

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

2. Section 73.682 is amended by adding paragraph (d) as follows:

### § 73.682 TV transmission standards.

\* \* \* \* \*

(d) *Digital broadcast television transmission standard.* Transmission of digital broadcast television (DTV) signals shall comply with the standards for such transmissions set forth in Advanced Television Systems Committee (ATSC) Doc. A/52 ("ATSC Standard Digital Audio Compression (AC-3), 20 Dec 95") and ATSC Doc A/53 ("ATSC Digital Television Standard, 16 Sep 95"), except for Section 5.1.2 ("Compression format constraints") of Annex A ("Video Systems Characteristics") and the phrase "see Table 3" in Section 5.1.1 Table 2 and Section 5.1.2 Table 4. Although not incorporated herein by reference, licensees may also consult ATSC Doc. A/54 ("Guide to the Use of the ATSC Digital Television Standard, 4 Oct 95") for guidance. 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 may be inspected at the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554 or at the Office of the Federal Register, 800 N. Capitol Street, NW., Washington, DC. Copies of ATSC A/52, A/53, and A/54 can be obtained from the Commission's contract copier or from the Advanced Television Systems Committee, 1750 K Street, NW., Suite 800, Washington, DC 20006. They are also available in their entirety on the Internet at <http://www.atsc.org>.

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## 47 CFR Part 101

[ET Docket No. 95-183; PP Docket No. 93-253; FCC 96-486]

### 37.0-38.6 GHz and 38.6-40.0 GHz Bands and Implementation of Section 309(j) of the Communications Act—Competitive Bidding

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** Upon reconsideration, the Commission has decided to lift the

processing freeze on amendments of right filed on applications in the 38.6-40.0 GHz band ("the 39 GHz band") before December 15, 1995.<sup>1</sup> By this action, all applications that were amended to resolve mutual exclusivity before this date will be processed, provided that the original applications had completed their 60-day public notice period as of November 13, 1995. In addition, the Commission clarifies that applications to modify existing 39 GHz licenses and amendments thereto will be processed regardless of when filed, provided they neither enlarge the service area nor change the assigned frequency blocks (except to delete them). In all other respects, previous decisions regarding the filing and processing of 39 GHz applications and amendments are unaffected by this *Memorandum Opinion and Order*.

**EFFECTIVE DATE:** January 17, 1997.

#### FOR FURTHER INFORMATION CONTACT:

Susan Magnotti, Private Wireless Division, (202) 418-0871.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, FCC 96-486, adopted December 20, 1996 and released January 17, 1997. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Washington, DC 20037.

#### Summary of Order

1. By this action, the Commission resolves and provides clarification on the treatment it will afford pending applications in the 38.6-40.0 GHz band ("the 39 GHz band"). The 39 GHz band is used to support fixed point-to-point microwave communications.

2. On September 9, 1994, the Point-to-Point Microwave Section of the Telecommunications Industry Association ("TIA") filed a Petition for Rule Making concerning use of the 39 GHz band and the 37.0-38.6 GHz ("37 GHz") band, for which there are currently no licensing or service rules. On November 13, 1995, the Wireless Telecommunications Bureau ("Bureau") issued a *Freeze Order*, 61 FR 8062 (March 1, 1996) announcing that the Commission would no longer accept for filing applications for new 39 GHz licenses in the Common Carrier or Operational Fixed Point-to-Point

Microwave Radio Services, pending Commission action on TIA's Petition.

3. Thereafter, on December 15, 1995, the Commission issued an *NPRM and Order*, 61 FR 2452 (January 26, 1996) which expanded upon the November 13, 1995 *Freeze Order*, primarily by distinguishing between those pending 39 GHz applications that would be processed and those that would be held in abeyance pending the outcome of the rulemaking proceeding. As a result of the above Commission actions, several parties filed petitions for reconsideration of that portion of the Commission's December 15, 1995 *NPRM and Order* which imposed an interim processing freeze on certain 39 GHz band license applications and amendments. An Emergency Request for Stay of the freeze was also filed. In this *Memorandum Opinion and Order*, the Commission grants these petitions in part and denies them in part. In light of the Commission's decision regarding the petitions for reconsideration, the Emergency Request for Stay is moot.

4. The *NPRM and Order* provided that pending applications would be processed if (1) they were not mutually exclusive with other applications at the time of the Bureau's November 13, 1995 *Freeze Order*, and (2) the 60-day period for filing mutually exclusive applications had expired prior to November 13, 1995. The *NPRM and Order* further provided that those applications that were mutually exclusive with others as of November 13, 1995, or within the 60-day period for filing competing applications on or after November 13, 1995, would be held in abeyance. Amendments to these frozen applications received on or after November 13, 1995, would also be held in abeyance. Moreover, applications for modification of existing 39 GHz licenses filed on or after November 13, 1995, would be held in abeyance, as well as amendments to these modification applications filed on or after November 13, 1995. Finally, no new applications to modify existing licenses, or amendments to pending modification applications, would be accepted for filing on or after December 15, 1995. The foregoing restrictions on modification applications and amendments thereto were not intended to apply if the requested action would neither enlarge the service area nor change frequency blocks (except to delete them).

