

because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 29, 1997.

John P. DeVillars,

Regional Administrator, Region I.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart EE—New Hampshire

2. Section 52.1533 is added to read as follows:

§ 52.1533 Emission inventories.

(a) The Governor's designee for the State of New Hampshire submitted a 1990 base year emission inventory for the entire state on January 26, 1993 as a revision to the State Implementation Plan (SIP). Subsequent revisions to the State's 1990 inventories were made, the last of which occurred on August 29, 1996. The 1990 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for the three nonattainment areas in the State. The three areas are the Portsmouth-Dover-Rochester serious area, the New Hampshire portion of the Boston-Lawrence-Worcester serious area, and the Manchester marginal area.

(b) The inventory is for the ozone precursors which are volatile organic compounds, nitrogen oxides, and

carbon monoxide. The inventory covers point, area, non-road mobile, on-road mobile, and biogenic sources.

(c) The Portsmouth-Dover-Rochester serious nonattainment area includes all of Strafford County and part of Rockingham County. The New Hampshire portion of the Boston-Lawrence-Worcester serious area includes portions of Hillsborough and Rockingham Counties. The Manchester marginal area contains all of Merrimack County and portions of Hillsborough and Rockingham Counties.

3. Section 52.1520 is amended by adding paragraph (c)(52) to read as follows:

§ 52.1520 Identification of plan.

(c) * * *

(52) A revision to the New Hampshire SIP regarding ozone monitoring. The State of New Hampshire will modify its SLAMS and its NAMS monitoring systems to include a PAMS network design and establish monitoring sites. The State's SIP revision satisfies 40 CFR 58.20(f) PAMS requirements.

(i) Incorporation by reference.

(A) State of New Hampshire Photochemical Assessment Monitoring Stations—Network Plan—Network Overview.

(ii) Additional material.

(A) NH-DES letter dated December 13, 1994, and signed by Thomas M. Noel, Acting Director, NH-DES.

[FR Doc. 97-28371 Filed 10-24-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 5, 21, 22, 23, 24, 25, 26, 27, 73, 74, 78, 80, 87, 90, 95, 97, and 101

[ET Docket No. 96-2; FCC 97-347]

Arecibo Coordination Zone

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *Report and Order* establishes a Coordination Zone that covers the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra within the Commonwealth of Puerto Rico (the Puerto Rican Islands). The Coordination Zone requires applicants for new and modified radio facilities in various communications services within the Coordination Zone to provide notification of their proposed operations to the Arecibo Radio Astronomy Observatory (Observatory) near Arecibo,

Puerto Rico, and operated by Cornell University (Cornell), at the time their applications are submitted to the Commission. The Coordination Zone and notification procedures will enable the Observatory to receive information needed to assess whether an applicant's proposed operations will cause harmful interference to the Observatory's operations and will promote efficient resolution of problems through coordination between applicants and the Observatory.

EFFECTIVE DATE: December 26, 1997.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418-2452.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, ET Docket 96-2, FCC 97-347, adopted September 26, 1997, and released October 15, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, N.W. Washington, D.C. 20036.

The establishment of the Coordination Zone was proposed in the Notice of Proposed Rule Making, 61 FR 10709, March 15, 1996.

Summary of the Report and Order

1. By this action, the Commission establishes a Coordination Zone that covers the Puerto Rican Islands. The Coordination Zone requires applicants for new and modified radio facilities in various communications services within the Coordination Zone to provide notification of their proposed operations to the Observatory at the time their applications are submitted to the Commission. The Observatory will have 20 days to file comments with the Commission regarding each application's potential for interference, and applicants will be responsible for making reasonable efforts to accommodate the interference concerns of the Observatory. The Coordination Zone and notification procedures will enable the Observatory to receive information needed to assess whether an applicant's proposed operations will cause harmful interference to the Observatory's operations and will promote efficient resolution of problems through coordination between applicants and the Observatory.

2. The Commission believes that the Observatory is a unique scientific tool, and finds that harmful interference to

the Observatory's operations is a serious concern. We also agree with comments from Puerto Rican telecommunications service providers that their services are highly important and must be maintained. However, we note that we have a statutory obligation to prevent and resolve radio frequency interference through enforcement and effective spectrum management policies. Whenever possible, we attempt to streamline our processes and reduce the burden on licensees and license applicants, but in some instances a minimally increased burden must be imposed to allow the public the widest range of telecommunications benefits.

3. We agree with Cornell that sources of technical information currently available to the Observatory are insufficient. Further, the provision of technical information to the Observatory would be a minimal burden and could be done electronically at little or no cost to the applicant. We also agree with Cornell that the four-mile Commonwealth of Puerto Rico Protection Zone is inadequate to protect the Observatory's operations. Four miles is a relatively short range for many radio transmitters, and high power transmitters at a high elevation can interfere with the Observatory from a much greater distance. For similar reasons, we believe that a smaller Coordination Zone not encompassing the entirety of the Puerto Rican Islands would provide insufficient protection to the Observatory.

