordance with the effective dates in the following tables:

### Broadcast Stations

<table>
<thead>
<tr>
<th>EAS Equipment Requirement</th>
<th>AM &amp; FM</th>
<th>TV</th>
<th>FM Class D</th>
<th>LPTV</th>
<th>LPFM</th>
<th>Class A TV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two-tone encoder 1,2,3</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>EAS decoder 1</td>
<td>Y 1/1/97</td>
<td>Y 1/1/97</td>
<td>Y 1/1/97</td>
<td>Y 1/1/97</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>EAS encoder 2</td>
<td>Y 1/1/97</td>
<td>Y 1/1/97</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Audio message</td>
<td>Y 1/1/97</td>
<td>Y 1/1/97</td>
<td>Y 1/1/97</td>
<td>Y 1/1/97</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Video message</td>
<td>N/A</td>
<td>Y 1/1/97</td>
<td>N/A</td>
<td>Y 1/1/97</td>
<td>N/A</td>
<td>Y</td>
</tr>
</tbody>
</table>

1. LPTV stations that operate as television broadcast translator stations are exempt from the requirement to have EAS equipment.
2. LPTV 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.
3. Effective July 1, 1995, the two-tone signal must be 8–25 seconds.
4. 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 test.

### Cable Systems

A cable system 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 cable systems must comply with B.

<table>
<thead>
<tr>
<th>System size and effective dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>≥10,000 subscribers</td>
</tr>
<tr>
<td>Two-tone signal from storage device 1</td>
</tr>
<tr>
<td>EAS decoder 1</td>
</tr>
<tr>
<td>Audio and Video EAS Message on all channels</td>
</tr>
<tr>
<td>Video interrupt and audio alert message on all channels 2</td>
</tr>
</tbody>
</table>

1. The 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. 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.

### Wireless Cable Systems (MDS/MMPS/ITFS 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.

<table>
<thead>
<tr>
<th>System size and effective dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>≥ 5,000 subscribers</td>
</tr>
<tr>
<td>EAS decoder 1,2</td>
</tr>
<tr>
<td>Audio and Video EAS Message on all channels</td>
</tr>
<tr>
<td>Video interrupt and audio alert message on all channels 3</td>
</tr>
</tbody>
</table>

1. The 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.

---

Date of this page: October 1, 2002
§ 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.

§ 11.13 Emergency Action Notification (EAN) and Emergency Action Termination (EAT).

(a) The Emergency Action Notification (EAN) is the notice to all broadcast stations, cable systems and wireless cable systems, other regulated
services of the FCC, participating industry entities, 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 broadcast stations, cable systems and wireless cable systems, other regulated services of the FCC, participating industry entities, and to the general public that the EAN has terminated.

[63 FR 29663, June 1, 1998]

§ 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 broadcast stations, cable systems and wireless cable systems, and other participating entities 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.

[63 FR 29663, June 1, 1998]

§ 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.


§ 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.

This authorization letter is issued by the FCC to broadcast station licensees and cable systems and wireless cable systems. It states that the licensee, cable operator or wireless cable operator has agreed to go off the air or in the case of cable discontinue programming on all channels during a national level EAS message. For Broadcast 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.

[63 FR 29663, June 1, 1998]

§ 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 broadcast and cable 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 RBDS. The plans must be reviewed and approved by the Chief, Technical and Public Safety Division, Enforcement 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 broadcast and cable personnel to transmit emergency information to the public during a State emergency using the EAS.

(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.

[59 FR 67092, Dec. 28, 1994, as amended at 60 FR 55999, Nov. 6, 1995; 63 FR 29663, June 1, 1998; 65 FR 21658, Apr. 24, 2000]

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. 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.

\[
\text{[PREAMBLE]} \text{ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-}
\]
(one second pause)

\[
\text{[PREAMBLE]} \text{ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-}
\]
(one second pause)

\[
\text{[PREAMBLE]} \text{ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-}
\]
(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)

\[
\text{[PREAMBLE]} \text{NNNN (one second pause)}
\]

\[
\text{[PREAMBLE]} \text{NNNN (one second pause)}
\]

\[
\text{[PREAMBLE]} \text{NNNN (at least one second pause)}
\]

\[
\text{[PREAMBLE]} \text{This is a consecutive string of bits (sixteen bytes of AB hexadecimal [8 bit byte 10101011]) sent to clear the system, set AGC and set asynchronous decoder clocking cycles. The preamble must be transmitted before each header and End Of Message code.}
\]

\[
\text{ZCZC—This is the identifier, sent as ASCII characters ZCZC to indicate the start of ASCII code.}
\]

\[
\text{ORG—This is the Originator code and indicates who originally initiated the activation of the EAS. These codes are specified in paragraph (d) of this section.}
\]

\[
\text{EEE—This is the Event code and indicates the nature of the EAS activation. The codes are specified in paragraph (e) of this section. The Event codes must be compatible with the codes used by the NWS Weather Radio Specific Area Message Encoder (WRSAME).}
\]

\[
\text{PSSCCC—This the Location code and indicates the geographic area affected by the EAS alert. There may be 31 Location codes in an EAS alert. The Location code uses the Federal Information Processing Standard (FIPS) numbers as described by the U.S. Department of Commerce in National Institute of Standards and Technology publication FIPS PUB 6-4. Each state is assigned an SS number as specified in paragraph (f) of this section. Each county and some cities are assigned a CCC number. A CCC number of 000 refers to an entire State or Territory. P defines county subdivisions as follows: 0 = all or an unspecified portion of a county, 1 = Northwest, 2 = North, 3 = Northeast, 4 = West, 5 = Central, 6 = East, 7 = Southwest, 8 = South, 9 = Southeast. Other numbers may be designated later for special applications. The use of county subdivisions will probably be rare and generally for oddly shaped or unusually large counties. Any subdivisions must be defined and agreed to by the local officials prior to use.}
\]

\[
\text{+TTTT—This indicates the valid time period of a message in 15 minute segments up to one hour and then in 30 minute segments beyond one hour; i.e., +0015, +0030, +0045, +0100, +0430 and +0600.}
\]

\[
\text{JJJHHMM—This is the day in Julian Calendar days (JJJ) of the year and the time in hours and minutes (HHMM) when the message was initially released by the originator using 24 hour Universal Coordinated Time (UTC).}
\]

\[
\text{LLLLLLLL—This is the identification of the broadcast station, cable system, MDS/MMDS/ITFS station, NWS office, etc., transmitting or retransmitting the message. These codes will be automatically affixed to all outgoing messages by the EAS encoder.}
\]

\[
\text{NNNN—This is the End of Message (EOM) code sent as a string of four ASCII N characters.}
\]

\[
\text{(d) The only originator codes are:}
\]

\[
\begin{array}{|l|l|}
\hline
\text{Originator} & \text{ORG Code} \\
\hline
\text{Broadcast station or cable system} & \text{EAS} \\
\text{Civil authorities} & \text{CIV} \\
\text{National Weather Service} & \text{WXR} \\
\text{Primary Entry Point System} & \text{PEP} \\
\hline
\end{array}
\]

\[
\text{(e) The following Event (EEE) codes are presently authorized:}
\]

\[
\begin{array}{|l|}
\hline
\text{Nature of Activation} & \text{Event Codes} \\
\hline
\text{National Codes (Required):} & \text{EAN} \\
\text{Emergency Action Notification (National only)} & \text{EAT} \\
\text{Emergency Action Termination (National only)} & \text{NIC} \\
\text{National Information Center} & \text{NPT} \\
\text{National Periodic Test} & \text{} \\
\hline
\end{array}
\]
<table>
<thead>
<tr>
<th>Nature of Activation</th>
<th>Event Codes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required Monthly Test</td>
<td>RMT</td>
</tr>
<tr>
<td>Required Weekly Test</td>
<td>RWT</td>
</tr>
<tr>
<td>State and Local Codes (Optional):</td>
<td></td>
</tr>
<tr>
<td>Administrative Message</td>
<td>ADR</td>
</tr>
<tr>
<td>Avalanche Warning</td>
<td>AVW</td>
</tr>
<tr>
<td>Avalanche Watch</td>
<td>AWA</td>
</tr>
<tr>
<td>Blizzard Warning</td>
<td>BZW</td>
</tr>
<tr>
<td>Civil Danger Warning</td>
<td>CDA</td>
</tr>
<tr>
<td>Civil Emergency Message</td>
<td>CEM</td>
</tr>
<tr>
<td>Coastal Flood Warning</td>
<td>CFW</td>
</tr>
<tr>
<td>Coastal Flood Watch</td>
<td>CFW</td>
</tr>
<tr>
<td>Dual Storm Warning</td>
<td>DSW</td>
</tr>
<tr>
<td>Earthquake Warning</td>
<td>EQW</td>
</tr>
<tr>
<td>Evacuation Immediate</td>
<td>EVI</td>
</tr>
<tr>
<td>Fire Warning</td>
<td>FRW</td>
</tr>
<tr>
<td>Flash Flood Warning</td>
<td>FFW</td>
</tr>
<tr>
<td>Flash Flood Watch</td>
<td>FFA</td>
</tr>
<tr>
<td>Flash Flood Statement</td>
<td>FFS</td>
</tr>
<tr>
<td>Flood Warning</td>
<td>FLW</td>
</tr>
<tr>
<td>Flood Watch</td>
<td>FLA</td>
</tr>
<tr>
<td>Flood Statement</td>
<td>FLS</td>
</tr>
<tr>
<td>Hazardous Materials Warning</td>
<td>HMW</td>
</tr>
<tr>
<td>High Wind Warning</td>
<td>HWW</td>
</tr>
<tr>
<td>High Wind Watch</td>
<td>HWA</td>
</tr>
<tr>
<td>Hurricane Warning</td>
<td>HUW</td>
</tr>
<tr>
<td>Hurricane Statement</td>
<td>HLS</td>
</tr>
<tr>
<td>Law Enforcement Warning</td>
<td>LEW</td>
</tr>
<tr>
<td>Local Area Emergency</td>
<td>LAE</td>
</tr>
<tr>
<td>Network Message Notification</td>
<td>NAM</td>
</tr>
<tr>
<td>911 Telephone Outage Emergency</td>
<td>TOE</td>
</tr>
<tr>
<td>Nuclear Power Plant Warning</td>
<td>NUW</td>
</tr>
<tr>
<td>Practice/Demo Warning</td>
<td>PDO</td>
</tr>
<tr>
<td>Radiological Hazard Warning</td>
<td>RHW</td>
</tr>
<tr>
<td>Severe Thunderstorm Warning</td>
<td>SVR</td>
</tr>
<tr>
<td>Severe Thunderstorm Watch</td>
<td>RVA</td>
</tr>
<tr>
<td>Severe Weather Statement</td>
<td>SVS</td>
</tr>
<tr>
<td>Shelter in Place Warning</td>
<td>SPW</td>
</tr>
<tr>
<td>Special Marine Warning</td>
<td>SMW</td>
</tr>
<tr>
<td>Special Weather Statement</td>
<td>SPS</td>
</tr>
<tr>
<td>Tornado Warning</td>
<td>TOW</td>
</tr>
<tr>
<td>Tornado Watch</td>
<td>TOA</td>
</tr>
<tr>
<td>Tropical Storm Warning</td>
<td>TRW</td>
</tr>
<tr>
<td>Tropical Storm Watch</td>
<td>TRA</td>
</tr>
<tr>
<td>Tsunami Warning</td>
<td>TSW</td>
</tr>
<tr>
<td>Tsunami Watch</td>
<td>TWA</td>
</tr>
<tr>
<td>Volcano Warning</td>
<td>VCA</td>
</tr>
<tr>
<td>Winter Storm Warning</td>
<td>WSW</td>
</tr>
<tr>
<td>Winter Storm Watch</td>
<td>WSW</td>
</tr>
</tbody>
</table>

1 Effective May 16, 2002, broadcast stations, 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. Broadcast stations, cable systems and wireless cable systems which 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.

