

PART 300—MANUAL OF REGULATIONS AND PROCEDURES FOR FEDERAL RADIO FREQUENCY MANAGEMENT

AUTHORITY: 47 U.S.C. 901 *et seq.*, Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., p. 158.

§ 300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

(a) The Manual of Regulations and Procedures for Federal Radio Frequency Management (hereinafter referred to as the NTIA Manual) is issued by the Assistant Secretary of Commerce for Communications and Information, and is specifically designed to cover the Assistant Secretary's frequency management responsibilities pursuant to delegated authority under 47 U.S.C. 901 *et seq.* and Executive Order 12046 (March 27, 1978).

(b) The Federal agencies shall comply with the requirements set forth in the May 1992 edition of the NTIA Manual, as revised through June 1993, which is incorporated by reference with approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(c) The NTIA Manual is scheduled for revision in January, May, and September of each year and notices of these changes are printed in the FEDERAL REGISTER. The complete NTIA Manual can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, by referring to Catalog Number 903-008-00000-8. A reference copy of the NTIA Manual, including all revisions in effect, is available for use in the office of the Program Manager, Spectrum Openness Program, Room 4092, 14th St. and Pennsylvania Ave., Washington, DC 20230. The NTIA Manual is on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/

code_of_federal_regulations/ibr_locations.html.

[58 FR 44136, Aug. 19, 1993, as amended at 69 FR 18803, Apr. 9, 2004]

PART 301—MANDATORY REIMBURSEMENT FOR FREQUENCY BAND OR GEOGRAPHIC RELOCATION OF SPECTRUM-DEPENDENT SYSTEMS

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AUTHORITY: 47 U.S.C. 921, *et seq.*; Pub. L. 105-261, 112 Stat. 1920.

SOURCE: 67 FR 41193, July 17, 2002, unless otherwise noted.

Subpart A—General Information

§ 301.1 Purpose.

Pursuant to Public Law 105-261 (112 Stat. 1920), private sector entities are required to reimburse Federal users for relocation of Federal Government stations from one or more frequencies due to reallocation. Reimbursement costs are in addition to funds paid by the non-Government licensee in connection with grant of the license by the Federal Communications Commission.

§ 301.10 Applicability.

(a) *Affected bands.* (1) These provisions apply to Government assignments in the following bands of frequencies located below 3 GHz:

- (i) 216 to 220 MHz.
- (ii) 1432 to 1435 MHz.
- (iii) 1710 to 1755 MHz.
- (iv) 2385 to 2390 MHz.

(2) NTIA will identify additional bands that may become subject to this part in a public notice and request for

comments published in the FEDERAL REGISTER.

(b) *Availability of comparable facility.* The Federal entity will not be required to relocate until a comparable facility, or modification to an existing facility, is available in enough time to determine comparability, make adjustments, and ensure a seamless handoff. The factors to be considered in determining comparability include at least communications throughput, system reliability, operating costs, and operational capability as defined in this part. These factors may not be appropriate to determine comparable facility for certain Federal Government stations required to relocate, such as radar systems.

(c) *Frequency assignments eligible for reimbursement.* (1) *Equipment modification/Retuning.* To the extent that a Federal entity that is required to relocate is able to modify/retune its equipment with the result that the modified equipment provides operational capabilities comparable with the original system, reimbursement will be limited to the marginal costs associated with modification/retuning.

(2) *Old assignments/new assignments.* Old assignments are those that were authorized prior to October 17, 1998 (i.e., 216–220 MHz, 1432–1435 MHz, 1710–1755 MHz, 2385–2390 MHz). New assignments are those assignments in the affected bands that were authorized after October 17, 1998. New assignments in the affected bands are not eligible for reimbursement under these rules.

(3) *Exempted Federal power agencies and other exempted assignment.* Frequency assignments in the 1710–1755 MHz band that are exempt from reallocation requirements are not required to relocate and therefore are not entitled to reimbursement under these rules. Federal agencies may accept reimbursement for relocation costs of exempted assignments in cases of voluntary relocation.

(4) *Experimental stations.* Frequency assignments for experimental stations or experimental testing stations are not entitled to reimbursement under this part. Reimbursement shall apply to experimental stations that have been certified for spectrum support prior to October 17, 1998 by NTIA for

stage 3 developmental tests under section 10.3.1. of the NTIA Manual of Federal Regulations and Procedures for Federal Radio Frequency Management. This manual is available on NTIA's website at <http://www.ntia.doc.gov/osmhome/redbook/redbook.html>. The manual is also available from the U.S. Government Printing Office (S/N: 903-008-0025-3).

(5) *Certain other government stations.* Other exempted stations identified under the 1995 Spectrum Reallocation Final Report and the 1998 Spectrum Reallocation Report are not required to relocate and therefore are not entitled to reimbursement under these rules. These agencies may, however, accept reimbursement for relocation costs in cases of voluntary relocation.

(d) *Sunset of reimbursement rights.* There is no sunset of reimbursement rights for affected agencies.

(e) *Authority.* The rules set forth in this subpart in no way affect what authority, if any, has been delegated to the Federal entity to negotiate or contract on behalf of the United States.

§ 301.20 Definitions.

As used in this part:

(a) The term *allocation* means an entry in the National Table of Frequency Allocations (47 CFR 2.105) of a given frequency band for the purpose of its use by one or more radiocommunication services, or the radio astronomy service under specified conditions.

(b) The term *assignment* means authorization for a Government radio station to use a radio frequency or frequencies or radio frequency channel or channels under specified conditions.

(c) The term *auction* means the competitive bidding process that Congress authorized the Federal Communication Commission to use in Title VI of the Omnibus Budget Reconciliation Act of 1993 and the Balanced Budget Act of 1997 for the reassignment and licensing of spectrum identified in § 301.10(a) for certain commercial radio-based services.

(d) The term *classified assignment* means a frequency assignment and information related to a frequency assignment that has been determined pursuant to Executive Order 12958 or