4. We disagree with comments from telecommunications providers who argue that the Coordination Zone will deprive the citizens of Puerto Rico of adequate radio service. We believe that if service providers and the Observatory work together, adequate service can be maintained without harming the operations of the Observatory. We also observe that adoption of a Coordination Zone would neither allocate additional spectrum for Radio Astronomy Service (RAS) use, nor provide the Observatory additional rights to spectrum allocated to other services. For that reason, we disagree with arguments that state that money expended by service providers to use frequencies in the Puerto Rican Islands is relevant to establishment of a Coordination Zone. Further, we disagree with comments that state that allowing the Observatory to challenge a license application would result in an illegal delegation of the Commission's authority to the Observatory to determine whether an application will be granted. We emphasize that while the Observatory may challenge an application, only the Commission can

make the decision regarding the grant of that application.

5. Therefore, we are establishing a Coordination Zone that covers the Puerto Rican Islands. Within the Coordination Zone, applicants in affected services will be required to submit to the Observatory technical information about the proposed transmissions no later than the date the application is filed with the Commission. The technical submission must include: (1) proposed frequency and FCC Rule Part; (2) effective radiated power or effective isotropic radiated power; (3) antenna height; (4) antenna directivity and gain, if any; (5) geographic coordinates of the antenna (NAD-83 datum); and (6) type of emission; and (7) whether the proposed use is itinerant. To minimize the administrative burden on service applicants, we will permit this notification to be made either in writing or electronically. We believe that either notification method will help safeguard the Observatory's operations without diminishing the provision of important radio services to Puerto Rican citizens.

6. As stated in the *NPRM*, the sensitivity of the Observatory and the many types of services that could cause interference necessitates that we include in the Coordination Zone most services that operate on frequencies below 15 GHz. While we see no need to include frequencies above 15 GHz, which are not currently used or requested by the Observatory, harmonic and spurious emissions from different services are often spread across a wide range of spectrum below 15 GHz. Additionally, scientific exploration requires flexibility and the ability to passively utilize spectrum below 15 GHz that may not be allocated to the RAS.

7. With respect to Special Temporary Authorizations (STAs), we note that they are used in several services for a variety of purposes, and that some of these uses could cause substantial interference to the operations of the Observatory. We also find that it will be minimally burdensome in most instances for an STA applicant to provide technical information to the Observatory at the same time it files the STA request with the Commission. In the case of an emergency operation, the licensee will be permitted to notify the Observatory as soon as possible after beginning operation.

8. With respect to amateur radio operations, we are adopting our proposal to exclude from the Coordination Zone a large number of amateur stations. However, we agree with Cornell that new amateur beacon and repeater stations within 10 miles of

the Observatory have a significant potential for interference—a greater potential than Civil Air Patrol repeaters or the Military Amateur Radio System service—and find that those amateur operations must be included in the Coordination Zone.

9. Accordingly, we are adopting our proposal that most applicants for part 5, 21, 22, 23, 24, 25, 26, 27, 73, 74, 78, 80, 87, 90, 95, 97, and 101 services within the Coordination Zone must notify the Observatory of their proposed operations. This requirement will not apply to applicants for services that operate on frequencies above 15 GHz, nor will it apply to applicants for mobile stations in land mobile radio services, temporary base or temporary fixed stations (other than short-term broadcast auxiliary operations), the Civil Air Patrol, new amateur stations (other than amateur beacon and repeater stations within 10 miles of the Observatory), mobile Earth terminals licensed under part 25, or stations aboard ships or aircraft. We emphasize again that we are not providing the Observatory additional rights to spectrum allocated to services, but that the high potential for interference from multiple services requires an inclusive Coordination Zone.

10. We acknowledge Cornell's concern that our proposed 20-day Observatory comment period is brief; however, we note that this same comment period is provided to the National Radio Astronomy Observatory (NRAO) and appears to have worked satisfactorily. Accordingly, we are adopting our proposal to permit the Observatory a 20-day comment period, commencing when the application is filed with us.

11. The Coordination Zone encompasses a large number of services, operating at differing powers and frequencies. Additionally, factors such as terrain and propagation characteristics further complicate interference evaluations. Therefore, we find that it would be extremely time-consuming and difficult for the Commission to establish interference standards that would apply to all service applicants. However, we concur with comments that state that interference guidelines could lessen coordination problems, and Cornell has proposed to develop such guidelines. While we are cognizant of the concerns of service providers regarding Cornell's objectivity in developing these guidelines, we believe that Cornell will have an incentive to cooperate with service providers. If Cornell develops unrealistically stringent guidelines, service providers would undoubtedly

challenge them, resulting in a large administrative burden on Cornell. Further, under a guideline approach, the Commission would remain the sole entity that has the authority to rule on any service applications.

12. Accordingly, we are not establishing Commission interference standards, but are requiring that Cornell provide interference guidelines to service applicants so that applicants may consider protection to the Observatory in the early design phase of radio facilities. Cornell has stated that such guidelines can be made available to applicants in advance of application preparation. We believe that these guidelines will help ensure that coordination between applicants and the Observatory will proceed in a smooth manner, and as experience is gained by both applicants and Cornell, become routine.