<table>
<thead>
<tr>
<th>Offshore (Marine Areas)</th>
<th>FIPS#</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern North Pacific Ocean, and along U.S. West Coast from Canadian border to Mexican border</td>
<td>57</td>
</tr>
<tr>
<td>North Pacific Ocean near Alaska, and along Alaska coastline, including the Bering Sea and the Gulf of Alaska</td>
<td>58</td>
</tr>
<tr>
<td>Central Pacific Ocean, including Hawaiian waters</td>
<td>59</td>
</tr>
<tr>
<td>South Central Pacific Ocean, including American Samoa waters</td>
<td>61</td>
</tr>
<tr>
<td>Western Pacific Ocean, including Marianas Island waters</td>
<td>65</td>
</tr>
<tr>
<td>Western North Atlantic Ocean, and along U.S. East Coast, from Canadian border south to Currituck Beach Light, N.C.</td>
<td>73</td>
</tr>
<tr>
<td>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</td>
<td>75</td>
</tr>
</tbody>
</table>
§ 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(c).

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 Pre-amble 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 22 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.
§ 11.33

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 broadcast station or cable system 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, broadcast stations, 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. Broadcast stations, cable systems and wireless cable systems which 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
§ 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.
§ 11.35  Waiver requests of the Certification requirements for EAS Encoders or EAS Decoders which are constructed for use at a broadcast station or subject cable system, 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 any 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.

§ 11.35  Equipment operational readiness.

(a) Broadcast stations and cable systems and wireless cable systems 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, broadcast stations and cable systems and wireless cable systems must determine the cause of any failure to receive the required tests or activations specified in §§11.61(a)(1) and (2). Appropriate entries must be made in the broadcast station log as specified in §73.1820 and §73.1840 of this chapter, cable system record as specified in §§76.1700, 76.1708, and 76.1711 of this chapter, MDS/MMDS station records as specified in §21.304 of this chapter, indicating reasons why any tests were not received.

(b) If the EAS Encoder or EAS Decoder becomes defective, the broadcast station, cable system or wireless cable system 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 or wireless cable system station records 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 broadcast station, cable system or wireless cable system 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.

§ 11.41  Participation in EAS.

(a) All broadcast stations and cable systems and wireless cable systems specified in §11.11 are categorized as Participating National (PN) sources unless authorized by the FCC to be a Non-Participating (NN) sources.

(b) A broadcast station and cable system and wireless cable system may submit a written request to the FCC asking to be a Non-Participating National (NN) source. The FCC may then issue a Non-participating National Authorization letter. NN sources must go...
§ 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 radio and television broadcast network program distribution facilities must be reserved exclusively for distribution of
§ 11.45

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.

§ 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.

Broadcast stations, cable systems and wireless cable systems 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.

[59 FR 67092, Dec. 28, 1994, as amended at 63 FR 29664, June 1, 1998]

§ 11.47 Optional use of other communications methods and systems.

(a) Broadcast stations may additionally transmit EAS messages through other communications means than the main audio channel. 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 DBS, low earth orbiting satellites, etc., that wish to participate in the EAS may contact the FCC’s Technical and Public Safety Division, Enforcement Bureau, or their State Emergency Communications Committee for information and guidance.

[60 FR 56000, Nov. 6, 1995, as amended at 65 FR 21658, Apr. 24, 2000]

Subpart D—Emergency Operations

§ 11.51 EAS code and Attention Signal Transmission requirements.

(a) 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) 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 signalling requirement for National level messages and tests.

(b) When relaying EAS messages, broadcast stations and cable systems and wireless cable systems may transmit only the EAS header codes and the EOM code without the Attention Signal and emergency message for State and local emergencies. Television stations, cable systems and wireless cable systems should ensure that pauses in video programming before EAS message transmission do 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) Effective January 1, 1997, all radio and television stations shall transmit EAS messages in the main audio channel.

(d) By the above date, television 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) Class D non-commercial educational FM stations as defined in §73.506 of this chapter, Low Power FM (LPFM) stations as defined in §§73.811 and 73.853 of this chapter, and low power TV (LPTV) stations as defined in
§ 11.51

§ 74.701(f) of this chapter are not required to have equipment capable of generating the EAS codes and Attention Signal specified in § 11.31.

(f) Broadcast station equipment generating the EAS codes and the Attention Signal shall modulate a broadcast station transmitter so that the signal broadcast to other broadcast stations and cable systems and wireless cable systems 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) Effective October 1, 2002, cable systems with fewer than 5,000 subscribers per headend 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, cable systems and wireless cable systems must:

1. Install, operate, and maintain equipment capable of generating the EAS codes. The modulation levels for the EAS codes and Attention Signal shall comply with the aural signal requirements in § 76.605 of this chapter.

2. 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. Cable systems and wireless cable systems 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. Cable systems and wireless cable systems may elect not to interrupt EAS messages from broadcast stations based upon a written agreement between all concerned. Further, 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.

(h) Effective December 31, 1998, cable systems with 10,000 or more subscribers; and, effective October 1, 2002, cable systems serving 5,000 or more, but less than 10,000 subscribers per headend 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, after the dates indicated, these cable systems and wireless cable systems must:

1. Install, operate, and maintain equipment capable of generating the EAS codes. The modulation levels for the EAS codes and Attention Signal for cable systems shall comply with the aural signal requirements in § 76.605 of this chapter. This will provide sufficient signal levels to operate cable subscriber television and radio receivers equipped with EAS decoders and to audibly alert subscribers. Wireless 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. The cable systems and wireless cable systems in this paragraph (h) shall transmit the EAS audio message required in paragraph (a) of this section on all downstream channels.

3. The cable systems and wireless cable systems in this paragraph (h) 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
§ 11.51  television screen or where it will not interfere with other visual messages.

(4) Cable systems and wireless cable systems may elect not to interrupt EAS messages from broadcast stations based upon a written agreement between all concerned. Further, 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.

(i) If manual interrupt is used as authorized in paragraph (k) of this section, EAS Encoders must be located so that broadcast station, cable system or wireless cable system staff, at normal duty locations, can initiate the EAS code and Attention Signal transmission.

(j) Broadcast stations, and cable systems and wireless cable systems 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 cable systems or wireless cable systems with one EAS Encoder. The requirements of §11.32 must be met by the combined facility.

(k) Broadcast stations and cable systems and wireless cable systems 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 LLLLLLL-code which identifies the broadcast station, cable system, wireless cable system, or other entity 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, broadcast stations and wireless cable systems shall use the event code RWT. The location codes are the state and county for the broadcast station city of license or cable system or wireless cable system community or city. Other location codes may be included upon approval of broadcast station, cable system or wireless cable 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.

(l) Broadcast stations and cable systems and wireless cable systems 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.

(m) Either manual or automatic operation of EAS equipment may be used at broadcast stations and cable systems and wireless cable systems 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. Broadcast stations and
§ 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.

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) Broadcast station and cable system and wireless cable systems 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. 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.

§ 11.52 EAS code and Attention Signal Monitoring requirements.

(a) Before January 1, 1998, broadcast stations must be capable to receiving the Attention Signal required by §11.32(a)(9) and emergency messages of other broadcast stations during their hours of operation. Effective January 1, 1997, all broadcast stations 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. The effective dates for cable and wireless cable systems to install and operate EAS equipment are set forth in §11.11.

NOTE TO PARAGRAPH (a): After January 1, 1998, 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(j)(2), decoders must be located so that operators at their normal duty stations at broadcast stations and cable systems and wireless cable systems can be alerted immediately when EAS messages are received.

(c) Broadcast stations and cable systems and wireless cable systems 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) Broadcast stations and cable systems and wireless cable systems must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable systems are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities.


§ 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.

(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. 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.

§ 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, broadcast stations and cable systems and wireless cable systems must:

(1) Monitor the two EAS sources assigned in the State or Local Area plan or FCC Mapbook for any further instructions.

(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 station.

(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 from the air and monitor for the Emergency Action Termination message. NN sources using automatic interrupt under §11.51(k)(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) TV broadcast stations shall display an appropriate EAS slide and then transmit all EAS announcements visually and aurally as specified in §73.1250(h) of this chapter.

(6) Cable systems and wireless cable systems shall transmit all EAS announcements visually and aurally as specified in §11.51(g) and (h).

(7) Announcements may be made in the same language as the primary language of the station.

(8) Broadcast stations may transmit their call letters and 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.

(9) All broadcast stations and 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.
§ 11.55 EAS operation during a State or Local Area emergency.

(a) The EAS may be activated at the State and Local Area levels by broadcast stations, cable systems and wireless cable systems at their discretion for day-to-day emergency situations posing a threat to life and property. Examples of natural emergencies which may warrant activation are: tornadoes, floods, hurricanes, earthquakes, heavy snows, icing conditions, widespread fires, etc. Man-made emergencies may include: toxic gas leaks or liquid spills, widespread power failures, industrial explosions, and civil disorders.

(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, broadcast stations, cable systems and wireless cable systems 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) Broadcast stations, cable systems and wireless cable systems participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in the State and Local Area plans. Television stations must comply with § 11.54(b)(5) and cable systems and wireless cable systems must comply with § 11.54(b)(6).

(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 broadcast station, cable system or wireless cable system records as specified in § 11.54(b)(12).
§ 11.61 Tests of EAS procedures.

(a) Tests shall be made at regular intervals as indicated 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) Effective January 1, 1997, AM, FM and TV stations.
   (ii) Effective October 1, 2002, cable systems with fewer than 5,000 subscribers per headend.
   (iii) Effective December 31, 1998, cable systems with 10,000 or more subscribers; and effective October 1, 2002, cable systems serving 5,000 or more, but less than 10,000 subscribers per headend.
   (iv) Effective October 1, 2002, all wireless cable systems.
   (v) 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 broadcast stations, cable systems, wireless cable systems, and other participants. Script content may be in the primary language of the broadcast station or cable system. These monthly tests must be transmitted within 60 minutes of receipt by broadcast stations and cable systems and wireless cable systems in an EAS Local Area or State. Class D non-commercial educational FM and LPTV stations are required to transmit only the test script.
2. Required Weekly Tests:
   (i) EAS Header Codes and EOM Codes:
      (A) Effective January 1, 1997, AM, FM and TV stations must conduct tests of the EAS header and EOM codes at least once a week at random days and times.
      (B) Effective December 31, 1998, cable systems with 10,000 or more subscribers per headend 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) Effective October 1, 2002, cable systems serving fewer than 5,000 subscribers per headend 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) Effective October 1, 2002, the following cable systems and wireless cable systems must conduct tests of the EAS header and EOM codes at least once a week at random days and times on all programmed channels:
         (1) Cable systems serving 5,000 or more, but less than 10,000 subscribers per headend; and.
         (2) Wireless cable systems with 5,000 or more subscribers.
      (E) Effective October 1, 2002, the following cable systems and wireless cable systems 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:
         (1) Cable systems with fewer than 5,000 subscribers per headend; and.
         (2) Wireless cable systems with fewer than 5,000 subscribers.
   (ii) Class D non-commercial educational FM and LPTV stations are not required to transmit this test but must log receipt.
   (iii) The EAS weekly test is not required during the week that a monthly test is conducted.
   (iv) TV stations, cable television systems and wireless cable systems are not required to transmit a video message when transmitting the required weekly test.
3. Periodic National Tests. National Primary (NP) sources shall participate in tests as appropriate. The FCC may request a report of these tests.
4. EAS activations and special tests. The EAS may be activated for emergencies or special tests at the State or
Federal Communications Commission

§ 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 nine types of commercial radio operator licenses, certificates and permits (licenses). The license’s ITU classification, if different from its name, is given in parenthesis.

