

(b) Prior to taking any of the enforcement actions in paragraph (a) of this section, the Commission will give notice of its intent to take the specified action and the grounds therefor, and afford a 30-day period for a response in writing; provided that, where the public interest so requires, the Commission may temporarily suspend a certification pending completion of these procedures. Responses must be forwarded to the Accounting Authority Certification Officer. See §3.61.

§3.73 Waiting period after cancellation.

An accounting authority whose certification has been cancelled must wait a minimum of three years before reapplying to be an accounting authority.

§3.74 Ship stations affected by suspension, cancellation or relinquishment.

(a) Whenever the accounting authority privilege has been suspended, cancelled or relinquished, the accounting authority is responsible for immediately notifying all U.S. ship licensees for which it was performing settlements of the circumstances and informing them of the requirement contained in paragraph (b) of this section.

(b) Those ship stations utilizing an accounting authority's AAIC for which the subject accounting authority certification has been suspended, cancelled or relinquished, should make contractual arrangements with another properly authorized accounting authority to settle its accounts.

(c) The Commission will notify the ITU of all accounting authority suspensions, cancellations and relinquishments, and

(d) The Commission will publish a Public Notice detailing all accounting authority suspensions, cancellations and relinquishments.

§3.75 Licensee's failure to make timely payment.

Failure to remit proper and timely payment to the Commission or to an accounting authority may result in one or more of the following actions against the licensee:

(a) Forfeiture or other authorized sanction.

(b) The refusal by foreign countries to accept or refer public correspondence communications to or from the vessel or vessels owned, operated or licensed by the person or entity failing to make payment. This action may be taken at the request of the Commission or independently by the foreign country or coast station involved.

(c) Further action to recover amounts owed utilizing any or all legally available debt collection procedures.

§3.76 Licensee's liability for payment.

The U.S. ship station licensee bears ultimate responsibility for final payment of its accounts. This responsibility cannot be superseded by the contractual agreement between the ship station licensee and the accounting authority. In the event that an accounting authority does not remit proper and timely payments on behalf of the ship station licensee:

(a) The ship station licensee will make arrangements for another accounting authority to perform future settlements, and

(b) The ship station licensee will settle any outstanding accounts due to foreign entities.

(c) The Commission will, upon request, take all possible steps, within the limits of applicable national law, to ensure settlement of the accounts of the ship station licensee. As circumstances warrant, this may include issuing warnings to ship station licensees when it becomes apparent that an accounting authority is failing to settle accounts. See also §§3.70 through 3.74.

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

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AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

SOURCE: 28 FR 12506, Nov. 22, 1963, unless otherwise noted.

Subpart A—General**§ 5.1 Basis and purpose.**

(a) The rules following in this part are promulgated pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of this part is to prescribe the manner in which parts of the radio frequency spectrum may be made available for experimentation as defined in this part and provided for.

§ 5.2 [Reserved]**§ 5.3 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).

(a) *Authorized frequency.* The frequency assigned to a station by the Commission and specified in the instrument of authorization.

(b) *Authorized power.* The power assigned to a radio station by the Commission and specified in the instrument of authorization. The authorized power

does not necessarily correspond to the power used by the Commission for purposes of its Master Frequency Record (MFR) and notification to the International Telecommunication Union.

(c) *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 which could not be conducted without the benefit of such communications.

(d) *Experimental Station.* A station utilizing radio waves in experiments with a view to the development of science or technique

(e) [Reserved]

(f) *Fixed service.* A service of radio-communication between specified fixed points.

(g) *Fixed station.* A station in the fixed service.

(h) *Harmful interference.* Any radiation or any induction which endangers the functioning of a radio-navigation service or of a 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.

(i) *Landing area.* As defined by Title I, section I (22) of the Civil Aeronautics Act of 1938, as amended, landing area means any locality, either of land or water, including airdromes and intermediate landing fields, which 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.