5. This *Memorandum Opinion and Order* gives some of the relief requested by petitioners by lifting the processing freeze on amendments of right filed before December 15, 1995. Thus, all applications that were amended to

<sup>1</sup> See 47 CFR 101.29 (addressing amendments of right).

resolve mutual exclusivity before December 15, 1995, will be processed, provided the applications had completed the 60-day public notice period on or before November 13, 1995. Another main point of the decision is that the Commission will process those amendments of right filed on or after November 13, 1995, but before December 15, 1995. Further, it will continue to hold in abeyance all pending mutually exclusive applications, unless the mutual exclusivity was resolved by an amendment of right filed before December 15, 1995. In addition, the *Memorandum Opinion and Order* states that applications to modify existing 39 GHz licenses and amendments thereto would be processed regardless of when filed, provided they neither enlarge the service area nor change the assigned frequency blocks (except to delete them). These applications and amendments will be processed and granted, if otherwise in compliance with the Commission's Rules.

#### Ordering Clauses

6. Accordingly, it is hereby ordered that the Petition for Reconsideration submitted by Commco, LLC., PLAINCOM, INC., and Sintra Capital Corporation, and the Petition for Partial Reconsideration filed by DCT Communications, Inc., are hereby granted in part and denied in part.

7. It is further ordered that the Emergency Petition for Stay filed by Commco, L.L.C., PLAINCOM, INC., and Sintra Capital Corporation is hereby dismissed as moot.

8. This action is taken pursuant to the authority found in Sections 4 (i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and 303, and Section 0.131 of the Commission's Rules, 47 CFR 0.131. For further information, contact Susan Magnotti, Private Wireless Division, (202) 418-0871.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**48 CFR Parts 1803, 1805, 1812, 1815, 1835, 1842, 1843, 1844, 1846, 1847, 1848, 1849, 1850, 1851, and 1852**

### Rewrite of the NASA FAR Supplement (NFS)

**AGENCY:** Office of Procurement, National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** Parts 1842 through 1851, except 1845, and clauses affected by these parts are revised in their entirety. Part 1815, Contracting by Negotiation, is revised by relocating the existing coverage on source selection evaluation plans from 1815.612-70(g) to a new separately titled section 1815.605-71, and by establishing a new section 1815.612, Formal source selection. The revision to part 1842 also incorporates the changes published as a proposed rule (61 FR 55264-55266, October 25, 1996). No public comments were received in response to the proposed rule, and the proposed changes are adopted as final except for the deletion of extraneous paragraph 1842.7201(d). Also included in this final rule are editorial changes to 1803 and 1815; a revision to 1805.402 to reflect the prohibition in FAR 15.1005(f) on preaward disclosure of the identify of offerors; a change to 1812 to authorize use of an NFS contract clause in commercial acquisitions; and the adoption as final rule the proposed changes to 1852.223-70 and 1852.247-73 described in the proposed rule to eliminate non-statutory contractor certification requirements (61 FR 66643-66646).

**EFFECTIVE DATE:** March 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Tom O'Toole, (202) 358-0478.

#### SUPPLEMENTARY INFORMATION:

#### Background

The National Performance Review urged agencies to streamline and clarify their regulations. The NFS rewrite initiative was established to pursue these goals by conducting a section by section review of the NFS to verify its accuracy, relevancy, and validity. The NFS will be rewritten in blocks of parts. Upon completion of all parts, the NFS will be reissued in a new edition.

#### Impact

NASA certifies that this regulation will not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 602 *et seq.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

**List of Subjects in 48 CFR Parts 1803, 1805, 1812, 1815, 1835, 1842, 1843, 1844, 1846, 1847, 1848, 1849, 1850, 1851, and 1852**

Government procurement.

**Tom Luedtke,**

*Deputy Associate Administrator for Procurement.*

Accordingly, 48 CFR Parts 1803, 1805, 1812, 1815, 1835, 1842, 1843, 1844, 1846, 1847, 1848, 1849, 1850, 1851, and 1852 are amended as follows:

1. The authority citation for 48 CFR 1803, 1805, 1812, 1815, 1835, 1842, 1843, 1844, 1846, 1847, 1849, 1850, 1851, and 1852 continues to read as follows:

**Authority:** U.S.C. 2473(c)(1).

### PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

#### 1803.101-1 [Amended]

2. The first sentence in section 1803.101-1 is revised to read as follows:

#### 1803.101-1 General.

The statutory prohibitions and their application to NASA personnel are discussed in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and the Supplemental Standards of Ethical Conduct for Employees of the National Aeronautics and Space Administration, 5 CFR part 6901. \* \* \*

#### 1803.101-2 [Amended]

3. In section 1803.101-2, the phrase "(See Standards of Conduct for NASA Employees, NHB 1900.1.)" is removed.

#### 1803.104-5 [Amended]

4. In paragraph (d)(1)(A) of section 1803.104-5, the phrase "under 1870.303, App. I," is revised to read "(see 1815.612-70)".

### PART 1805—PUBLICIZING CONTRACT ACTIONS

#### 1805.402 [Amended]

5. Section 1805.402 is revised to read as follows:

#### 1805.402 General public. (NASA paragraphs (1) and (2))

(1) Unless the head of the contracting activity determines that disclosure would be prejudicial to the interests of NASA, the following information on NASA acquisitions may be released:

(i) The names of firms invited to submit offers, and