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).
6. Restricted Radiotelephone Operator Permit (radiotelephone operator’s restricted certificate).
8. GMDSS Radio Operator’s License (general operator’s certificate).
9. GMDSS Radio Maintainer’s License (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.

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.

(d) 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.
§ 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.


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§ 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

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§ 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, Third Class Radiotelegraph Operator’s Certificate, Marine Radio Operator Permit, GMDSS Radio Operator’s License, GMDSS Radio Maintainer’s License, or GMDSS Radio Operator/Maintainer License 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 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 document granted before April 15, 2000: Telegraphy Elements 1 and 2.


EDITORIAL NOTE: At 63 FR 68942, Dec. 14, 1998, FCC published an amendment removing § 13.13 paragraph (d) and redesignating (d) as (e). Because paragraph (d) has been removed, it cannot be redesignated.

§ 13.15 License term.

(a) Commercial radio operator licenses are normally valid for a term of five years from the date of issuance, except as provided in paragraph (b) of this section.

(b) General Radiotelephone Operator Licenses, Restricted Radiotelephone Operator Permits, and Restricted Radiotelephone Operator Permits-Limited Use are normally valid for the lifetime of the holder. The terms of all Restricted Radiotelephone Operator Permits issued prior to November 15, 1953,
§ 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.


(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 60 FR 27700, May 25, 1995]

§ 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,
§ 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. Each written examination must be comprised of a question set 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. 24 questions concerning provisions of laws, treaties, regulations, and operating procedures and practices generally followed or required in communicating by means of radiotelephone stations. The minimum passing score is 18 questions answered correctly.

(2) Element 2: General radiotelephone. 76 questions concerning technical, legal and other matters applicable to the operation of all classes of radiotelephone stations, including operating procedures and practices generally followed or required in communicating by means of radio telephone stations primarily other than in the maritime mobile services of public correspondence. The minimum passing score is 57 questions answered correctly.

(3) Element 3: Radiotelegraph operating practice. 100 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. The minimum passing score is 75 questions answered correctly.


(5) GMDSS Radio Operator’s License: Written Elements 1 and 7.

(6) GMDSS Radio Maintainer’s License: Written Elements 1, 3, and 9.


(8) General Radiotelephone Operator’s Certificate.


(10) GMSS Radio Operator’s License: Written Elements 1 and 7.

(11) GMSS Radio Maintainer’s License: Written Elements 1, 3, and 9.


(13) General Radiotelephone Operator’s Certificate.


(15) GMSS Radio Operator’s License: Written Elements 1 and 7.

(16) GMSS Radio Maintainer’s License: Written Elements 1, 3, and 9.


(18) General Radiotelephone Operator’s Certificate.


(20) GMSS Radio Operator’s License: Written Elements 1 and 7.

(21) GMSS Radio Maintainer’s License: Written Elements 1, 3, and 9.

(22) Ship Radar Endorsement: Written Element 8.
maintenance of ship radar equipment in general use for marine navigational purposes. The minimum passing score is 38 questions answered correctly.

(7) Element 9: GMDSS radio maintenance practices and procedures. 50 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. The minimum passing score is 38 questions answered correctly.

(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.

§ 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 an 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.
§ 13.217

(b) 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.

§ 13.213 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 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 the most recent question pool made available to the public when preparing a question set for a written examination element.

§ 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.

**PART 15—RADIO FREQUENCY DEVICES**

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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.
§ 15.3 47 CFR Ch. I (10–1–02 Edition)

(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.

(1) 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.
§ 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 equipment 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.


EFFECTIVE DATE NOTE: At 65 FR 64391, Oct. 27, 2000, §15.5 was amended by revising the last sentence in paragraph (aa). 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.
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 §90.63(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.

§ 15.7 Special temporary authority.

(a) The Commission will, in exceptional situations, consider an individual application for a special temporary authorization to operate an incidental, intentional or unintentional radiation device not conforming to the provisions of this part, where it can be shown that the proposed operation would be in the public interest, that it is for a unique type of station or for a type of operation which is incapable of being established as a regular service, and that the proposed operation can not feasibly be conducted under this part.

(b) No authorization is required in order to perform testing of equipment for determining compliance with these regulations. Except as provided in subpart I of part 2 of this chapter, this provision does not permit the providing of equipment to potential users in order to determine customer acceptance of the product or marketing strategy, nor does this provision permit any type of operation other than a determination of compliance with the regulations. During this testing, the provisions of §§15.5 and 15.205 apply.

§ 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) 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.

(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
§ 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.


§ 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
(i) 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.
(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.

(1) Consumer electronics TV receiving devices, including TV receivers, videocassette recorders, and similar devices, that include digital video signal processing capability and incorporate features intended to be used with digital cable television service, but do not provide one or more of the feature sets described in paragraph (d)(2) of this section shall not be marketed with terminology that describes the device as “cable ready” or “cable compatible” or otherwise conveys the impression that the device is fully compatible with digital cable service. Devices marked as “digital cable ready” or “digital cable compatible” or otherwise conveying the impression that the device is fully compatible with digital cable service must offer one or more of the feature sets (i.e., Digital Cable Ready 1, Digital Cable Ready 2, Digital Cable Ready 3) specified in paragraph (d)(2) of this section and carry the corresponding descriptive label or labels. With respect to their analog signal processing capabilities, these devices must also comply with the technical standards for cable ready equipment set forth in paragraph (d)(2) of this section and carry the corresponding descriptive label or labels.
videocassette recorders, and similar devices, that include digital video signal processing capability and that provide one or more of the feature sets (i.e., Digital Cable Ready 1, Digital Cable Ready 2, Digital Cable Ready 3) described in paragraph (d)(2) of this section, must carry the label or labels from paragraph (d)(2) of this section that describe the feature sets offered by the device. The format of the label or labels shall conform to the provisions of §2.925 (d) and (e) of this chapter.

(4) The requirements of this section apply to consumer TV receivers, videocassette recorders and similar devices manufactured or imported for sale in this country on or after July 1, 2001.

§ 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:
§ 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, 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.

(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.

§ 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 Assistance Office at 202-632-7000.

(1) FCC/OET MP–1: FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers. Note: This procedure may be used only for testing devices for which verification is obtained, or for which an application for equipment authorization is filed before June 1, 1995. For compliance testing of these devices after that date, see paragraph (a)(6) of this section.

(2) FCC/OET MP–2: Measurement of UHF Noise Figures of TV Receivers.

(3) FCC/OET MP–3: FCC Methods of Measurements of Output Signal Level, Output Terminal Conducted Spurious Emissions, Transfer Switch Characteristics, and Radio Noise Emissions from TV Interface Devices. Note: This procedure may be used only for testing devices for which verification is obtained, or for which an application for equipment authorization is filed before June 1, 1995. For compliance testing of these devices after that date, see paragraph (a)(6) of this section.

(4) FCC/OET MP–4 (1987): FCC Procedure for Measuring RF Emissions from Computing Devices. Note: This procedure may be used only for testing digital devices for which verification is obtained, or for which an application for equipment authorization is filed before May 1, 1994. For compliance testing of digital devices on or after May 1, 1994, see paragraph (a)(6) of this section.

(5) FCC/OET MP–9: FCC Procedure for Measuring Cable Television Switch Isolation. Note: This procedure may be used only for testing devices for which verification is obtained, or for which an application for equipment authorization is filed before June 1, 1995. For compliance testing of these devices after that date, see paragraph (a)(6) of this section.

(6) Digital devices authorized by verification, Declaration of Conformity, or for which an application for equipment authorization is filed on or after May 1, 1994, and intentional and other unintentional radiators for which verification is obtained, or for which an application for equipment authorization is filed on or after June 1, 1995 are to be measured for compliance using the following procedure excluding section 5.7, section 9 and section 14: American National Standards Institute (ANSI) C63.4–1992, entitled ‘‘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 Institute of Electrical and Electronic Engineers, Inc. on July 17, 1992 as document number SH15180. 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. The Commission encourages the use of this procedure for testing digital devices, intentional radiators, and other unintentional radiators as soon as practical. Copies of ANSI C63.4–1992 may be obtained from: IEEE Standards Department, 455 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855-1331, telephone 1–800–678–4333. Copies of C63.4–1992 may be inspected during normal business hours at the following locations:

(i) Federal Communications Commission, 445 12th Street, SW., Office of Engineering and Technology, Washington, DC 20554,
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(ii) Federal Communications Commission Laboratory, 7435 Oakland Mills Road, Columbia, MD 21046, or

(iii) Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

NOTE: 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)(6) 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 that 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 an application for certification.

(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...
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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 representative 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 µH 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:

<table>
<thead>
<tr>
<th>Frequency range over which device operates</th>
<th>Number of frequencies</th>
<th>Location in the range of operation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 MHz or less</td>
<td>1</td>
<td>Middle.</td>
</tr>
<tr>
<td>1 to 10 MHz</td>
<td>2</td>
<td>1 near top and 1 near bottom.</td>
</tr>
<tr>
<td>More than 10 MHz</td>
<td>3</td>
<td>1 near top, 1 near middle and 1 near bottom.</td>
</tr>
</tbody>
</table>

(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,
§ 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:

(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 a 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.

(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:

<table>
<thead>
<tr>
<th>Highest frequency generated or used in the device or on which the device operates or tunes (MHz)</th>
<th>Upper frequency of measurement range (MHz)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 1.705</td>
<td>30</td>
</tr>
<tr>
<td>1.705-10</td>
<td>400</td>
</tr>
<tr>
<td>10-30</td>
<td>500</td>
</tr>
<tr>
<td>30-100</td>
<td>1000</td>
</tr>
<tr>
<td>100-500</td>
<td>2000</td>
</tr>
<tr>
<td>500-1000</td>
<td>5000</td>
</tr>
<tr>
<td>Above 1000</td>
<td>5th harmonic of the highest frequency or 40 GHz, whichever is lower.</td>
</tr>
</tbody>
</table>

(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.

(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.


§ 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 stated, on any frequency or frequencies above 1000 MHz the radiated limits shown are based upon the use of measurement instrumentation employing an average detector function. When average radiated emission measurements are specified in this part, including emission measurements below 1000 MHz, there also is a limit on the radio frequency emissions, as measured using instrumentation with a peak detector function, corresponding to 20 dB above the maximum permitted average limit for the frequency being investigated unless a different peak emission limit is otherwise specified in the rules, e.g., see §§ 15.255, 15.509 and 15.511. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. Measurements of AC power line conducted emissions are performed using a CISPR quasi-peak detector, even for devices for which average radiated emission measurements are specified.

(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.


§ 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,
§ 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:

<table>
<thead>
<tr>
<th>Type of device</th>
<th>Equipment authorization required</th>
</tr>
</thead>
<tbody>
<tr>
<td>TV broadcast receiver</td>
<td>Verification.</td>
</tr>
<tr>
<td>FM broadcast receiver</td>
<td>Verification.</td>
</tr>
<tr>
<td>CB receiver</td>
<td>Declaration of Conformity or Certification.</td>
</tr>
<tr>
<td>Superregenerative receiver</td>
<td>Certification.</td>
</tr>
<tr>
<td>Scanning receiver</td>
<td>Declaration of Conformity or Certification.</td>
</tr>
<tr>
<td>Radar detector</td>
<td>Certification.</td>
</tr>
<tr>
<td>All other receivers subject to part 15</td>
<td>Declaration of Conformity or Certification.</td>
</tr>
<tr>
<td>TV interface device</td>
<td>Declaration of Conformity.</td>
</tr>
<tr>
<td>Cable system terminal device</td>
<td>Declaration of Conformity or Certification.</td>
</tr>
<tr>
<td>Class B personal computers and peripherals</td>
<td>Declaration of Conformity.</td>
</tr>
<tr>
<td>CPU boards and internal power supplies used with Class B personal computers.</td>
<td>Declaration of Conformity or Certification.</td>
</tr>
<tr>
<td>Class B personal computers assembled using authorized CPU boards or power supplies.</td>
<td>Declaration of Conformity.</td>
</tr>
<tr>
<td>Class B external switching power supplies</td>
<td>Verification.</td>
</tr>
<tr>
<td>Other Class B digital devices and peripherals</td>
<td>Verification.</td>
</tr>
<tr>
<td>Class A digital devices, peripherals and external switching power supplies.</td>
<td>Verification.</td>
</tr>
<tr>
<td>All other devices</td>
<td>Verification.</td>
</tr>
</tbody>
</table>

Note to table: Where the above table indicates more than one category of authorization for a device, the party responsible for compliance has the option to select the type of authorization.