(j) *Land station.* A station in the mobile service not intended for operation while in motion.

(k) *Mobile service.* A service of radiocommunication between mobile and land stations, or between mobile stations.

(l) *Mobile station.* A station in a mobile service intended to be used while in motion or during halts at unspecified points.

(m) *Mean power of radio transmitter.* The power supplied to the antenna during normal operation, averaged over a time sufficiently long compared to the

period corresponding to the lowest frequency encountered in actual modulation.

(n) *Peak power of a radio transmitter.* The mean power supplied to the antenna during one radio frequency cycle at the highest crest of the modulation envelope, taken under conditions of normal operation.

(o) *Person.* An individual, partnership, association, joint stock company, trust, or corporation.

(p) *Public correspondence.* Any telecommunication which the offices and stations, by reason of their being at the disposal of the public, must accept for transmission.

(q) *Radio service.* An administrative subdivision of the field of radio-communication. 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.

(r) *Station authorization.* Any construction permit, license, or special temporary authorization issued by the Commission.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.4 General citizenship requirements.

A station license shall not be granted to or held by a foreign government or a representative thereof.

[40 FR 5366, Feb. 5, 1975]

§ 5.5 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, or indirectly by transfer of control of any corporation holding such authorization, to any person, unless the Commission shall, after securing full information, decide that said transfer is in the public interest, and shall give its consent in writing. Requests for authority to transfer or assign a station

authorization shall be submitted on the forms prescribed by § 5.55.

Subpart B—Applications and Licenses

§ 5.51 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 Federal Communications Commission.

(b) Persons desiring to install and operate radio transmitting equipment under this part should first submit an application for a radio station authorization in accordance with § 5.55.

(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.

[41 FR 45007, Oct. 14, 1976, as amended at 48 FR 52737, Nov. 22, 1983; 55 FR 20396, May 16, 1990]

§ 5.52 [Reserved]

§ 5.53 Filing of applications.

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to the Experimental Radio Service are discussed in § 5.55 and may be obtained from the Washington, D.C., Office of the Commission, or from any of its engineering field offices. Concerning matters where no standard form is applicable, the informal application procedure outlined in § 5.55(k) should be followed.

(b) Any application for radio station authorization and all correspondence relating thereto shall be submitted to the Commission's office at Washington, DC. (Applications requiring fees as set forth at part 1, subpart G of this chapter must be filed in accordance with § 0.401(b) of the rules.)

(c) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is de-

sired that Commission action thereon be completed.

(d) Each application for station authorization shall be specific and complete with regard to station location, proposed equipment, power, antenna height, and operating frequency; and other information required by the application form and this part.

(e) Applications involving operation at temporary locations:

(1) When a land station or a fixed station is to remain at a single location for less than six months, the location is considered to be temporary and the procedure outlined in § 5.65 shall apply.

(2) When a land station or fixed station authorized to operate at temporary locations remains at a single location for more than six months, an application for modification of the station authorization to specify the permanent location shall be filed within thirty days after expiration of the six-month period.

(f) Unless otherwise specified in a particular case, only the original signed copy of the application shall be filed. Applications with facsimile signatures will not be accepted.

[28 FR 12506, Nov. 22, 1963, as amended at 40 FR 60033, Dec. 31, 1975; 48 FR 52737, Nov. 22, 1983; 55 FR 19172, May 8, 1990]

§ 5.54 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 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 submitted 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.

§ 5.55 Forms to be used.

(a) *Application for combined construction permit and radio station license for land stations and fixed stations.* A separate application shall be submitted on FCC Form 442 for each base station and each fixed station. Whenever the proposed antenna exceeds 6 meters in height above the ground level or more than 6 meters in height above an existing building, the applicant must comply with the requirement of part 17 of this chapter.

