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reach a negotiated agreement, MSS Licensees may involuntarily relocate Existing Licensees after two years. As of the date that any MSS Licensee announces the beginning of operations in the 1990–2008 MHz band, licensees who are not on the new channel plan specified in §74.602(a)(3) of this chapter must discontinue use of Channel A01 (1990–2008 MHz).

(2) Before negotiating with MSS Licensees, Existing Licensees in Nielsen Designated Market Areas where there is a BAS frequency coordinator must coordinate and select a band plan for the market area. Thereafter, all negotiations must produce solutions that adhere to the market area's band plan.

(3) After the date the first MSS Licensee begins operations, MSS Licensees must relocate Existing Licensees in Nielsen Designated Market Areas 31–100 within three years, unless any Existing Licensee declines relocation.

(4) Beginning on the date any MSS Licensee announces in writing to Existing Licensees its intention to begin operations in the 2008–2025 MHz band, Existing Licensees and MSS Licensees may negotiate individually or collectively for relocation of Existing Licensees to one of the channel plans specified in §74.602(a)(4) of this chapter. MSS Licensees must relocate all Existing Licensees in Nielsen Designated Market Areas 1–30 prior to beginning operations, except those Existing Licensees that decline relocation. If the parties are unable to reach a negotiated agreement, MSS Licensees may involuntarily relocate Existing Licensees after two years. As of the date that any MSS Licensee announces its intention to begin operations in the 2008–2025 MHz band, licensees who are not on the new channel plan specified in §74.602(a)(4) of this chapter must discontinue use of Channel A01 (2008–2023 MHz).

(5) After the date the first MSS Licensee begins operations in the 2008–2025 MHz band, MSS Licensees must relocate Existing Licensees in the remaining Nielsen Designated Market Areas within three years.

(6) Ten years after the date specified in paragraph (f)(1) of this section, all Existing Licensees will become secondary in the 1990–2025 MHz band. Upon

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written demand by any MSS Licensee, Existing Licensees must cease all operations in the 1990–2025 MHz band within six months.

NOTE TO PARAGRAPH (f): FCC suspends for one year, until September 6, 2003, the expiration date for the initial two-year mandatory negotiation period in paragraph (e)(1) and the beginning of the involuntary relocation period in paragraph (f)(4).

[65 FR 48181, Aug. 7, 2000, as amended at 67 FR 53756, Aug. 19, 2002]

Subpart C—General Operating Requirements

§78.51 Remote control operation.

(a) A CARS station may be operated by remote control: *Provided*, That such operation is conducted in accordance with the conditions listed below: *And provided further*, That the Commission, in Washington, DC, is notified at least 10 days prior to the beginning of such operation and that such notification is accompanied by a detailed description showing the manner of compliance with the following conditions:

(1) The transmitter and associated control system shall be installed and protected in a manner designed to prevent tampering or operation by unauthorized persons.

(2) An operator shall be on duty at the remote control position and in actual charge thereof at all times when the station is in operation.

(3) Facilities shall be provided at the control position which will permit the operator to turn the transmitter on and off at will. The control position shall also be equipped with suitable devices for observing the overall characteristics of the transmissions and a carrier operated device which will give a continuous visual indication whenever the transmitting antenna is radiating a signal. The transmitting apparatus shall be inspected as often as may be necessary to insure proper operation.

(4) The control circuits shall be so designed and installed that short circuits, open circuits, other line faults, or any other cause which would result in loss of control of the transmitter will automatically cause the transmitter to cease radiating.

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(b) An application for authority to construct a new station or to make changes in the facilities of an existing station and which proposes operation by remote control shall include an adequate showing of the manner of compliance with the requirements of this section.

(c) The Commission may notify the licensee not to commence remote control operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessity.

[37 FR 3292, Feb. 12, 1972, as amended at 41 FR 29695, July 19, 1976; 49 FR 20671, May 16, 1984; 50 FR 23421, June 4, 1985]

§ 78.53 Unattended operation.

(a) A CARS station may be operated unattended: *Provided*, That such operation is conducted in accordance with the conditions listed below: *And provided further*, That the Commission, in Washington, DC, is notified at least 10 days prior to the beginning of unattended operation if such operation is not indicated on the station authorization.

(1) The transmitter and associated control circuits shall be installed and protected in a manner designed to prevent tampering or operation by unauthorized persons.

(2) If the transmitting apparatus is located at a site which is not readily accessible at all hours and in all seasons, means shall be provided for turning the transmitter on and off at will from a location which can be reached promptly at all hours and in all seasons.

(3) Personnel responsible for the maintenance of the station shall be available on call at a location which will assure expeditious performance of such technical servicing and maintenance as may be necessary whenever the station is operating. In lieu thereof, arrangements may be made to have a person or persons available at all times when the transmitter is operating, to turn the transmitter off in the event that it is operating improperly. The transmitter may not be restored to operation until the malfunction has been corrected by a technically qualified person.

(4) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station which may affect its operation shall be performed by or under the immediate supervision of a technically qualified person.

(b) The Commission may notify the licensee not to commence unattended operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessity.

(Secs. 1, 2, 301, 307, 48 Stat., as amended 1064, 1081, 1083; (47 U.S.C. 151, 152, 301, 307))

[37 FR 3292, Feb. 12, 1972, as amended at 41 FR 29695, July 19, 1976; 42 FR 61864, Dec. 7, 1977; 43 FR 4617, Feb. 3, 1978; 43 FR 25127, June 9, 1978; 49 FR 20671, May 16, 1984; 50 FR 23422, June 4, 1985; 50 FR 32418, Aug. 12, 1985]

§ 78.55 Time of operation.

A CARS station is not expected to adhere to any prescribed schedule of operation. Continuous radiation of the carrier without modulation is permitted provided harmful interference is not caused to other authorized stations.

[43 FR 25127, June 9, 1978]

§ 78.57 Station inspection.

The station and all records required to be kept by the licensee shall be made available for inspection upon request by any authorized representative of the Commission.

§ 78.59 Posting of station and operator licenses.

(a) The station license and any other instrument of authorization or individual order concerning the construction or the equipment or manner of operation shall be posted at the place where the transmitter is located, so that all terms thereof are visible except as otherwise provided in paragraphs (b) and (c) of this section.