Applications for this equipment will no longer be accepted by the Commission once domestic Telecommunication Certification Bodies are available to certificate the equipment. See §2.960 of this chapter.

(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.

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.


§ 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
§ 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 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 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.

§ 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.

<table>
<thead>
<tr>
<th>Frequency of emission (MHz)</th>
<th>Conducted limit (dBµV)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quasi-peak</td>
</tr>
<tr>
<td>0.15-0.5</td>
<td>66 to 56*</td>
</tr>
<tr>
<td>0.5-5</td>
<td>56</td>
</tr>
<tr>
<td>5-30</td>
<td>60</td>
</tr>
</tbody>
</table>

*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.

<table>
<thead>
<tr>
<th>Frequency of emission (MHz)</th>
<th>Conducted limit (dBµV)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quasi-peak</td>
</tr>
<tr>
<td>0.15-0.5</td>
<td>79</td>
</tr>
<tr>
<td>0.5-30</td>
<td>73</td>
</tr>
</tbody>
</table>

(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.

§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:

<table>
<thead>
<tr>
<th>Frequency of emission (MHz)</th>
<th>Field strength (microvolts/meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30–88</td>
<td>100</td>
</tr>
<tr>
<td>88–216</td>
<td>150</td>
</tr>
<tr>
<td>216–960</td>
<td>200</td>
</tr>
<tr>
<td>Above 960</td>
<td>500</td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Frequency of emission (MHz)</th>
<th>Field strength (microvolts/meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30–88</td>
<td>90</td>
</tr>
<tr>
<td>88–216</td>
<td>150</td>
</tr>
<tr>
<td>216–960</td>
<td>210</td>
</tr>
<tr>
<td>Above 960</td>
<td>300</td>
</tr>
</tbody>
</table>

(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.
§ 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.

§ 15.115 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.

(4) 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
§ 15.117

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.

§ 15.117 TV broadcast receivers.

(a) All TV broadcast receivers shipped in interstate commerce or imported from any foreign country into the United States, for sale or resale to the public, shall comply with the provisions of this section. The reference in this section to TV broadcast receivers
§ 15.117

15.117 Also includes devices, such as TV interface devices, 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 the 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 provided 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.

(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 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
§ 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 the Electronics Industries Association’s “Cable Television Channel Identification Plan, EIA IS–132, May 1994” (EIA IS–132). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 522(a) and 1 CFR part 51. Copies of EIA IS–132 may be obtained from: Global Engineering Documents, 3130 South Harbor Boulevard, Santa Anna, CA 92704. Copies of EIA IS–132 may be inspected during normal business hours at the following locations: Federal Communications Commission, 1919 M Street, NW., Dockets Branch (Room 239), Washington, DC, or the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(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
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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:

<table>
<thead>
<tr>
<th>Frequency Range</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 54 MHz up to and including 300 MHz</td>
<td>-26 dBmV</td>
</tr>
<tr>
<td>From 300 MHz up to and including 450 MHz</td>
<td>-20 dBmV</td>
</tr>
<tr>
<td>From 450 MHz up to and including 804 MHz</td>
<td>-15 dBmV</td>
</tr>
</tbody>
</table>

(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
§ 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.


(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
§ 15.119  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.
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.

<table>
<thead>
<tr>
<th>HEX</th>
<th>Example</th>
<th>Alternate Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>@</td>
<td>Registered mark symbol</td>
</tr>
<tr>
<td>31</td>
<td>©</td>
<td>Degree sign</td>
</tr>
<tr>
<td>32</td>
<td>™</td>
<td>Trademark symbol</td>
</tr>
<tr>
<td>33</td>
<td>™</td>
<td>Registered mark symbol</td>
</tr>
<tr>
<td>34</td>
<td>¥</td>
<td>Music note</td>
</tr>
<tr>
<td>35</td>
<td>£</td>
<td>Lower-case e with circumflex</td>
</tr>
<tr>
<td>36</td>
<td>£</td>
<td>Lower-case e with circumflex</td>
</tr>
<tr>
<td>37</td>
<td>£</td>
<td>Lower-case e with circumflex</td>
</tr>
<tr>
<td>38</td>
<td>£</td>
<td>Lower-case e with circumflex</td>
</tr>
<tr>
<td>39</td>
<td>£</td>
<td>Lower-case u with circumflex</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>HEX</th>
<th>Example</th>
<th>Alternate Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>,</td>
<td>Standard space</td>
</tr>
<tr>
<td>21</td>
<td>!</td>
<td>Exclamation mark</td>
</tr>
<tr>
<td>22</td>
<td>&quot;</td>
<td>Quotation mark</td>
</tr>
<tr>
<td>23</td>
<td>#</td>
<td>Pounds (number) sign</td>
</tr>
<tr>
<td>24</td>
<td>$</td>
<td>Dollar sign</td>
</tr>
<tr>
<td>25</td>
<td>%</td>
<td>Percentage sign</td>
</tr>
<tr>
<td>26</td>
<td>^</td>
<td>Ampersand</td>
</tr>
<tr>
<td>27</td>
<td>`</td>
<td>Apostrophe</td>
</tr>
<tr>
<td>28</td>
<td>)</td>
<td>Open parentheses</td>
</tr>
<tr>
<td>29</td>
<td>)</td>
<td>Close parentheses</td>
</tr>
<tr>
<td>5A</td>
<td>®</td>
<td>Lower-case a with acute accent</td>
</tr>
<tr>
<td>5B</td>
<td>®</td>
<td>Lower-case u with acute accent</td>
</tr>
<tr>
<td>6F</td>
<td></td>
<td>Lower-case e</td>
</tr>
<tr>
<td>62</td>
<td>a</td>
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</tr>
<tr>
<td>63</td>
<td>b</td>
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</tr>
<tr>
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<td>c</td>
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</tr>
<tr>
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</tr>
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<td>e</td>
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<td>f</td>
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<td>68</td>
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<td>69</td>
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<td>6A</td>
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<td>6B</td>
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<tr>
<td>6C</td>
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<tr>
<td>6D</td>
<td>l</td>
<td>Lower-case l</td>
</tr>
<tr>
<td>6E</td>
<td>m</td>
<td>Lower-case m</td>
</tr>
<tr>
<td>6F</td>
<td>n</td>
<td>Lower-case n</td>
</tr>
<tr>
<td>70</td>
<td>o</td>
<td>Lower-case o</td>
</tr>
<tr>
<td>71</td>
<td>p</td>
<td>Lower-case p</td>
</tr>
<tr>
<td>72</td>
<td>q</td>
<td>Lower-case q</td>
</tr>
<tr>
<td>73</td>
<td>r</td>
<td>Lower-case r</td>
</tr>
<tr>
<td>74</td>
<td>s</td>
<td>Lower-case s</td>
</tr>
<tr>
<td>75</td>
<td>t</td>
<td>Lower-case t</td>
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<tr>
<td>76</td>
<td>u</td>
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</tr>
<tr>
<td>77</td>
<td>v</td>
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</tr>
<tr>
<td>78</td>
<td>w</td>
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</tr>
<tr>
<td>79</td>
<td>x</td>
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</tr>
<tr>
<td>7A</td>
<td>y</td>
<td>Lower-case y</td>
</tr>
<tr>
<td>7B</td>
<td>z</td>
<td>Lower-case z</td>
</tr>
<tr>
<td>7C</td>
<td>å</td>
<td>Lower-case å</td>
</tr>
<tr>
<td>7D</td>
<td>Æ</td>
<td>Lower-case Æ</td>
</tr>
<tr>
<td>7E</td>
<td>Ø</td>
<td>Lower-case Ø</td>
</tr>
<tr>
<td>7F</td>
<td>Ñ</td>
<td>Lower-case Ñ</td>
</tr>
</tbody>
</table>

Character Attributes—(1)

Transmission of Attributes. A character may be transmitted with any or all of four attributes: Color, Italic, Underline, and Flash. All of these attributes...
§ 15.119  

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.

1. 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
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—Continued

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<tr>
<th>Data channel 1 (C1)</th>
<th>Data channel 2 (C2)</th>
<th>Attribute description</th>
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### MISCELLANEOUS CONTROL CODES

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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.
### PREAMBLE ADDRESS CODES

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**NOTE:** All indent codes (second byte equals 50h–5fh, 70h–7fh) assign white as the color attribute.
§ 15.119

(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.

(1) 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
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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:
§ 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

(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).

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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 section 15.3(w) of this chapter, including personal computer systems meeting that definition, with picture screens 33 cm (13 in) or larger in diameter 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) [Reserved]

(d) Operation. (1) Analog television receivers will receive program ratings transmitted pursuant to industry standard EIA-744 “Transport of Content Advisory Information Using Extended Data Service (XDS)”, October 1997, Electronics Industries Association and EIA-608 “Recommended Practice for Line 21 Data Service”, September 1994, Electronics Industries Association. 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.

(2) [Reserved]

(3) 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.

(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]

§ 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 receive 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 RADIO TELEPHONE 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
§ 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 the industry standard EIA-708-B, “Digital Television (DTV) Closed Captioning.” Electronic Industries Alliance (December, 1999). 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. Digital television manufacturers may wish to view EIA-708-B in its entirety. Copies of EIA-708-B may be obtained from: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112-5704, http://www.global.ihs.com/. Copies of EIA-708-B may be inspected during regular business hours at the following locations: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, or the Office of the Federal Register, 800 N. Capitol Street, NW., Suite 700, Washington, DC.

(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.
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(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 (TM).

(v) Latin-1 characters (S˘, s˘, X, Yº).

(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—Continued

<table>
<thead>
<tr>
<th>G2 Character</th>
<th>Substitute with</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open double quote (&quot;), G2 char code 0x33</td>
<td>G0 double quote (&quot;), char code 0x22</td>
</tr>
<tr>
<td>Close double quote (&quot;), G2 char code 0x34</td>
<td>G0 double quote (&quot;), char code 0x22</td>
</tr>
<tr>
<td>Bold bullet (*), G2 char code 0x56</td>
<td>G1 bullet (*), char code 0x57</td>
</tr>
<tr>
<td>Ellipsis (. . .), G2 char code 0x25</td>
<td>G0 underscore (_), char code 0x5F</td>
</tr>
<tr>
<td>One-eighth (1⁄8), G2 char code 0x76</td>
<td>G0 percent sign (%), char code 0x25</td>
</tr>
<tr>
<td>Three-eighths (3⁄8), G2 char code 0x77</td>
<td>G0 percent sign (%), char code 0x25</td>
</tr>
<tr>
<td>Five-eighths (5⁄8), G2 char code 0x78</td>
<td>G0 percent sign (%), char code 0x25</td>
</tr>
<tr>
<td>Seven-eighths (7⁄8), G2 char code 0x79</td>
<td>G0 percent sign (%), char code 0x25</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Screen aspect ratio</th>
<th>Maximum anchor position resolution1</th>
<th>Minimum anchor position resolution2</th>
<th>Maximum displayed rows</th>
<th>Maximum characters per row</th>
</tr>
</thead>
<tbody>
<tr>
<td>4:3</td>
<td>75v x 160h</td>
<td>15v x 32h</td>
<td>4</td>
<td>32</td>
</tr>
<tr>
<td>16:9</td>
<td>75v x 210h</td>
<td>15v x 42h</td>
<td>4</td>
<td>42</td>
</tr>
<tr>
<td>Other</td>
<td>75v x (5 x H)</td>
<td>15v x <em>H</em></td>
<td>4</td>
<td>*</td>
</tr>
</tbody>
</table>

1H = 32 \times (\text{the width of the screen in relation to a 4:3 display}). For example, the 16:9 format is \( \frac{3}{2} \) wider than a 4:3 display; thus, \( H = 32 \times \frac{3}{2} = 42.667 \), or 42.