(b) *Application for combined construction permit and radio station license for mobile stations.* An application for each mobile station comprising any specified number of mobile units to be operated in the same service and within the same geographical area, including handcarried or pack-carried units, may be combined into one application and shall be submitted on FCC Form 442.

NOTE: An application for mobile units may be combined with an application for a single base station for such mobile units as will operate with that base station only.

(c) *Application for modification of combined construction permit and station license.* An application for modification of station authorization shall be submitted on FCC Form 442. A blanket application for modification of a group of authorizations of the same class where the modifications requested are the same for all stations covered by the application. The individual stations covered by such application shall be clearly identified therein. However, application for modification to change location of a base or fixed station shall be filed as a separate application.

(d) *Application for renewal of station 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 where 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.

(e) *Application for consent to assignment of radio station authorization.* Application on FCC Form 702 shall be submitted when the legal right to construct or to control the use and operation of a station is to be transferred as a result of a voluntary act (contract or other agreement) or an involuntary act (death or legal disability) of the grantee of a station authorization or by involuntary assignment of the physical property constituting the station under a court decree in bankruptcy proceedings, or other court order, or by operation of law in any other manner. Such application must be accompanied by the FCC Form 442 of which only the certification need be signed by the proposed assignee. No other information is required to be submitted on this form.

(f) *Application for consent to transfer of control of Corporation holding radio station authorization.* Application for consent to transfer of control shall be submitted on FCC Form 703 whenever it is proposed to change the control of a

corporation holding a station authorization.

(g) *Informal application.* (1) An application not submitted on a standard form prescribed by the Commission is considered to be an informal application. Each informal application shall be submitted normally in letter form, and with the original signed in accordance with § 5.54. Each application shall be clear and complete within itself as to the facts presented and the action desired.

(2) An informal application for authority to operate transmitting equipment will be accepted only under the conditions set forth in § 5.56.

[41 FR 45007, Oct. 14, 1976, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.56 Procedure for obtaining a special temporary authorization.

(a) The Commission may issue a special temporary authorization under this part in cases where a need is shown for operation of an authorized station for a limited time only, in a manner other than that specified in the existing authorization, but not in conflict with the Commission's rules.

(b) An application for special temporary authorization may be filed as an informal application in the manner prescribed by § 5.55(k) and shall contain the following information:

- (1) Name and address.
- (2) Need for special action.
- (3) Type of operation to be conducted.
- (4) Purpose of operation.
- (5) Time and date of proposed operation.
- (6) Class of station, call sign of station, and nature of service.
- (7) Location of proposed operation.
- (8) Equipment to be used, including name of manufacturer, model and number of units.
- (9) Frequency(ies) desired.
- (10) Plate power input to final radio frequency stage.
- (11) Type of emission.
- (12) Overall height of antenna structure above ground.

(c) No request for special temporary authorization will be considered unless full particulars as to the purpose for which the request is made are stated.

[28 FR 12506, Nov. 22, 1963, as amended at 34 FR 3802, Mar. 5, 1969]

§ 5.57 Supplementary statements required.

(a) Each applicant for an authorization in the Experimental Radio Service must enclose with the application a narrative statement describing in detail the program of research and experimentation proposed, the specific objectives sought to be accomplished; and how the program of experimentation has a reasonable promise of contribution to the development, extension, or expansion, or utilization of the radio art, or is along lines not already investigated. An applicant may request non-disclosure of proprietary information submitted under this part. These requests should follow the procedures for submission set forth in § 0.459 of this chapter.

(b) Applications involving government contracts. In addition to the requirement of paragraph (a) of this section, 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 the name of the contracting agency and the contract number.

(c) Applications involving development of equipment for export purposes. In addition to the requirements of paragraph (a) of this section, if the authorization is to be used for the purpose of developing equipment for exportation to be employed by stations under the jurisdiction of a foreign government, the applicant shall submit the contract number and the name of the foreign government concerned.

(d) *Applications involving communications essential to a research project.* 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. Applicants in this service shall include as a 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 communication facilities are necessary for the research project involved.