13. The Commission also proposed requiring applicants to be responsible for making "reasonable efforts" to accommodate the interference concerns of the Observatory. We find that "reasonable efforts" will vary from case to case, depending on the degree of harm to the Observatory's operations and the extent of the change needed to prevent such harm. For example, if significant harm to the Observatory's operations could be avoided by a service applicant making a minor, low-cost change to its operations, making that change would be reasonable. On the other hand, if minor harm to the Observatory's operations could be avoided only by a service applicant making a major, high-cost change to its operations, making that change would be unreasonable. Nonetheless, to attempt to set forth a general definition of the term "reasonable efforts" would be extremely difficult, if not impossible. We find that use of this term in our rules without definition would not validate the Administrative Procedure Act. Further, we are encouraged that the Observatory has in the past successfully coordinated informally with many providers of Puerto Rican Island radio services, and believe that there is some understanding among service providers of what constitutes a "reasonable effort." We anticipate that future coordination will simply be on a more formal basis, and that the Observatory and service providers will come to mutually acceptable agreements in most cases.

14. To the extent that a service applicant and the Observatory agree that the applicant's proposed operations would cause harmful interference to the Observatory, the applicant may either pay to modify its own proposed

operations or—with the consent of the Observatory—to upgrade the Observatory's facilities. Should a dispute arise between the Observatory and the applicant regarding whether the applicant has made a reasonable effort to avoid interference to the Observatory, the applicant may refuse to pay for any modifications or upgrades recommended by the Observatory and permit the Commission to resolve the dispute. To the extent that the Commission determines that reasonable efforts have been made by the applicant to protect the Observatory from interference, there will be no further obligation for the applicant to modify its proposed operations or to upgrade the Observatory's facilities. Consequently, if under those circumstances the Observatory believes that the applicant's proposed operations must be modified or its own facilities upgraded to protect the Observatory from interference, the Observatory will be required to pay for any such modification or upgrade.

15. We find that all modifications that have a potential to increase interference to the Observatory must be coordinated with the Observatory. However, we will rely on the engineering judgment of the service applicant to determine when a minor modification has the potential for increased interference. We believe this approach is preferable to requiring that all minor modifications be reported to the Observatory, because the latter approach could significantly increase the administrative burden on both the applicant and Cornell.

16. We have been streamlining our applications process for several commercial wireless radio services to reduce unnecessary paperwork and increase efficiency. For example, with respect to paging towers, cellular base stations, and PCS base stations, no individual station licenses are issued—rather, geographical licenses are issued to cover an entire area. Some commercial wireless entities argue that the Coordination Zone should not apply to these services, except to the extent that the Commission must be notified of their operations.

17. Although the Commission is streamlining the application process for commercial wireless services, we find no reason why transmitters in services in which individual licenses are not issued should not have to comply with the requirements of the Coordination Zone. Further, we note that operators in these services must comply with the notification requirements of the Radio Quiet Zone when new transmitters are introduced, and believe it will be minimally burdensome for them to notify the Observatory.

18. Accordingly, operators of transmitters in services in which no individual licenses are issued will be required to notify the Observatory at least 45 days prior to commencing operations of a new transmitter that may cause harmful interference to the operations of the Observatory. We will rely upon each operator to determine when a transmitter may pose an interference threat to the operations of the Observatory. As is the case with other services within the Coordination Zone, the Observatory will have 20 days to file comments with the Commission regarding any such transmitter.

19. We will permit part 90 service applicants to make their notifications to the Observatory through recognized frequency coordinators, while holding applicants responsible for making reasonable efforts to accommodate the interference concerns of the Observatory. We find that advance coordination with several parties, including the Observatory, is sufficient in cases in which no changes that could affect the operations of the Observatory are made to the application subsequent to such coordination. However, to the extent that such changes are made, the Observatory must be notified at the time the application is filed with the Commission. Our goal is to permit flexibility in coordination, while ensuring that the Observatory has adequate notice of applications that could affect its operations.

20. It is ordered, that parts 5, 21, 22, 23, 24, 25, 26, 27, 73, 74, 78, 80, 87, 90, 95, 97, and 101 are AMENDED. This action is authorized by Sections 4(i), 303(c), 303(f), 303(g), 303(r) and 309(j)(13) of the Communications Act of 1934, as amended, 47 U.S.C. Section 154(i), 303(c), 303(f), 303(g), 303(r), and 309(j)(13).

Final Regulatory Flexibility Analysis

21. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 ("RFA"), an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated into the *NPRM* in ET Docket No. 92-6.¹ The Commission sought written public comments on the proposals in the *NPRM*, including the IRFA. The Commission's Final Regulatory Flexibility Analysis ("FRFA") in this *Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104-121, 110 Stat. 847 (1996).²

Need for and Objective of the Rules

22. In this decision, the Commission establishes a Coordination Zone that covers the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra within the Commonwealth of Puerto Rico (the Puerto Rican Islands). The Arecibo Observatory is the largest and most sensitive radio astronomy facility in the world and the increasing number of communications services on Puerto Rico has caused increased interference problems for the Observatory. The Coordination Zone is needed to inform the Arecibo Observatory of future stations that may have a potential to interfere with the Observatory's operations and to encourage applicants for radio services to coordinate their operations with the Observatory to prevent interference problems.