(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 0x5F.

(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.

(1) This means that the minimum grid resolution for a 4:3 aspect ratio instrument is 15 vertical positions \( \times \) 32 horizontal positions. This minimum grid resolution for 16:9 ratio instrument is 15 vertical positions \( \times \) 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 \( \frac{3}{2} \) reduction in the maximum horizontal and vertical screen 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.
§ 15.122 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 until 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.

(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.

(5) Where the receiver is to appear in a larger font, and if its window need not be displayed by the decoder.

(6) At a minimum, decoders must assume that all windows have rows and/or columns are unlocked. This implies that if a decoder implements the LARGE 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.

(7) 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.
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(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

<table>
<thead>
<tr>
<th>Style ID #</th>
<th>Justify</th>
<th>Print direction</th>
<th>Scroll direction</th>
<th>Word wrap</th>
<th>Display effect</th>
<th>Effect direction</th>
<th>Effect speed</th>
<th>Fill color</th>
<th>Fill opacity</th>
<th>Border type</th>
<th>Border color</th>
<th>Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Left</td>
<td>Left-to-right</td>
<td>Bottom-to-top.</td>
<td>No</td>
<td>Snap</td>
<td>n/a</td>
<td>n/a</td>
<td>Solid</td>
<td>None</td>
<td>n/a</td>
<td>(0,0,0) Black</td>
<td>NTSC Style PopUp Captions</td>
</tr>
<tr>
<td>2</td>
<td>Left</td>
<td>Left-to-right</td>
<td>Bottom-to-top.</td>
<td>No</td>
<td>Snap</td>
<td>n/a</td>
<td>n/a</td>
<td>Transparent</td>
<td>None</td>
<td>n/a</td>
<td>White</td>
<td>PopUp Captions w/o Black Background</td>
</tr>
<tr>
<td>3</td>
<td>Cntr</td>
<td>Left-to-right</td>
<td>Bottom-to-top.</td>
<td>No</td>
<td>Snap</td>
<td>n/a</td>
<td>n/a</td>
<td>Solid</td>
<td>None</td>
<td>n/a</td>
<td>(0,0,0) Black</td>
<td>NTSC Style Centered PopUp Captions</td>
</tr>
<tr>
<td>4</td>
<td>Left</td>
<td>Left-to-right</td>
<td>Bottom-to-top.</td>
<td>Yes</td>
<td>Snap</td>
<td>n/a</td>
<td>n/a</td>
<td>Solid</td>
<td>None</td>
<td>n/a</td>
<td>Black</td>
<td>NTSC Style RollUp Captions</td>
</tr>
<tr>
<td>5</td>
<td>Left</td>
<td>Left-to-right</td>
<td>Bottom-to-top.</td>
<td>Yes</td>
<td>Snap</td>
<td>n/a</td>
<td>n/a</td>
<td>Transparent</td>
<td>None</td>
<td>n/a</td>
<td>White</td>
<td>RollUp Captions w/o Black Background</td>
</tr>
<tr>
<td>6</td>
<td>Cntr</td>
<td>Left-to-right</td>
<td>Bottom-to-top.</td>
<td>Yes</td>
<td>Snap</td>
<td>n/a</td>
<td>n/a</td>
<td>Solid</td>
<td>None</td>
<td>n/a</td>
<td>Black</td>
<td>NTSC Style Centered RollUp Captions</td>
</tr>
<tr>
<td>7</td>
<td>Left</td>
<td>Top-to-bottom.</td>
<td>Right-to-left</td>
<td>No</td>
<td>Snap</td>
<td>n/a</td>
<td>n/a</td>
<td>Solid</td>
<td>None</td>
<td>n/a</td>
<td>(0,0,0) Black</td>
<td>Ticker Tape</td>
</tr>
</tbody>
</table>

### Table 5—Predefined Pen Style ID’s

<table>
<thead>
<tr>
<th>Predefined style ID</th>
<th>Pen size</th>
<th>Font style</th>
<th>Offset</th>
<th>Italics</th>
<th>Underline</th>
<th>Edge type</th>
<th>Foreground color</th>
<th>Foreground opacity</th>
<th>Background color</th>
<th>Background opacity</th>
<th>Edge color</th>
<th>Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Stndr</td>
<td>Normal</td>
<td>0</td>
<td>No</td>
<td>No</td>
<td>None</td>
<td>(2,2,2) White</td>
<td>Solid</td>
<td>(0,0,0) Black</td>
<td>Solid</td>
<td>n/a</td>
<td>Default NTSC Style*</td>
</tr>
<tr>
<td>Predefined style ID</td>
<td>Pen size</td>
<td>Font style</td>
<td>Offset</td>
<td>Italics</td>
<td>Underline</td>
<td>Edge type</td>
<td>Foreground color</td>
<td>Foreground opacity</td>
<td>Background color</td>
<td>Background opacity</td>
<td>Edge color</td>
<td>Usage</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------</td>
<td>------------</td>
<td>--------</td>
<td>---------</td>
<td>-----------</td>
<td>-----------</td>
<td>------------------</td>
<td>-------------------</td>
<td>------------------</td>
<td>-------------------</td>
<td>-----------</td>
<td>-------</td>
</tr>
<tr>
<td>2 ..............................</td>
<td>Stndr ......</td>
<td>1 ..........</td>
<td>Normal ......</td>
<td>No ......</td>
<td>No ......</td>
<td>None ......</td>
<td>(2,2,2) ......</td>
<td>Solid ......</td>
<td>(0,0,0) White.</td>
<td>Solid ......</td>
<td>n/a ......</td>
<td>NTSC Style* Mono w/ Serif</td>
</tr>
<tr>
<td>3 ..............................</td>
<td>Stndr ......</td>
<td>2 ..........</td>
<td>Normal ......</td>
<td>No ......</td>
<td>No ......</td>
<td>None ......</td>
<td>(2,2,2) White.</td>
<td>Solid ......</td>
<td>(0,0,0) Black.</td>
<td>Solid ......</td>
<td>n/a ......</td>
<td>NTSC Style* Prop w/ Serif</td>
</tr>
<tr>
<td>4 ..............................</td>
<td>Stndr ......</td>
<td>3 ..........</td>
<td>Normal ......</td>
<td>No ......</td>
<td>No ......</td>
<td>None ......</td>
<td>(2,2,2) White.</td>
<td>Solid ......</td>
<td>(0,0,0) Black.</td>
<td>Solid ......</td>
<td>n/a ......</td>
<td>NTSC Style* Mono w/o Serif</td>
</tr>
<tr>
<td>5 ..............................</td>
<td>Stndr ......</td>
<td>4 ..........</td>
<td>Normal ......</td>
<td>No ......</td>
<td>No ......</td>
<td>None ......</td>
<td>(2,2,2) White.</td>
<td>Solid ......</td>
<td>(0,0,0) Black.</td>
<td>Solid ......</td>
<td>n/a ......</td>
<td>NTSC Style* Prop w/o Serif</td>
</tr>
<tr>
<td>6 ..............................</td>
<td>Stndr ......</td>
<td>3 ..........</td>
<td>Normal ......</td>
<td>No ......</td>
<td>No ......</td>
<td>Unifrm ......</td>
<td>(2,2,2) White.</td>
<td>Solid ......</td>
<td>n/a ......</td>
<td>Transparent.</td>
<td>(0,0,0) Black.</td>
<td>Mono w/o Serif, Border Text, No BG</td>
</tr>
<tr>
<td>7 ..............................</td>
<td>Stndr ......</td>
<td>4 ..........</td>
<td>Normal ......</td>
<td>No ......</td>
<td>No ......</td>
<td>Unifrm ......</td>
<td>(2,2,2) White.</td>
<td>Solid ......</td>
<td>n/a ......</td>
<td>Transparent.</td>
<td>(0,0,0) Black.</td>
<td>Prop. w/o Serif, Border Text, No BG</td>
</tr>
</tbody>
</table>

*“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 $\frac{1}{15}$ of the height of the safe-title area, and the width of the widest character is no wider than $\frac{1}{32}$ of the width of the safe-title area for 4:3 displays and $\frac{1}{42}$ 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 $\frac{1}{32}$ 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 the 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.
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TABLE 6.—MINIMUM COLOR LIST TABLE

<table>
<thead>
<tr>
<th>Color</th>
<th>Red</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>White</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Red</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Green</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Blue</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Yellow</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Magenta</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Cyan</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

(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

<table>
<thead>
<tr>
<th>Color</th>
<th>Red</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Gray</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>White</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Bright White</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Dark Red</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Red</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Bright Red</td>
<td>3</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Dark Green</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Green</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Bright Green</td>
<td>0</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Dark Blue</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Blue</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Bright Blue</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Dark Yellow</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Yellow</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Bright Yellow</td>
<td>3</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Dark Magenta</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Magenta</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Bright Magenta</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Dark Cyan</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Cyan</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Bright Cyan</td>
<td>0</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

(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.

(7) 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 DTVC 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]

Subpart C—Intentional Radiators

§ 15.201 Equipment authorization requirement.

(a) Intentional radiators operated as carrier current systems and devices operated under the provisions of §§15.211, 15.213 and 15.221 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.

§ 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

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§ 15.204 External radio frequency power amplifiers and antenna modifications.

(a) Except as otherwise described in paragraph (b) 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. However, 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. An external radio frequency power amplifier shall be marketed only in the system configuration with which the amplifier is authorized and shall not be marketed as a separate product.

(c) Only the antenna with which an intentional radiator is authorized may be used with the intentional radiator.


§ 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:

<table>
<thead>
<tr>
<th>MHz</th>
<th>MHz</th>
<th>GHz</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.990–0.110</td>
<td>16.42–16.423</td>
<td>4.5–5.15</td>
</tr>
<tr>
<td>1.0495–0.505</td>
<td>16.69475–16.69525</td>
<td>5.35–5.46</td>
</tr>
<tr>
<td>4.17725–4.17775</td>
<td>37.5–38.25</td>
<td>9.0–9.2</td>
</tr>
<tr>
<td>6.215–6.218</td>
<td>73–74.6</td>
<td>10–10.6</td>
</tr>
<tr>
<td>6.2875–6.28825</td>
<td>108–121.94</td>
<td>13–13.25</td>
</tr>
<tr>
<td>8.291–8.294</td>
<td>149.9–150.05</td>
<td>15–15.35</td>
</tr>
<tr>
<td>8.362–8.366</td>
<td>231–239.9</td>
<td>15.4–16.2</td>
</tr>
<tr>
<td>8.37625–8.38675</td>
<td>248–250.4</td>
<td>17.7–17.9</td>
</tr>
<tr>
<td>12.29–12.293</td>
<td>321–326.2</td>
<td>23.6–24.0</td>
</tr>
<tr>
<td>12.51975–12.52025</td>
<td>334–335.2</td>
<td>30.0–30.7</td>
</tr>
<tr>
<td>12.57675–12.57725</td>
<td>345.8–355.4</td>
<td>36–36.5</td>
</tr>
<tr>
<td>13.36–13.41</td>
<td>3600–4400</td>
<td></td>
</tr>
</tbody>
</table>

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 or § 15.255.