(3) A showing that existing communication facilities are inadequate.

[41 FR 45008, Oct. 14, 1976, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.58 Partial grants.

Where the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to a station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing.

§ 5.59 Defective applications.

(a) Applications which are defective with respect to completeness of answers to required questions, execution or other matters of a purely formal character will not be received for filing by the Commission, and will 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 which are not in accordance with the Commission's rules, regulations or other requirements will be considered defective unless accompanied either (1) by a petition to amend any rule or regulation with which the application is in conflict, or (2) by a request of the applicant for waiver of, or an exception to, any rule, regulation or requirement with which the application is in conflict. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof.

§ 5.60 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 or designated for hearing. 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 which 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 where an application has not yet been designated for hearing; such dismissal may be made with prejudice after an application has been designated for hearing.

§ 5.61 [Reserved]

§ 5.62 Licenses required for separate experimental projects.

A separate station license will be required for each class of station in the Experimental Radio Service. Application for a class of station embracing widely divergent and unrelated experimentations normally will require a separate license for each phase of the experimental program: *Provided, however*, That the Commission may, when circumstances warrant, issue a single license embracing the entire project.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.63 License period.

(a) The basic license period for stations in the Experimental Radio Service is 2 years.

(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, a statement to that effect by the applicant may facilitate a grant of the application. See also § 5.58.

(c) The expiration dates for licenses in the Experimental Radio Service will be distributed over the 12 calendar months, in accordance with the alphabetical distribution of the names of licensees. Hence, an initial license may be granted for a basic period of 1½ to 2½ years, depending on the date of grant and the alphabetical position of the name of the licensee.

[32 FR 1129, Feb. 1, 1967, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.64 Change in equipment.

(a) A change may be made in a licensed transmitter without specific authorization from the Commission provided: (1) The change does not result in operation inconsistent with any term of the outstanding authorization for the station involved; and (2) a description of the change is incorporated in the next application for renewal or modification of license.

(b) 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 which 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.

§ 5.65 Operation at a temporary location.

(a) An application for authority to operate at temporary locations shall specify the general geographical area within which the operation will be confined.

(b) When a station is authorized to operate at temporary locations, the following notification procedure shall be followed:

(1) When the station is placed in operation for the first time, the Engineer in Charge of the Radio District(s) involved shall be notified.

(2) When the station is moved from one location to another, the Engineer in Charge of the Radio District(s) involved shall be notified.

§ 5.66 Discontinuance of station operation.

In case of a 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 Washington, D.C., office of the Commission for cancellation. A copy of the request for cancellation of the license shall be forwarded to the Commission's Engineer in Charge of the radio district in which the station is located.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.67 Policy governing the assignment of frequencies.

(a) 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. Normally not more than one frequency in a band of frequencies will 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.

(b) 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.

(c) The frequencies available for use in the Experimental Radio Service are set forth in § 5.203.

(d) Protection for Federal Communications Commission monitoring stations:

(1) Applicants in the vicinity of an FCC monitoring station for a radio station authorization to operate new transmitting facilities or changed transmitting facilities which would increase the field strength produced over the monitoring station over that previously authorized are advised to give consideration, prior to filing applications, to the possible need to protect

the FCC stations from harmful interference. Geographical coordinates of the facilities which require protection are listed in §0.121(c) of the Commission's Rules. Applications for stations (except mobile stations) which 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 extent of possible interference. Depending on the theoretical field strength value and existing root-sum-square 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 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: Chief, Compliance and Information Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone (202) 632-6980.

(3) Advance consultation is suggested particularly for those applicants who have no reliable data which 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 effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Monitoring Stations.

(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 av-

erage 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 the Commission's Rules and also meets the criteria outlined in paragraphs (d) (2) and (3) of this section.

(5) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Federal Communications Commission or modification of any authorization which will cause harmful interference.