Summary of Issues Raised by the Public Comments in Response to the IRFA

23. No comments were filed in direct response to the IRFA. In general comments to the *NPRM*, however, some parties raised concerns that establishment of a Coordination Zone might burden Commission licensees and license applicants, including some entities that may be small businesses. Specifically, some parties that would be affected by the Coordination Zone argue that it is an unnecessary burden that would delay the provision of communications services and increase the costs of establishing an operation with limited benefit to the Observatory. Some comments argue that this action would give the Observatory additional rights to spectrum not allocated to the Radio Astronomy Service and would delegate authority to the Observatory to determine whether a proposed station would cause interference and whether the application should be granted. However, the Commission has determined that providing the Observatory information regarding proposed facilities would be a minimal burden, and that the public benefit in protecting the Observatory's operations from harmful interference justifies any minimal burden that may be created. Further, an applicant may refuse to make modifications that it believes are unreasonable and permit the Commission to determine whether such modifications are necessary. If the Commission determines that an applicant has made a reasonable effort to address the interference concerns of the Observatory, the application may be granted even if the resultant operations cause interference to the Observatory.

Description and Estimate of Small Entities Subject to Which Rules Will Apply

24. The rules adopted in the *Report and Order* will apply to applicants for part 5, 21, 22, 23, 24, 25, 26, 27, 73, 74, 78, 80, 87, 90, 94, 95 and 97 services within the Coordination Zone, with the following exceptions: The rules will apply only to applicants for services that operate on frequencies under 15 GHz, and will not apply to applicants for mobile stations in land mobile radio services, temporary base or temporary fixed stations (other than short-term broadcast auxiliary operations), the Civil Air Patrol, new amateur stations (other than amateur beacon and repeater stations within 10 miles of the Observatory), mobile Earth terminals licensed under Part 25, or stations aboard ships or aircraft. The Commission has not developed a definition of small entities applicable to the services affected by this *Report and Order*. Therefore, the applicable definition of small entity is the one under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.³ We acknowledge the likelihood that under this definition the great majority of entities affected by the *Report and Order* are small entities; however, the number of such entities cannot be accurately estimated.

Projected Reporting, Recordkeeping and Other Compliance Requirements of the Rules

25. The Coordination Zone will require applicants for new and modified radio facilities in various communications services within the affected areas to provide notification of their proposed operations to the Observatory, at the time their applications are submitted to the Commission. The Coordination Zone will facilitate advanced coordination between the Observatory and applicants for new services so that applicants can consider the protection of the Observatory when designing their system. Service applicants will be responsible for making reasonable efforts to accommodate the interference concerns of the Observatory and the Observatory will be permitted to file comments regarding an application up to 20 days after the application is filed with the Commission.

³ 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4899.

¹ 11 FCC Rcd 1716 (1996).

² Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. 601 *et seq.*

26. The Coordination Zone encompasses a large number of services, operating at differing powers and frequencies. Additionally, factors such as terrain and propagation characteristics further complicate interference evaluations. Therefore, we find that it would be extremely time-consuming and difficult for the Commission to establish interference standards that would apply to all service applicants. However, we concur with comments that state that interference guidelines could lessen coordination problems, and Cornell has proposed to develop such guidelines. While we are cognizant of the concerns of service providers regarding Cornell's objectivity in developing these guidelines, we believe that Cornell will have an incentive to cooperate with service providers. If Cornell develops unrealistically stringent guidelines, service providers would undoubtedly challenge them, resulting in a large administrative burden on Cornell. Further, under a guideline approach, the Commission would remain the sole entity that has the authority to delay any service applications, if we find that an applicant has not made reasonable efforts to avoid interference to the Observatory.

27. We are not establishing Commission interference standards, but are adopting SBE's alternative proposal that Cornell provide interference guidelines to service applicants so that applicants may consider protection to the Observatory in the early design phase of radio facilities. Cornell has stated that such guidelines can be made available to applicants in advance of application preparation. We believe that these guidelines will help ensure that coordination between applicants and the Observatory will proceed in a smooth manner, and as experience is gained by both applicants and Cornell, become routine.

Steps Taken to Minimize Significant Economic Impact on Small Entities Consistent with Stated Objectives

28. To the extent that a service applicant and the Observatory agree that the applicant's proposed operations would cause harmful interference to the Observatory, the applicant may either pay to modify its own proposed operations or—with the consent of the Observatory—to upgrade the Observatory's facilities. Should a dispute arise between the Observatory and the applicant regarding whether the applicant has made a reasonable effort to avoid interference to the Observatory, the applicant may refuse to pay for any modifications or upgrades

recommended by the Observatory and permit the Commission to resolve the dispute. To the extent that the Commission determines that reasonable efforts have been made by the applicant to protect the Observatory from interference, there will be no further obligation for the applicant to modify its proposed operations or to upgrade the Observatory's facilities. Consequently, if under those circumstances the Observatory believes that the applicant's proposed operations must be modified or its own facilities upgraded to protect the Observatory from interference, the Observatory will be required to pay for any such modification or upgrade.