(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.

(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).

§ 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.

<table>
<thead>
<tr>
<th>Frequency of emission [MHz]</th>
<th>Conducted limit (dBµV)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.15–0.5</td>
<td>66 to 56*</td>
</tr>
<tr>
<td>0.5–5</td>
<td>56</td>
</tr>
<tr>
<td>5–30</td>
<td>60</td>
</tr>
</tbody>
</table>

*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, §15.221, §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, obtaining their power through another device which is connected to the AC power lines, shall be tested to demonstrate compliance with the conducted limits.

§ 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:
(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 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.

§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 vicinity of the tunnel.
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.

§ 15.213 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.
§ 15.215

(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.


RADIATED EMISSION LIMITS, ADDITIONAL PROVISIONS

§ 15.215 Additional provisions to the general radiated emission limitations.

(a) The regulations in §§ 15.217 through 15.255 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 15.255 and in subpart E of this part, must be designed to ensure that the 20 dB bandwidth of the emission is contained within the frequency band designated in the rule section under which the equipment is operated. The requirement to contain the 20 dB 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.


§ 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 demonstrated 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 apply.

(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 limits of §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.

§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.

(b) The field strength of emissions outside of the band 1.705–10.0 MHz shall not exceed the general radiated emission limits shown in §15.209.


(a) The field strength of any emissions within this band shall not exceed 10,000 microvolts/meter at 30 meters.

(b) The field strength of any emissions appearing outside of this band shall not exceed the general radiated emission limits shown in §15.209.

(c) 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.

§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
§ 15.229 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 instrumentation 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.


§ 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. Radio control of toys is not permitted. Continuous transmissions, such as voice or video, and data transmissions are not permitted. The prohibition against data transmissions does not preclude the use of recognition codes. Those codes are used to identify the sensor that is activated or to identify the particular component as being part of the system. 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 to determine system integrity of transmitters used in security or safety applications are allowed if the periodic rate of transmission does not exceed one transmission of not more than one second duration per hour for each transmitter.

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.

(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:

<table>
<thead>
<tr>
<th>Fundamental frequency (MHz)</th>
<th>Field strength of fundamental (microvolts/meter)</th>
<th>Field strength of spurious emissions (microvolts/meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>40.66–40.70</td>
<td>2.250</td>
<td>225</td>
</tr>
<tr>
<td>70–130</td>
<td>1.250</td>
<td>125</td>
</tr>
<tr>
<td>130–174</td>
<td>3.750 to 12.500</td>
<td>375</td>
</tr>
<tr>
<td>174–260</td>
<td>12.500</td>
<td>1,250</td>
</tr>
<tr>
<td>Above 470</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*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:

<table>
<thead>
<tr>
<th>Fundamental frequency (MHz)</th>
<th>Field strength of fundamental (microvolts/meter)</th>
<th>Field strength of spurious emission (microvolts/meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>40.66–40.70</td>
<td>1,000</td>
<td>100</td>
</tr>
<tr>
<td>70–130</td>
<td>500</td>
<td>50</td>
</tr>
<tr>
<td>130–174</td>
<td>500 to 1,500 1</td>
<td>50 to 150 1</td>
</tr>
<tr>
<td>174–260</td>
<td>1,500</td>
<td>150</td>
</tr>
<tr>
<td>260–470</td>
<td>1,500 to 5,000 1</td>
<td>150 to 500 1</td>
</tr>
<tr>
<td>Above 470</td>
<td>5,000</td>
<td>500</td>
</tr>
</tbody>
</table>

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 32840, Aug. 7, 1989]

§ 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
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(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.

<table>
<thead>
<tr>
<th>Channel</th>
<th>Base transmitter (MHz)</th>
<th>Handset transmitter (MHz)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>43.720</td>
<td>48.760</td>
</tr>
<tr>
<td>2</td>
<td>43.740</td>
<td>48.840</td>
</tr>
<tr>
<td>3</td>
<td>43.820</td>
<td>48.860</td>
</tr>
<tr>
<td>4</td>
<td>43.840</td>
<td>48.920</td>
</tr>
<tr>
<td>5</td>
<td>43.920</td>
<td>49.020</td>
</tr>
<tr>
<td>6</td>
<td>43.960</td>
<td>49.080</td>
</tr>
<tr>
<td>7</td>
<td>44.120</td>
<td>49.100</td>
</tr>
<tr>
<td>8</td>
<td>44.160</td>
<td>49.160</td>
</tr>
<tr>
<td>9</td>
<td>44.180</td>
<td>49.200</td>
</tr>
<tr>
<td>10</td>
<td>44.200</td>
<td>49.240</td>
</tr>
<tr>
<td>11</td>
<td>44.320</td>
<td>49.280</td>
</tr>
<tr>
<td>12</td>
<td>44.360</td>
<td>49.360</td>
</tr>
<tr>
<td>13</td>
<td>44.400</td>
<td>49.400</td>
</tr>
<tr>
<td>14</td>
<td>44.460</td>
<td>49.460</td>
</tr>
<tr>
<td>15</td>
<td>44.480</td>
<td>49.500</td>
</tr>
<tr>
<td>16</td>
<td>46.610</td>
<td>49.670</td>
</tr>
<tr>
<td>17</td>
<td>46.630</td>
<td>49.845</td>
</tr>
<tr>
<td>18</td>
<td>46.670</td>
<td>49.860</td>
</tr>
<tr>
<td>19</td>
<td>46.710</td>
<td>49.770</td>
</tr>
<tr>
<td>20</td>
<td>46.730</td>
<td>49.875</td>
</tr>
<tr>
<td>21</td>
<td>46.770</td>
<td>49.830</td>
</tr>
<tr>
<td>22</td>
<td>46.830</td>
<td>49.890</td>
</tr>
<tr>
<td>23</td>
<td>46.870</td>
<td>49.930</td>
</tr>
<tr>
<td>24</td>
<td>46.930</td>
<td>49.990</td>
</tr>
<tr>
<td>25</td>
<td>46.970</td>
<td>49.970</td>
</tr>
</tbody>
</table>

(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 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.

§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 general limits in §15.209. Emissions outside of the specified 200 kHz band shall not exceed the general radiated emission limits in §15.209. 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 radiated on any frequency outside of the specified 200 kHz band shall not exceed 250 microvolts/meter at 3 meters. 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 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.

(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 ...
§ 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.

(b) 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 §15.200.

(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.


§ 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.
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(b) The field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

<table>
<thead>
<tr>
<th>Fundamental frequency (MHz)</th>
<th>Field strength of fundamental (millivolts/meter)</th>
<th>Field strength of harmonics (millivolts/meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>902–928</td>
<td>500</td>
<td>1.6</td>
</tr>
<tr>
<td>2435–2465</td>
<td>500</td>
<td>1.6</td>
</tr>
<tr>
<td>5785–5815</td>
<td>2500</td>
<td>25.0</td>
</tr>
<tr>
<td>10500–10550</td>
<td>2500</td>
<td>25.0</td>
</tr>
<tr>
<td>24075–24175</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(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 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 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.

(§ 15.247, 47 CFR Ch. I (10–1–02 Edition))

(a) Operation under the provisions of this section is limited to frequency hopping and digitally modulated intentional radiators that comply with the following provisions:

(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 bands 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.

(§ 15.247, 47 CFR Ch. I (10–1–02 Edition))

(1) Frequency hopping systems operating in the bands 2400–2483.5 MHz, and 5725–5850 MHz.

(47 CFR Ch. I (10–1–02 Edition))
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least 15 non-overlapping 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 which use fewer than 75 hopping frequencies may employ intelligent hopping techniques to avoid interference to other transmissions. Frequency hopping systems may avoid or suppress transmissions on a particular hopping frequency provided that a minimum of 15 non-overlapping 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 output power of the intentional radiator shall not exceed the following:

(1) For frequency hopping systems in the 2400–2483.5 MHz band employing at least 75 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 Watt.

(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.

(4) Except as shown in paragraphs (b)(3)(i), (ii) and (iii) of this section, if transmitting antennas of directional gain greater than 6 dBi are used the peak output power from the intentional radiator shall be reduced below the stated values in paragraphs (b)(1) or (b)(2) of this section, as appropriate, by the amount in dBi 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.

(5) 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.

(c) 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. 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)).

(d) For digitally modulated systems, the peak power spectral density conducted from the intentional radiator to the antenna shall not be greater than 8
§ 15.249  

47 CFR Ch. I (10–1–02 Edition)

§ 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:

<table>
<thead>
<tr>
<th>Fundamental frequency</th>
<th>Field strength of fundamental (millivolts/meter)</th>
<th>Field strength of harmonics (microvolts/meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>902–928 MHz</td>
<td>50</td>
<td>500</td>
</tr>
<tr>
<td>2400–2483.5 MHz</td>
<td>50</td>
<td>500</td>
</tr>
<tr>
<td>5725–5875 MHz</td>
<td>50</td>
<td>500</td>
</tr>
<tr>
<td>24.0–24.25 GHz</td>
<td>250</td>
<td>2500</td>
</tr>
</tbody>
</table>

(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.

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 radio location 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.

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).

§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,
§ 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/cm² 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/cm² 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/cm² 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) A radiated emission below 40 GHz shall not exceed the general limits in §15.209.

(2) Radiated emissions outside the operating band and between 40 GHz and 260 GHz shall not exceed the following:

(i) For vehicle-mounted field disturbance sensors operating in the band 46.7–46.9 GHz: 2 pW/cm² 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/cm² 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/cm² at a distance of 3 meters from the exterior surface of the radiating structure.

(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 radio-frequency 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.

§ 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/cm², 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. (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/cm², 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.

(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.

NOTES 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

(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 limits shall be calculated, based on the measured peak levels, over the actual time period during which transmission occurs.

The Federal Communications Commission (FCC) regulates the use of the 57–64 GHz band for various wireless communications and radar systems. This section outlines the operational constraints for devices operating within this band, including limitations on equipment used on aircraft or satellites, fixed field disturbance sensors, and emission levels. The FCC imposes specific limits on peak and average power densities to prevent interference with other services and to ensure the safe and efficient use of the spectrum.
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 radio-frequency 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/cm², 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.


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 1910–1930 MHz and 2390–2400 MHz frequency bands.

[60 FR 13073, Mar. 10, 1995]

§ 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 bands 1910–1930 MHz and 2390–2400 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.

§ 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.
§ 15.309

(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.

§ 15.311 Labelling requirements.

In addition to the labelling requirements of §15.19(a)(3), all devices operating in the frequency band 1910–1930 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 [insert UTAM's toll-free number].

§ 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) The 1910–1920 MHz and 2390–2400 MHz bands are limited to use by asynchronous devices under the requirements of §15.321. The 1920–1930 MHz sub-band is limited to use by isochronous devices under the requirements of §15.323.

(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.


§ 15.321 Specific requirements for asynchronous devices operating in the 1910–1920 MHz and 2390–2400 MHz bands.

(a) Operation shall be contained within either or both of the 1910–1920 MHz and 2390–2400 MHz bands. The emission bandwidth of any intentional radiator operating in these bands shall be no less than 500 kHz.

(b) All systems of less than 2.5 MHz emission bandwidth shall start searching for an available spectrum window within 3 MHz of the band edge at 1910, 1920, 2390, or 2400 MHz while systems of more than 2.5 MHz emission bandwidth will first occupy the center half of the band. Devices with an emission bandwidth of less than 1.0 MHz may not occupy the center half of the band if other spectrum is available.