[28 FR 12506, Nov. 22, 1963, as amended at 44 FR 77176, Dec. 31, 1979; 48 FR 52737, Nov. 22, 1983; 61 FR 8477, Mar. 5, 1996]

§ 5.68 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.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.69 Notification to 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 Radio, seeking a station license for a new station, a construction permit to construct a new station or to modify an existing station license in a manner

which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15' N on the north, 78°30' W on the east, 37°30' N on the south and 80°30' W on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, P.O. Box #2, Green Bank, West Virginia, 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the twenty-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

[42 FR 8329, Feb. 9, 1977]

Subpart C—Technical Standards

§ 5.101 Frequency stability.

If an applicant proposes to use a frequency tolerance greater than the tolerance set forth in the rules governing the service to which the frequencies are assigned in the Table of Frequency Allocations of part 2 of this chapter, the frequency tolerance should be provided as part of the filing in the application for a station license.

[48 FR 52738, Nov. 22, 1983]

§ 5.102 Types of emission.

(a) Stations in the Experimental Radio Service may be authorized to use any of the classifications of emissions covered in part 2 of this chapter.

(b) [Reserved]

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.103 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 in kilohertz 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 part 2 of this chapter.

[48 FR 52738, Nov. 22, 1983]

§§ 5.104–5.105 [Reserved]

§ 5.106 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.

[48 FR 52738, Nov. 22, 1983]

§ 5.107 [Reserved]

§ 5.108 Wildlife tracking and ocean buoy tracking operations.

Except as provided in §§ 5.101, 5.102, 5.103 and 5.106, the use of frequencies in the bands 40.66–40.70 MHz and 216–220 MHz for the tracking of and telemetry of scientific data from ocean buoys and animal wildlife are subject to the following conditions:

(a) All transmitters used at stations first licensed after February 18, 1975, shall comply with the technical requirements in paragraph (b) of this section and shall be type accepted as provided in § 5.109.

(b) Technical requirements for transmitters used for these operations are as follows:

(1) In the 40.66–40.70 MHz frequency band, the bandwidth required for frequency tolerance plus the occupied bandwidth of any emissions must be adjusted so as to be confined within this band, except as permitted by paragraph (b)(6) of this section.

(2) In the 216–220 MHz frequency band, the carrier frequency shall be maintained within 0.005 percent of the assigned frequency.

(3) Classes of emission will be limited to A0, A1, A2, F1, F2 and/or F9.

(4) Occupied bandwidth shall not exceed 1 kHz.

(5) The maximum carrier power shall not exceed 1 milliwatt for airborne wildlife applications, 10 milliwatts for terrestrial wildlife applications and 100 milliwatts for ocean buoys.

(6) The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the schedule shown in § 5.103(b) of this subpart.

[40 FR 2814, Jan. 16, 1975; 40 FR 6474, Feb. 12, 1975; 48 FR 52738, Nov. 22, 1983]

§ 5.109 Acceptability of transmitters for licensing.

All transmitters used at stations licensed for wildlife and ocean buoy tracking and telemetering operations pursuant to § 5.108 shall be type accepted or notified pursuant to subpart J of part 2 of this chapter. After March 5, 1984, only grants of notification will be issued for equipment authorized for use in this service.

(Secs. 4(i), 302, 303(e) 303(f) and 303(r) of the Communications Act of 1934, as amended)

[49 FR 3996, Feb. 1, 1984]

Subpart D—Operating Requirements

§ 5.151 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 this application for construction permit and 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 insure

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 transmit programs intended for public reception or render any communications service, a full disclosure of this must be made in the application for license.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52738, Nov. 22, 1983]

§ 5.152 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.

§ 5.153 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.

§ 5.154 [Reserved]**§ 5.155 Operator requirements.**

(a) The licensee shall ensure that all transmitter adjustments which affect the proper operation of a station shall be made by a person qualified to perform such adjustments.