29. Report to Congress: The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A).

List of Subjects

47 CFR Part 5

Radio.

47 CFR Part 21

Communications common carriers, Radio.

47 CFR Part 22

Communications common carriers, Radio.

47 CFR Part 23

Communications common carriers, Radio.

47 CFR Part 24

Personal communications services, Radio.

47 CFR Part 25

Communications common carriers, Radio.

47 CFR Part 26

General wireless communications service, Radio.

47 CFR Part 27

Wireless communications service, Radio.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 74

Radio broadcasting, Television broadcasting.

47 CFR Part 78

Cable television, Radio.

47 CFR Part 80

Marine safety, Radio.

47 CFR Part 87

Defense communications, Radio.

47 CFR Part 90

Land mobile, Radio.

47 CFR Part 95

Radio.

47 CFR Part 97

Civil defense, Radio.

47 CFR Part 101

Fixed microwave services, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Parts 5, 21, 22, 23, 24, 25, 26, 27, 73, 74, 78, 80, 87, 90, 95, 97, and 101 are amended as follows:

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

1. The authority citation for part 5 continues to read as follows:

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.

2. Section 5.70 is added to read as follows:

§ 5.70 Notification to the Arecibo Observatory.

Any applicant for a new permanent base or fixed station to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu

(a) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state

the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(b) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(c) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201-205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070-1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201-205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

2. Section 21.113 is amended by revising the section heading and adding new paragraph (d) to read as follows:

§ 21.113 Quiet zones and Arecibo Coordination Zone.

* * * * *

(d) Any applicant for a new permanent base or fixed station to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical

parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu

(1) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(2) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(3) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

PART 22—PUBLIC MOBILE SERVICES

1. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 22.369 is amended by revising the section heading and adding new paragraph (d) to read as follows:

§ 22.369 Quiet zones and Arecibo Coordination Zone.

* * * * *

(d) *Arecibo, Puerto Rico.* The requirements of this paragraph are intended to minimize possible interference at the Arecibo Observatory in Puerto Rico. Licensees must make reasonable efforts to protect the Observatory from interference.

(1) Carriers planning to construct and operate a new Public Mobile Services

station at a permanent fixed location on the islands of Puerto Rico, Desecheo, Mona, Vieques and Culebra or planning a modification of an existing authorization on these islands that would increase the likelihood of the authorized facility causing interference must notify, at least 20 days in advance, 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 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.

(2) When an application for authority to operate a station is filed with the FCC, the notification required in paragraph (d)(1) of this section should be sent at the same time. The application must state the date that notification in accordance with paragraph (d)(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 to the planned operation is received during the 20-day period from the Interference Office, the FCC will take whatever action is deemed appropriate.

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

1. The authority citation for part 23 continues to read as follows:

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

2. Section 23.20 is amended by adding paragraph (f) to read as follows:

§ 23.20 Assignment of frequencies.

* * * * *

(f) Any applicant for a new permanent base or fixed station to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the

Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu

(1) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(2) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(3) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

PART 24—PERSONAL COMMUNICATIONS SERVICES

1. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309, and 332, unless otherwise noted.

2. A new § 24.18 is added to read as follows:

§ 24.18 Notification to the Arecibo Observatory.

The requirements in this section are intended to minimize possible interference at the Arecibo Observatory in Puerto Rico. Licensees must make reasonable efforts to protect the Observatory from interference.

Licensees planning to construct and operate a new station at a permanent fixed location on the islands of Puerto Rico, Desecheo, Mona, Vieques and Culebra or planning a modification of an existing authorization on these islands that would increase the likelihood of the authorized facility causing interference must notify, at least 20 days in advance of such operation, 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. Licensees 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 the geographical coordinates of the antenna location (NAD-83 datum), the antenna height, antenna directivity (if any), proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. If an objection to the planned operation is received during the 20-day period from the Interference Office, the FCC will take whatever action is deemed appropriate.

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101-104, 76 Stat. 419-427; 47 U.S.C. 701-744; 47 U.S.C. 554.

2. Section 25.203(i) is added to read as follows:

§ 25.203 Choice of sites and frequencies.

(i) Any applicant for a new permanent transmitting fixed earth station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of such station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information

electronically should e-mail to: prcz@naic.edu

(1) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(2) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(3) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

* * * * *

PART 26—GENERAL WIRELESS COMMUNICATIONS SERVICE

1. The authority citation for part 26 continues to read as follows:

Authority: 47 U.S.C. Sections 154, 301, 302, 303, 309, and 332, unless otherwise noted.

2. A new § 26.105 is added to read as follows:

§ 26.105 Notification to the Arecibo Observatory.