(c) Asynchronous devices must incorporate a mechanism for monitoring the spectrum that its transmission is intended to occupy. The following criteria must be met:

(1) Immediately prior to initiating a transmission, devices must monitor the spectrum window they intend to use for at least 50 microseconds.

(2) The monitoring threshold must not be more than 32 dB above the thermal noise power for a bandwidth equivalent to the emission bandwidth of the device.

(3) If no signal above the threshold level is detected, a transmission burst may commence in the monitored spectrum window. Once a transmission burst has started, an individual device or a group of cooperative devices is not required to monitor the spectrum window provided the intraburst gap timing requirement specified below is not exceeded.

(4) After completion of a transmission, an individual device or cooperating group of devices must cease transmission and wait a deference time randomly chosen from a uniform random distribution ranging from 50 to 750
microseconds, after which time an attempt to access the band again may be initiated. For each occasion that an access attempt fails after the initial inter-burst interval, the range of the deference time chosen shall double until an upper limit of 12 milliseconds is reached. The deference time remains at the upper limit of 12 milliseconds until an access attempt is successful. The deference time is re-initialized after each successful access attempt.

(5) The monitoring system bandwidth must be equal to or greater than the emission bandwidth of the intended transmission and shall have a maximum reaction time less than \(50\times\text{SQRT}(1.25/\text{emission bandwidth in MHz})\) 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 threshold level, the maximum reaction time shall be \(35\times\text{SQRT}(1.25/\text{emission bandwidth in MHz})\) microseconds but shall not be required to be less than 35 microseconds.

(6) The monitoring system shall use the same antenna used for transmission, or an antenna that yields equivalent reception at that location.

(7) Devices that have a power output lower than the maximum permitted under the rules may increase their detection threshold by one decibel for each one decibel that the transmitter power is below the maximum permitted.

(d) Emissions shall be attenuated below a reference power of 112 milliwatts as follows: 30 dB between the sub-band edges 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. Compliance with the emissions limits 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.

(e) The frequency stability of the carrier frequency of intentional radiators operating in accordance with this section shall be ±10 ppm over 10 milliseconds or the interval between channel access monitoring, whichever is shorter. The frequency stability shall be maintained over a temperature variation of −20° to +50 °Celsius 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 degrees Celsius. For equipment that is capable of operating only from a battery, the frequency stability tests shall be performed using a new battery without any further requirement to vary supply voltage.

(f) An asynchronous transmission burst is a series of transmissions from one or more transmitters acting cooperatively. The transmission burst duration from one device or group of devices acting cooperatively shall be no greater than 10 milliseconds. Any intraburst gap between cooperating devices shall not exceed 25 microseconds.

(g) Operation of devices in the 2390–2400 MHz band from aircraft while airborne is prohibited, in order to protect space research operations at the National Astronomy and Ionospheric Center at Arecibo, Puerto Rico.

§ 15.323 Specific requirements for isochronous devices operating in the 1920–1930 MHz sub-band.

(a) Operation shall be contained within one of eight 1.25 MHz channels starting with 1920–1921.25 MHz and ending with 1928.75–1930 MHz. Further subdivision of a 1.25 MHz channel is permitted with a reduced power level, as specified in §15.319(c), but in no event shall the emission bandwidth be less than 50 kHz.

(b) Intentional radiators with an intended emission bandwidth less than 625 kHz shall start searching for an available time and spectrum window within 3 MHz of the sub-band edge at 1920 MHz and search upward from that point. Devices with an intended emission bandwidth greater than 625 kHz shall start searching for an available time and spectrum window within 3 MHz of the sub-band edge at 1930 MHz and search downward from that point.
(c) Isochronous 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 occupy more than three 1.25 MHz channels during any frame period. Devices in an operational state that are utilizing the provisions of this section are not required to use the search provisions of paragraph (b) of this section.

(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
§ 15.323

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 the 1.25 MHz frequency 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 shall be attenuated below a reference power of 112 milliwatts as follows: 30 dB between the channel edges and 1.25 MHz above or below the channel; 50 dB between 1.25 and 2.5 MHz above or below the channel; and 60 dB at 2.5 MHz or greater above or below the channel. Systems that further sub-divide a 1.25 MHz channel into X sub-channels 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 1.25 MHz channel 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 a 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
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§ 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 peak transmit 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 peak transmit 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 band 5.25–5.35 GHz, the peak transmit power over the frequency band 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 MHz. In addition, the peak power spectral density shall not exceed 11 dBm in any 1-MHz band. If transmitting antennas of directional gain greater than 6 dBi are used, both the peak transmit 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 peak transmit 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 peak transmit 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 a 1 dB reduction in 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, omni directional 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 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 conforming to the definitions in this paragraph 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 peak transmit power (measured as specified in this paragraph) 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 5.725–5.825 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.

(4) 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.

(5) 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.

(6) The provisions of §15.205 apply to intentional radiators operating under this section.

(7) 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) Any U-NII device that operates in the 5.15–5.25 GHz band shall use a transmitting antenna that is an integral part of the device.

(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.

[63 FR 40836, July 31, 1998]

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 \( f_0 \).

(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 low frequency imaging systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be below 960 MHz.

(b) Operation under the provisions of this section is limited to the following:

1. GPRs and wall imaging systems operated by law enforcement, fire and emergency rescue organizations, by scientific research institutes, by commercial mining companies, or by construction companies.

2. Through-wall imaging systems operated by law enforcement, fire or emergency rescue organizations.

3. Parties operating this equipment must be eligible for licensing under the provisions of part 90 of this chapter.

4. The operation of imaging systems under this section requires coordination, as detailed in §15.25.

(c) An 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 addition, 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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>960–1610</td>
<td>–65.3</td>
</tr>
<tr>
<td>1610–1990</td>
<td>–53.3</td>
</tr>
<tr>
<td>Above 1990</td>
<td>–51.3</td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1164–1240</td>
<td>–75.3</td>
</tr>
<tr>
<td>1559–1610</td>
<td>–75.3</td>
</tr>
</tbody>
</table>

(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, fM. That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a
§ 15.511 Technical requirements for mid-frequency imaging 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 the following:

(1) Through-wall imaging systems operated by law enforcement, fire or emergency rescue organizations.

(2) 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.

(3) Parties operating under the provisions of this section must be eligible for licensing under the provisions of part 90 of this chapter.

(4) The operation of imaging systems under this section requires coordination, as detailed in §15.525.

(c) A through-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 addition, 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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
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<tbody>
<tr>
<td>960–1610</td>
<td>–53.3</td>
</tr>
<tr>
<td>1610–1990</td>
<td>–51.3</td>
</tr>
<tr>
<td>1990–10600</td>
<td>–41.3</td>
</tr>
<tr>
<td>Above 10600</td>
<td>–51.3</td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1164–1240</td>
<td>–63.3</td>
</tr>
<tr>
<td>1559–1610</td>
<td>–63.3</td>
</tr>
</tbody>
</table>

(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) Imaging systems operating under the provisions of this section shall bear the following or similar statement, as adjusted for the specific provisions in paragraph (b) of this section, 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."

§ 15.513 Technical requirements for high frequency 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 the following:

(1) GPRs and wall imaging systems operated by law enforcement, fire or emergency rescue organizations, by scientific research institutes, by commercial mining companies, or by construction companies.
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(2) Medical imaging systems used at the direction of, or under the supervision of, a licensed health care practitioner.

(3) Parties operating GPRs or wall imaging systems must be eligible for licensing under the provisions of part 90 of this chapter.

(4) The operation of imaging systems under this section requires coordination, as detailed in §15.525.

(c) An 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 addition, 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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>960–1610</td>
<td>–65.3</td>
</tr>
<tr>
<td>1610–1990</td>
<td>–53.3</td>
</tr>
<tr>
<td>1990–3100</td>
<td>–51.3</td>
</tr>
<tr>
<td>3100–10600</td>
<td>–41.3</td>
</tr>
<tr>
<td>Above 10600</td>
<td>–51.3</td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1164–1240</td>
<td>–75.3</td>
</tr>
<tr>
<td>1559–1610</td>
<td>–75.3</td>
</tr>
</tbody>
</table>

(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) Imaging systems, other than medical 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, scientific research institutes, commercial mining companies, and construction companies. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties."

§ 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, 2005, the 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, 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.
§ 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.

(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 limits 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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>960–1610</td>
<td>–75.3</td>
</tr>
<tr>
<td>1610–22,000</td>
<td>–61.3</td>
</tr>
<tr>
<td>22,000–29,000</td>
<td>–41.3</td>
</tr>
<tr>
<td>29,000–31,000</td>
<td>–51.3</td>
</tr>
<tr>
<td>Above 31,000</td>
<td>–61.3</td>
</tr>
</tbody>
</table>

(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 1 kHz:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1164–1240</td>
<td>–85.3</td>
</tr>
<tr>
<td>1559–1610</td>
<td>–85.3</td>
</tr>
</tbody>
</table>

(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, fM. 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.

§ 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.

(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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>960–1610</td>
<td>–75.3</td>
</tr>
<tr>
<td>1610–1990</td>
<td>–53.3</td>
</tr>
<tr>
<td>1990–3100</td>
<td>–51.3</td>
</tr>
<tr>
<td>3100–10600</td>
<td>–41.3</td>
</tr>
<tr>
<td>Above 10600</td>
<td>–51.3</td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Frequency in MHz</th>
<th>EIRP in dBm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1164–1240</td>
<td>–85.3</td>
</tr>
<tr>
<td>1559–1610</td>
<td>–85.3</td>
</tr>
</tbody>
</table>
§ 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) As noted in §15.3(k) digital circuitry that is used only to enable the operation of a transmitter and that does not control additional functions or capabilities is not classified as a digital device. Instead, the emissions from that digital circuitry are subject to the

(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]
§ 15.523 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 detailed operational areas to the FCC Office of Engineering and Technology who 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 of operation, and the FCC ID number and other nomenclature of the UWB device. This material shall be submitted to the following address:

Frequency Coordination Branch, Office of Engineering and Technology, Federal Communications Commission, 445 12th Street, SW, Washington, DC 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 NTIA/FCC coordination report shall include any needed constraints that apply to day-to-day operations. Such constraints could specify prohibited areas of operations or areas located near authorized radio stations for which additional coordination is required before operation of the UWB equipment. If additional local coordination is required, a local coordination contact will be provided.

(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.

PART 17—CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

Subpart A—General Information

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17.2 Definitions.
17.4 Antenna structure registration.
17.5 Commission consideration of applications for station authorization.
17.6 Responsibility of Commission licensees and permittees.

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AVIATION RED OBSTRUCTION LIGHTING
[RESERVED]

17.24–17.38 [Reserved]

HIGH INTENSITY WHITE OBSTRUCTION LIGHTING
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17.54 Rated lamp voltage.
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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.


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§ 17.1 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.


§ 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.
§ 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.
§ 17.7

(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.


§ 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
§ 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

(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.


§ 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.


§ 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) 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.


§ 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
§ 17.21
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.

§ 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.

Subpart C—Specifications for Obstruction Marking and Lighting of Antenna Structures

§ 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.

§ 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 Office of the Federal Register, 800 North Capitol Street, Suite 700, Washington, DC.

[64 FR 27474, May 20, 1999]

AVIATION RED OBSTRUCTION LIGHTING
[RESERVED]

§§ 17.24–17.38 [Reserved]

HIGH INTENSITY WHITE OBSTRUCTION LIGHTING

Note: When authorized by the Commission, high intensity white obstruction lighting will be used in lieu of obstruction marking and lighting specified in §§17.23 through 17.37.

In general, the number of levels of high intensity lighting specified is dependent upon the overall height of the skeletal frame or comparable main support structure, excluding antennas or similar appurtenances. A white capacitor discharge omnidirectional light is mounted on or adjacent to the appurtenance, if more than 6.10 meters (20 feet), to complement the lighting system.