(b) The licensee shall be responsible for ensuring that the person operating the transmitter is qualified to operate said station.

(c) When transmitting radio-telegraphy by any type of Morse Code, the operator shall have proved his ability to transmit by hand and receive by ear texts in Morse Code signals.

(d) The provisions of this section shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them, or for proper functioning and operation of those stations in accordance with the terms of the licenses of those stations.

[48 FR 52738, Nov. 22, 1983]

§ 5.156 [Reserved]**§ 5.157 Posting station licenses.**

(a) The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

(b) A clearly legible copy of the authorization for each station at a fixed location shall be posted at every control point of the station.

[44 FR 29071, May 18, 1979]

§ 5.158 Authorized points of communication.

Stations in the Experimental Radio Service may communicate only with other stations licensed in the Experimental Radio Service: *Provided, however,* That 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.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.159 Operation during an emergency.

(a) The licensee of any station in the Experimental Radio Service may, during a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication service, subject to other provisions of this section, by communicating in a manner other than that specified in the station license.

(b) As soon as possible after the beginning of such emergency use, notice shall be sent to the Commission at Washington, DC, 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.

(c) The emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available.

(d) The Commission at Washington, DC, and the Engineer in Charge shall be notified immediately when such special use of the station is terminated.

(e) In no event shall any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Commission, or by law.

(f) The Commission may, at any time, order the discontinuance of any such emergency communication undertaken under this section.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.160 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.

[28 FR 12506, Nov. 22, 1963, as amended at 48 FR 52737, Nov. 22, 1983]

§ 5.161 Inspection and maintenance of tower marking and lighting and associated control equipment.

The licensee of any radio station which has an antenna structure required to be painted and illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and part 17 of this chapter, shall perform the inspections and maintain the tower marking and lighting, and associated control equipment, in accordance with the requirements of §§ 17.43 through 17.57 of this chapter.

[34 FR 3802, Mar. 5, 1969]

§ 5.162 Notice of violation.

(a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter, shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the official notice. If an answer cannot be sent nor an acknowledgment made within such 10-day period by reason of illness or other unavoidable circumstances, 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. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, 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. 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 shall be given.

§ 5.163 Content of station records.

(a) The licensee of each station in the Experimental Radio Service shall maintain adequate records of the station's operations, including:

- (1) Dates and hours of operation.
- (2) All measurements of the frequency(ies), including the name of the person making the measurements, the exact frequency measured or the observed deviations from the assigned frequency(ies) expressed in Hertz, kilohertz or percent plus or minus, and a statement of any corrective action taken.
- (3) Power.
- (4) Types of emission.
- (5) Chronological record of experimentation conducted.
- (6) The name of the operator on duty.

(b) For all stations, when service or maintenance duties are performed which may affect their proper operation, the responsible operator shall sign and date an entry in the station record concerned, giving:

- (1) Pertinent details of all duties performed by the operator or under the operator's supervision; and
- (2) The operator's name and address.

(c) For stations whose antenna structure is required to be illuminated, a record in accordance with the requirements of § 17.49 of this chapter.

[28 FR 12506, Nov. 22, 1963, as amended at 34 FR 3802, Mar. 5, 1969; 35 FR 5618, Apr. 7, 1970; 48 FR 52737 and 52738, Nov. 22, 1983]

§ 5.164 Form of station records.

(a) The records shall be kept in an orderly manner, in suitable form, and in such detail that the data required are readily available. Key letters or abbreviations may be used if proper meaning or explanation is set forth in the record.

(b) Each entry in the record shall be signed by a person having actual knowledge of the facts to be recorded.

(c) No record or portion thereof shall be erased, obliterated, or willfully destroyed within the required retention

period. Any necessary correction may be made only by the persons originating the entry, who shall strike out the erroneous portion, initial the correction made, and indicate the date of correction.