The requirements in this section are intended to minimize possible interference at the Arecibo Observatory in Puerto Rico. Licensees must make reasonable efforts to protect the Observatory from interference. Licensees planning to construct and operate a new station at a permanent fixed location on the islands of Puerto Rico, Desecheo, Mona, Vieques and Culebra or planning a modification of an existing authorization on these islands that would increase the likelihood of the

authorized facility causing interference must notify, at least 20 days in advance of such operation, 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. Licensees 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 the geographical coordinates of the antenna location (NAD-83 datum), the antenna height, antenna directivity (if any), proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. If an objection to the planned operation is received during the 20-day period from the Interference Office, the FCC will take whatever action is deemed appropriate.

PART 27—WIRELESS COMMUNICATIONS SERVICE

1. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. Sections 154, 301, 302, 303, 307, 309, and 332, unless otherwise noted.

2. Section 27.62 is added to read as follows:

§ 27.62 Notification to the Arecibo Observatory.

The requirements in this section are intended to minimize possible interference at the Arecibo Observatory in Puerto Rico. Licensees must make reasonable efforts to protect the Observatory from interference. Licensees planning to construct and operate a new station at a permanent fixed location on the islands of Puerto Rico, Desecheo, Mona, Vieques and Culebra or planning a modification of an existing authorization on these islands that would increase the likelihood of the authorized facility causing interference must notify, at least 20 days in advance of such operation, 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. Licensees 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 the geographical coordinates of the antenna location (NAD-83 datum), the antenna height, antenna directivity (if any), proposed

frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. If an objection to the planned operation is received during the 20-day period from the Interference Office, the FCC will take whatever action is deemed appropriate.

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334.

2. Section 73.1030 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding new paragraph (a)(2) to read as follows:

§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

(a) * * *

(2) Any applicant for a new permanent base or fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu

(i) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, and effective radiated power. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(ii) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for

comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. The authority citation for part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, 554.

2. A new § 74.24(j) is added to read as follows:

§ 74.24 Short-term operation.

* * * * *

(j)(1) This paragraph applies only to operations which will transmit on frequencies under 15 GHz. Prior to commencing short-term operation of a remote pickup broadcast station, a remote pickup automatic relay station, an aural broadcast STL station, an aural broadcast intercity relay station, a TV STL station, a TV intercity relay station, a TV translator relay station, a TV pickup station, or a TV microwave booster station within the 4-mile (6.4 kilometer) radius Commonwealth of Puerto Rico Protection Zone (centered on NAD-83 Geographical Coordinates North Latitude 18°20'38.28", West Longitude 66°45'09.42"), an applicant must notify the Arecibo Observatory, located near Arecibo, Puerto Rico. Operations within the Puerto Rico Coordination Zone (*i.e.*, on the islands of Puerto Rico, Desecheo, Mona, Vieques, or Culebra), but outside the Protection Zone, whether short term or long term, shall provide notification to the Arecibo Observatory prior to commencing operation. Notification should be directed to the following: Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, Tel. (809) 878-2612, Fax (809) 878-1861, E-mail prcz@naic.edu.

(2) Notification of short-term operations may be provided by telephone, fax, or electronic mail. The notification for long-term operations shall be written or electronic, and shall

set forth the technical parameters of the proposed station, including the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Observatory. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. After receipt of such applications in non-emergency situations, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted. In emergency situations in which prior notification or approval is not practicable, notification or approval must be accomplished as soon as possible after operations begin.

PART 78—CABLE TELEVISION RELAY SERVICE

1. The authority citation for part 78 continues to read as follows:
Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.
2. Section 78.19 is amended by redesignating paragraph (c) as paragraph (c)(1) and adding new paragraph (c)(2) to read as follows:

§ 78.19 Interference.

* * * * *

(c) * * *
(2) Any applicant for a new permanent base or fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the

likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu

(i) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the transmit antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective isotropic radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(ii) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(iii) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:
Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.
2. A new § 80.21(f) is added to read as follows:

§ 80.21 Supplemental information required.

* * * * *

(f) Any applicant for a new permanent base or fixed station to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu

(1) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(2) After receipt of such applications, the Commission will allow a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(3) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

PART 87—AVIATION SERVICES

1. The authority citation for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. Section 87.23 is amended by redesignating paragraph (a) as paragraph(a)(1) and adding new paragraph (a)(2) to read as follows:

§ 87.23 Supplemental information required.

(a) * * *

(2) Any applicant for a new permanent base or fixed station to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(i) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD–83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(ii) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, if appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the

Observatory from interference, its application may be granted.

(iii) The provisions of this paragraph do not apply to Civil Air Patrol stations or to operations that transmit on frequencies above 15 GHz.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.129(e) is revised to read as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

* * * * *

(e) Applicants proposing to construct a radio station in the vicinity of radio astronomy observatories in West Virginia; on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra; or in the vicinity of a radio receiving zone in Colorado must submit the statements prescribed by § 90.177.