Where a dual lighting system is employed, i.e., high intensity white obstruction lighting during daylight and red obstruction lighting at night, the omnidirectional high
§ 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 mechanical control devices, indicators, and alarm systems associated with the antenna structure lighting to insure that such apparatus is functioning properly.

[61 FR 4364, 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.


§ 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 every 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.


§ 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.


§§ 17.39–17.43 [Reserved]
§ 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 ..........................

Aviation surface orange ...........

Aviation surface orange, enamel.

Aviation red obstruction
light—color.

Flashings beacons ...............

Do ....................................

Double and single obstruction
light. Do ..................................

High intensity white obstruc-
tion light.

<table>
<thead>
<tr>
<th>Lamp Type</th>
<th>No.</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>620-Watt lamp</td>
<td>620 PS-40</td>
<td>3,000 h</td>
</tr>
<tr>
<td>700-Watt lamp</td>
<td>700 PS-40</td>
<td>6,000 h</td>
</tr>
</tbody>
</table>

1 Copies of this specification can be obtained from the Specification Activity, Building 197, Room 301, Naval Weapons Plant, 1st and N Streets, S.E., Washington, D.C. 20360.

2 Copies of Military specifications can be obtained by contacting the Commanding Officer, Naval Publications and Forms Center, 5901 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-4431, 450 7th St. SW., Washington, D.C. 20590.

[61 FR 4364, Feb. 6, 1996]

§ 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 dismantle-ment (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]
Federal Communications Commission

§ 18.105

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.

§ 18.103 Organization and applicability of the rules.

The rules in this part are divided into the following subparts:
(a) Subpart A contains general information and definitions for use in this part.
(b) Subpart B describes the procedures and requirements for authorization to market or operate ISM equipment under this part.
(c) Subpart C contains the technical standards for ISM equipment.

§ 18.105 Other applicable rules.

Other Commission rule parts relating to the authorization and operation of ISM equipment include the following:
(a) Part 0 describes the Commission’s organization and delegations of authority. This part also lists available Commission publications, standards and procedures for access to Commission records, and location of Commission field offices.
(b) Part 1 contains the rules of practice and procedure for adjudicatory proceedings including hearing proceedings; procedures for reconsideration and review of the Commission’s actions; provisions concerning violation notices and for forfeiture proceedings; and the requirements for environmental impact statements.
(c) Part 2 contains special requirements in international regulations, agreements, treaties, and the table of frequency allocations. This part also
§ 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.


§ 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 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.

§ 18.119 Importation.

ISM equipment shall be refused entry or withdrawal for consumption into the Customs territory of the United States, unless accompanied by a copy of FCC Form 740, in accordance with the provisions of subpart K, part 2 of this chapter.

§ 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
§ 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 36693, 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 36693, 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.

\section*{Subpart C—Technical Standards}

\section*{§ 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:

<table>
<thead>
<tr>
<th>ISM frequency</th>
<th>Tolerance</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.78 MHz</td>
<td>±15.0 kHz</td>
</tr>
<tr>
<td>13.56 MHz</td>
<td>±7.0 kHz</td>
</tr>
<tr>
<td>27.12 MHz</td>
<td>±163.0 kHz</td>
</tr>
<tr>
<td>40.68 MHz</td>
<td>±20.0 kHz</td>
</tr>
<tr>
<td>915 MHz</td>
<td>±13.0 MHz</td>
</tr>
<tr>
<td>2,450 MHz</td>
<td>±50.0 MHz</td>
</tr>
<tr>
<td>5,600 MHz</td>
<td>±75.0 MHz</td>
</tr>
<tr>
<td>24,125 MHz</td>
<td>±125.0 MHz</td>
</tr>
<tr>
<td>61.25 GHz</td>
<td>±250.0 MHz</td>
</tr>
<tr>
<td>122.50 GHz</td>
<td>±500.0 MHz</td>
</tr>
<tr>
<td>245.00 GHz</td>
<td>±1.0 GHz</td>
</tr>
</tbody>
</table>

\section*{§ 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.

\section*{§ 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:

\begin{table}[h]
\begin{tabular}{|l|l|l|l|}
\hline
Equipment & Operating frequency & RF Power generated by equipment (watts) & Field strength limit (\(\mu V\)/m) & Distance (meters) \\
\hline
Any type unless otherwise specified (miscellaneous). & Any ISM frequency & Below 500 & 25 & 300 \\
 & Any non-ISM frequency & 500 or more & 500 or more & 300 \\
 & On or below 5,725 MHz & Any & 15 & 300 \\
 & Above 5,725 MHz & Any & 500 or more & 300 \\
Medical diathermy & Any ISM frequency & Any & 15 & 300 \\
 & Any non-ISM frequency & Any & 500 or more & 300 \\
Ultrasound & Below 490 kHz & Below 500 & 2,400/F(kHz) & 300 \\
 & & 500 or more & 2,400/F(kHz) & 300 \\
 & 490 to 1,600 kHz & Any & 24,000/F(kHz) & 300 \\
 & Above 1,600 kHz & Any & 15 & 300 \\
Induction cooking ranges & Below 90 kHz & Any & 1,500 & 300 \\
 & On or above 90 kHz & Any & 300 & 900 \\
\hline
\end{tabular}
\end{table}

1 Field strength may not exceed 10 \(\mu V\)/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 \(\mu V\)/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:

\begin{table}[h]
\begin{tabular}{|l|l|}
\hline
Frequency (MHz) & Field strength limit at 30 meters (\(\mu V\)/m) \\
\hline
Non-consumer equipment: & \\
30–88 & 30 \\
88–216 & 50 \\
216–1000 & 70 \\
Consumer equipment: & \\
30–88 & 10 \\
88–216 & 15 \\
216–1000 & 20 \\
\hline
\end{tabular}
\end{table}

\section*{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...
§ 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 $\mu$H/50 ohms line impedance stabilization network (LISN).

(a) All induction cooking ranges and ultrasonic equipment:

<table>
<thead>
<tr>
<th>Frequency of emission (MHz)</th>
<th>Conducted limit (dB $\mu$V)</th>
<th>Quasi-peak</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.009-0.05</td>
<td>110</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>0.05-0.15</td>
<td>90-80*</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>0.15-0.5</td>
<td>66 to 56*</td>
<td>56 to 46*</td>
<td>46</td>
</tr>
<tr>
<td>0.5-5</td>
<td>56</td>
<td>46</td>
<td></td>
</tr>
<tr>
<td>5-30</td>
<td>60</td>
<td>50</td>
<td></td>
</tr>
</tbody>
</table>

* Decreases with the logarithm of the frequency.

(b) All other part 18 consumer devices:

<table>
<thead>
<tr>
<th>Frequency of emission (MHz)</th>
<th>Conducted limit (dB $\mu$V)</th>
<th>Quasi-peak</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.15-0.5</td>
<td>66 to 56*</td>
<td>56 to 46*</td>
<td>46</td>
</tr>
<tr>
<td>0.5-5</td>
<td>56</td>
<td>46</td>
<td></td>
</tr>
<tr>
<td>5-30</td>
<td>60</td>
<td>50</td>
<td></td>
</tr>
</tbody>
</table>

* Decreases with the logarithm of the frequency.

§ 18.309 Frequency range of measurements.

(a) For field strength measurements:

<table>
<thead>
<tr>
<th>Frequency band in which device operates (MHz)</th>
<th>Range of frequency measurements</th>
<th>Lowest frequency</th>
<th>Highest frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 1.705</td>
<td>Lowest frequency generated in the device, but not lower than 9 kHz.</td>
<td>30 MHz.</td>
<td>400 MHz.</td>
</tr>
<tr>
<td>1.705 to 30</td>
<td>Lowest frequency generated in the device, but not lower than 9 kHz.</td>
<td>30 MHz.</td>
<td>400 MHz.</td>
</tr>
<tr>
<td>30 to 500</td>
<td>Lowest frequency generated in the device or 25 MHz, whichever is lower.</td>
<td>30 MHz.</td>
<td>400 MHz.</td>
</tr>
<tr>
<td>500 to 1,000</td>
<td>Lowest frequency generated in the device or 100 MHz, whichever is lower.</td>
<td>30 MHz.</td>
<td>400 MHz.</td>
</tr>
<tr>
<td>Above 1,000</td>
<td>...do ...</td>
<td>30 MHz.</td>
<td>400 MHz.</td>
</tr>
</tbody>
</table>

(c) RF lighting devices:

<table>
<thead>
<tr>
<th>Frequency (MHz)</th>
<th>Maximum RF line voltage measured with a 50 $\mu$H/50 ohm LISN (uV)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-consumer equipment:</td>
<td></td>
</tr>
<tr>
<td>0.45 to 1.6</td>
<td>1,000</td>
</tr>
<tr>
<td>1.6 to 30</td>
<td>3,000</td>
</tr>
<tr>
<td>Consumer equipment:</td>
<td></td>
</tr>
<tr>
<td>0.45 to 2.51</td>
<td>250</td>
</tr>
<tr>
<td>2.51 to 3.0</td>
<td>3,000</td>
</tr>
<tr>
<td>3.0 to 30</td>
<td>250</td>
</tr>
</tbody>
</table>

(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.
§ 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.
19.735–107 Disciplinary and other remedial action.

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), (l), (j), and 303(c).

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.
Federal Communications Commission § 19.735–106

§ 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) 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:
Federal Communications Commission

§ 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), 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 3801.102, 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 which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(b)(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.


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...
§ 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.

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

Material Approved for Incorporation by Reference
Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
List of CFR Sections Affected
Material Approved for Incorporation by Reference

(Revised as of October 1, 2002)

The Director of the Federal Register has approved under 5 U.S.C. 552(a) and 1 CFR part 51 the incorporation by reference of the following publications. This list contains only those incorporations by reference effective as of the revision date of this volume. Incorporations by reference found within a regulation are effective upon the effective date of that regulation. For more information on incorporation by reference, see the preliminary pages of this volume.

47 CFR (PARTS 0–19)
FEDERAL COMMUNICATIONS COMMISSION

American National Standards Institute (ANSI)
25 West 43rd Street, Fourth floor, New York, NY 10036 Telephone: (212) 642–4900
ANSI C63.4–1992, Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz, except for sections 5.7, 9 and 14. 2.948; 15.31

Federal Aviation Administration, Department of Transportation
800 Independence Ave. SW., Washington, DC 20591
FAA Advisory Circular AC 70/7460–1J, Obstruction Marking and Lighting, November 29, 1995. 17.23

Global Engineering Documents
15 Inverness Way East, Englewood, CO 80112, Telephone: (800) 854–7179 or 7730 Carondelet Ave., Suite 470, Clayton, MO 63105, Telephone: (800) 854–7179
Electronic Industries Association, EIA IS–132 Cable Television Channel Identification Plan, May 1994. 15.118
Electronic Industries Association, EIA-608 Recommended Practice for Line 21 Data Service, September 1994. 15.120
Electronic Industries Alliance, EIA-708-B, Digital Television (DTV) Closed Captioning, December 1999. 15.122
Electronic Industries Association, EIA-744 Transport of Content Advisory Information Using Extended Data Service (XDS), October 1997. 15.120

International Electrotechnical Commission
Title 47—Telecommunications

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FEDERAL COMMUNICATIONS COMMISSION—Continued


International Electrotechnical Commission
Bureau Central de la Commission Electrotechnique Internationale, 1 rue de Varembe, Geneva, Switzerland. Purchase from: Global Engineering Documents, P.O. Box 8500 (S-4485), Philadelphia, PA 19178-4485 (303)792-2181

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List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the Federal Register since January 1, 2001, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.


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