(d) A copy of this part shall be maintained in the records of each fixed or land station licensed under this part.

§ 5.165 Retention of station records.

Records required to be kept by this part shall be retained by the licensee for a period of at least one year.

§ 5.166 Adherence to program of research.

(a) The program of experimentation as stated by an applicant in its application for construction permit or 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.

Subpart E—Experimental Authorizations

SOURCE: 48 FR 52738, Nov. 22, 1983, unless otherwise noted.

§ 5.201 Eligibility of license.

(a) Authorizations for stations in the Experimental Radio Service will be issued only to persons qualified to conduct experimentations utilizing hertzian waves for scientific or technical operation data directly related to a use of radio not provided by existing rules; for communications in connection with research projects when existing communication 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.

§ 5.202 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 for proposed stations in existing services by persons engaged in the business of selling radio equipment.

(g) Testing of equipment in connection with production or type approval of such equipment.

(h) Development of radio technique, equipment or engineering data not relating 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) Other types of experiments that are not specifically covered under paragraphs (a) through (j) of this section will be considered.

§ 5.203 Frequencies for the Experimental Radio Service.

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 as available for assignment to this service. Provided that the need for the specific frequency(ies) requested is fully justified by the applicant.¹

¹Notwithstanding the broad frequency provision for this Service, applicants desiring authorization for the purpose of wildlife or ocean buoy telemetering and/or tracking

Continued

§ 5.204 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 withhold the same unless the public interest requires otherwise.

§ 5.205 Frequencies for field strength surveys or equipment demonstrations.

(a) Authorizations issued under § 5.202 (e) and (f) will normally not have specific frequencies designated in a station license. Prior to the commencement of a survey or demonstration, the licensee will request a specific frequency assignment and submit the following information:

- (1) Time, date and duration of survey.
- (2) Frequency to be used.
- (3) Location of transmitter and geographical area to be covered.
- (4) Purpose of survey.
- (5) Method and equipment to be used.
- (6) Names and addresses of persons for whom the survey is conducted.

(b) Upon receipt of authority from the Commission to conduct a particular survey, the licensee shall furnish the Engineer-in-Charge of the radio district in which the survey is to be conducted, sufficiently in advance to assure receipt before commencement thereof, the following information: Time, date, duration, frequency, location of transmitter, area to be covered, and purpose of survey.

should, to the extent practicable, use frequencies in the bands 40.66–40.70 MHz or 216–220 MHz, in accordance with footnote US210 to the Table of Frequency Allocations, § 2.106 of this chapter. Transmitters to be used in these bands for this purpose shall comply with the requirements set forth in § 5.108 of this part.

§ 5.206 Limited market studies.

Unless otherwise stated in the instrument of authorization, licenses granted for the purpose of limited market studies pursuant to § 5.202(j) 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 market study may be subject to limitations on a case-by-case basis as the Commission shall determine.

Subparts F–G [Reserved]

Subpart H—Student Authorizations

§ 5.401 Eligibility for license.

The Commission may issue an authorization under this subpart to students for the purpose of presenting experiments or technical demonstrations for school or school approved projects which require the use of radio for a limited period of time. Such authorizations may, in the discretion of the Commission, be granted to students of seventh grade or higher level.

§ 5.402 Filing of applications.

(a) Notwithstanding the requirements in subpart B of this part, an application for a student authorization may be filed in letter form, in duplicate, with the original signed. The application shall contain the information set forth in paragraph (b) of this section.

(b) The application shall contain the following information:

- (1) Name and address of applicant.
- (2) A statement that the applicant is a citizen of the United States.
- (3) Applicant's school and grade.
- (4) A detailed description in narrative form of the project including the type and purpose of operation.
- (5) Place of operation—street address, name of building, or other specific location.
- (6) Date(s) of operation including the exact hours, when known, as well as

the duration of each period of operation.