* * * * *

3. Section 90.177 is amended by revising the introductory paragraph and adding new paragraph (f) to read as follows:

§ 90.177 Protection of certain radio receiving locations.

This section pertains to applications for new or modified authorizations in the vicinity of the National Radio Astronomy Observatory, Green Bank, Pocahontas County, WV; the Naval Radio Research Observatory, Sugar Grove, Pendleton County, WV; the Arecibo Observatory, which is part of the National Astronomy and Ionosphere Center, located near Arecibo, PR; the Table Mountain Radio Receiving Zone, Boulder County, CO.; the Federal Communications Commission monitoring stations; and other protected sites.

* * * * *

(f) Any applicant for a new permanent base or fixed station to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical

parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD–83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(2) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, if appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(3) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

PART 95—PERSONAL RADIO SERVICES

1. The authority citation for part 95 continues to read as follows:

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

2. A new § 95.42 is added to read as follows:

§ 95.42 Considerations in the Puerto Rico Coordination Zone.

Any applicant for a new base or fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility

causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(a) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(b) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(c) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

3. A new § 95.192(d) is added to read as follows:

§ 95.192 (FRS Rule 2) Authorized locations.

* * * * *

(d) Anyone intending to operate an FRS unit on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra in a manner that could pose an interference threat to the Arecibo Observatory shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the location of the unit. Operators may wish to consult interference guidelines, which will be provided by Cornell University.

Operators who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification to the Interference Office, Arecibo Observatory shall be made 45 days prior to commencing operation of the unit. The notification shall state the geographical coordinates of the unit.

(2) After receipt of such notifications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections. The operator will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory. If the Commission determines that an operator has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, the unit may be allowed to operate.

4. A new § 95.206(c) is added to read as follows:

§ 95.206 (R/C Rule 6) Are there any special restrictions on the location of my R/C stations?

* * * * *

(c) Anyone intending to operate an R/C station on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra in a manner that could pose an interference threat to the Arecibo Observatory shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the location of the unit. Operators may wish to consult interference guidelines, which will be provided by Cornell University. Operators who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification to the Interference Office, Arecibo Observatory shall be made 45 days prior to commencing operation of the unit. The notification shall state the geographical coordinates of the unit.

(2) After receipt of such notifications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections. The operator will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory. If the Commission determines that an operator has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, the unit may be allowed to operate.

5. A new Section 95.405(d) is added to read as follows:

§ 95.405 (CB Rule 5) Where may I operate my CB station?

* * * * *

(d) Anyone intending to operate a CB station on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra in a manner that could pose an interference threat to the Arecibo Observatory shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the location of the unit. Operators may wish to consult interference guidelines, which will be provided by Cornell University. Operators who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification to the Interference Office, Arecibo Observatory shall be made 45 days prior to commencing operation of the unit. The notification shall state the geographical coordinates of the unit.

(2) After receipt of such notifications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections. The operator will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory. If the Commission determines that an operator has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, the unit may be allowed to operate.

6. A new § 95.840 is added to read as follows:

§ 95.840 Considerations in the Puerto Rico Coordination Zone.

Any applicant for a new IVDS system authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(a) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation

at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(b) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

7. A new § 95.1003(c) is added to read as follows:

§ 95.1003 Authorized locations.

* * * * *

(c) Anyone intending to operate an LPRS transmitter on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra in a manner that could pose an interference threat to the Arecibo Observatory shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the location of the unit. Operators may wish to consult interference guidelines, which will be provided by Cornell University. Operators who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification to the Interference Office, Arecibo Observatory shall be made 45 days prior to commencing operation of the transmitter. The notification shall state the geographical coordinates of the unit.

(2) After receipt of such notifications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections. The operator will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory. If the Commission determines that an operator has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, the unit may be allowed to operate.

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. A new § 97.203(h) is added to read as follows:

§ 97.203 Beacon station.

* * * * *

(h) The provisions of this paragraph do not apply to beacons that transmit on the 1.2 cm or shorter wavelength bands. Before establishing an automatically controlled beacon within 16 km (10 miles) of the Arecibo Observatory or before changing the transmitting frequency, transmitter power, antenna height or directivity of an existing beacon, the station licensee must give written notification thereof to the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Licensees who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification shall state the geographical coordinates of the antenna (NAD–83 datum), antenna height above mean sea level (AMSL), antenna center of radiation above ground level (AGL), antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Licensees may wish to consult interference guidelines provided by Cornell University.

(2) If an objection to the proposed operation is received by the FCC from the Arecibo Observatory, Arecibo, Puerto Rico, within 20 days from the date of notification, the FCC will consider all aspects of the problem and take whatever action is deemed appropriate.

3. A new § 97.205(h) is added to read as follows:

§ 97.205 Repeater station.