(7) Equipment to be used. If manufactured, list name of manufacturer and type number. For other equipment, describe in detail and furnish a circuit diagram.

(8) Frequency(ies) desired and range of frequencies which could be employed.

(9) The method by which the frequency of operation will be determined.

(10) Frequency tolerance.

(11) The means by which this tolerance will be maintained.

(12) DC plate power input to final radio frequency stage. If not known, indicate any known power rating of equipment and state whether this is power output of transmitter or radiated power, and whether average or peak.

(13) Type of emission including a description of the modulation that will be applied, if modulated.

(14) Description of the antenna to be used, including height above ground.

(c) The application shall be accompanied by a signed statement from the principal of the school, or a member of its faculty, on appropriate letterhead, stating that the project has the approval of the school and indicating the person under whose general supervision the project will be conducted.

§ 5.403 Waiver of construction permit.

Subject to the requirements of §§ 5.401 and 5.402, the provisions contained in section 319(d) of the Communications Act are waived insofar as such provisions require the issuance of a construction permit prior to the issuance of the student authorization provided for in this subpart.

§ 5.404 [Reserved]

§ 5.405 Power limitation.

No authorization under this subpart will be issued unless the description of the project shows that the dc plate power input to the final radio frequency stage does not exceed 5 watts: *Provided, however,* That a greater power may be authorized if a satisfactory showing is made that such greater power is necessary and that appro-

appropriate measures will be taken to prevent interference.

§ 5.406 Frequencies.

(a) Frequencies in the following bands are available for assignment in authorizations issued under this subpart:

27.23-27.28 MHz.

460-461 MHz.

462.525-467.475 MHz.

2450-2500 MHz.

(b) In each case, the carrier frequency must be far enough inside the band so as to keep the sideband energy within the band limits specified.

[28 FR 12506, Nov. 22, 1963, as amended at 35 FR 5618, Apr. 7, 1970]

§ 5.407 Measurements required.

The frequency of operation must be measured or checked prior to each time of operation.

§ 5.408 Waiver of technical and operating requirements.

Subject to the provisions of §§ 5.405, 5.406, and 5.407, the provisions in subparts C and D of this part are waived insofar as such provisions require a station authorized under this subpart to observe the technical and operating requirements set forth therein.

§ 5.409 Noninterference condition.

Each authorization issued to a student under this subpart is subject to the condition that no harmful interference, as defined in § 5.3(h), is caused to any authorized station.

[38 FR 12744, May 15, 1973]

§ 5.410 Record of operation.

(a) The licensee holding an authorization issued under this subpart shall maintain a record of operation containing the following information:

(1) The date and time of each period of operation.

(2) The frequency of operation as measured or checked at the beginning of each period of operation.

(3) A brief description of the experimentation being conducted.

(b) Each entry shall be signed by the person operating the equipment.

(c) These records shall be retained for one month after the termination of the authorization.

§ 5.411 Notification.

(a) The holder of an authorization issued under this subpart shall notify the Engineer in Charge of the district in which the station will be operated in advance of each scheduled operation.

(b) The notice to the Engineer in Charge shall be in writing and shall contain the following information:

- (1) Place of operation.
- (2) Date(s) of operation, including exact time if known.
- (3) Frequency(ies) to be used.
- (4) Call letters of station.

PART 11—EMERGENCY ALERT SYSTEM (EAS)

Subpart A—General

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- 11.11 The Emergency Alert System (EAS).
- 11.12 Two-tone Attention Signal encoder and decoder.
- 11.13 Emergency Action Notification (EAN) and Emergency Action Termination (EAT).
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- 11.51 EAS code and Attention Signal Transmission requirements.
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- 11.61 Tests of EAS procedures.
- 11.62 Closed Circuit Tests of National Level EAS facilities.

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 and TV broadcast stations; Low Power TV (LPTV) stations; cable systems; and other entities and industries operating on an organized basis during emergencies at the National, State, or 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