* * * * *

(h) The provisions of this paragraph do not apply to repeaters that transmit on the 1.2 cm or shorter wavelength bands. Before establishing a repeater within 16 km (10 miles) of the Arecibo Observatory or before changing the transmitting frequency, transmitter power, antenna height or directivity of an existing repeater, the station licensee must give written notification thereof to the Interference Office, Arecibo

Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Licensees who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification shall state the geographical coordinates of the antenna (NAD–83 datum), antenna height above mean sea level (AMSL), antenna center of radiation above ground level (AGL), antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Licensees may wish to consult interference guidelines provided by Cornell University.

(2) If an objection to the proposed operation is received by the FCC from the Arecibo Observatory, Arecibo, Puerto Rico, within 20 days from the date of notification, the FCC will consider all aspects of the problem and take whatever action is deemed appropriate.

PART 101—FIXED MICROWAVE SERVICES

1. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154 and 303, unless otherwise noted.

2. Section 101.123 is amended by revising the section heading and adding new paragraph (d) to read as follows:

§ 101.123 Quiet zones and Arecibo Coordination Zone.

* * * * *

(d) Any applicant for a new permanent fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, Post Office Box 995, Arecibo, Puerto Rico 00613, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should e-mail to: prcz@naic.edu.

(1) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state

the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, effective radiated power, and whether the proposed use is itinerant. Generally, submission of the information in the technical portion of the FCC license application is adequate notification. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Arecibo Observatory.

(2) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts in order to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. If the Commission determines that an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference, its application may be granted.

(3) The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 74, 78, and 101

[ET Docket No. 97-99; FCC 97-348]

Reallocation of 18/24 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *Order* amends the Commission's rules regarding Auxiliary Broadcast Services, Cable Television Relay Service, and Fixed Microwave Services to specify permanent coordination criteria between these services and Government operations in the 17.8-19.7 GHz band. This action is taken to advance, support, and accommodate the national defense.

EFFECTIVE DATE: November 26, 1997.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418-2452.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket 97-99, FCC 97-348, adopted September 26, 1997, and released

October 14, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, NW., Washington, D.C. 20036.

Summary of the Order

1. This proceeding was initiated pursuant to a request from the National Telecommunications and Information Administration (NTIA), on behalf of the Department of Defense, to protect Government Earth stations in the 17.8-19.7 GHz band in the Washington, DC, and Denver, CO, areas in the interest of national security. In the original *Order* in this proceeding (Reallocation Order), 62 FR 24576, May 6, 1997, we amended our Table of Frequency Allocations and Part 101 of our rules to permit Fixed Service use of the 24.25-24.45 GHz and 25.05-25.25 GHz bands ("24 GHz band"). We took that action to facilitate relocation of the digital electronic message service ("DEMS") from the 18.82-18.92 GHz and 19.16-19.26 GHz bands ("18 GHz band") to the 24 GHz band.

2. NTIA also requested that we establish coordination zones for fixed service licensees located at 18 GHz. Specifically, to protect Government users, NTIA requested that we replace our interim coordination procedures for non-DEMS fixed services in the 18 GHz band with permanent coordination requirements. In the *Reallocation Order*, we stated that we would adopt rules consistent with the exclusion and coordination requirements requested by NTIA in a future Order. However, we found it necessary in the *Reallocation Order* to immediately modify the rules for low power operations at 18 GHz. Finally, we stated that pending adoption of a future Order consistent with NTIA's request, we would continue to protect Government operations at 18 GHz from other non-Government operations by using the interim procedures currently in place.

3. As requested by NTIA, we establish for the 17.8-19.7 GHz band permanent exclusion and coordination zones with regard to applicable Auxiliary Broadcast (Part 74), Cable Television Relay (Part 78), and Fixed Microwave (Part 101) operations in Washington, D.C. and Denver, Colorado. This action is necessary to minimize potential interference to Government operations. Our action herein will ensure that Government satellite Earth stations

important to national security will operate without harmful interference being caused by non-Government operations.

4. We take this action to minimize the likelihood of interference to military communications. Accordingly, we find that notice and comment procedures are unnecessary and contrary to the public interest, and need not be followed prior to the adoption of these rules. See 5 U.S.C. § 553 (a)(1), (b)(3)(B); *Bendix Aviation Corp. v. F.C.C.*, 272 F.2d 533 (D.C. Cir. 1959), *cert. denied sub nom. Aeronautical Radio, Inc. v. U.S.*, 361 U.S. 965 (1960).

5. It is ordered, that parts 74, 78, and 101 of the Commission's Rules are amended. This action is authorized by Sections 4(i), 303(c), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 145(i), 303(c), 303(f), and 303(r).

List of Subjects

47 CFR Part 74

Communications equipment, Radio.

47 CFR Part 78

Cable television, Radio.

47 CFR Part 101

Fixed microwave services, Radio.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Parts 74, 78, and 101 are amended as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER DISTRIBUTIONAL SERVICES

1. The authority citation for Part 74 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, 554.

2. Section 74.32 is added to read as follows:

§ 74.32 Operation in the 17.8-19.7 GHz band.

(a) To minimize or avoid harmful interference to Government Satellite Earth Stations located in the Denver, Colorado and Washington, D.C. areas, any application for a new station license to operate in the 17.8-19.7 GHz band, 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