

this section. Leases between cable television entities and ITFS entities executed on February 8, 1990, or thereafter, are invalid.

[28 FR 13731, Dec. 14, 1963, as amended at 33 FR 15424, Oct. 17, 1968; 48 FR 33901, July 26, 1983; 49 FR 27151, July 2, 1984; 49 FR 32596, Aug. 15, 1984; 50 FR 26760, June 28, 1985; 51 FR 9800, Mar. 21, 1986; 55 FR 46013, Oct. 31, 1990; 56 FR 57600, Nov. 13, 1991; 56 FR 57819, Nov. 14, 1991; 56 FR 65191, Dec. 16, 1991; 58 FR 34378, June 25, 1993; 58 FR 44951, Aug. 25, 1993; 59 FR 35636, July 13, 1994; 64 FR 50646, Sept. 17, 1999; 65 FR 46621, July 31, 2000; 67 FR 13234, Mar. 21, 2002]

EDITORIAL NOTE: At 63 FR 65116, Nov. 25, 1998, § 74.931 was amended by redesignating paragraphs (d) and (e) as (b) and (c), redesignating paragraphs (f) through (k) as (e) through (j), revising paragraphs (a), (b) and (c), and adding a new paragraph (d); however, (b) and (c) already exist.

EFFECTIVE DATE NOTE: At 65 FR 46621, July 31, 2000, paragraph (d) was revised. Paragraph (d)(1) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### § 74.932 Eligibility and licensing requirements.

(a) With certain limited exceptions set forth in §§ 74.990 through 74.992 of this part, a license for an instructional television fixed station will be issued only to an accredited institution or to a governmental organization engaged in the formal education of enrolled students or to a nonprofit organization whose purposes are educational and include providing educational and instructional television material to such accredited institutions and governmental organizations, and which is otherwise qualified under the statutory provisions of the Communications Act of 1934, as amended.

(1) Only local applicants can file applications and be considered for licenses during the local priority period, which extends for one year from the effective date of these rules.

(i) During this local priority period, the existing of any outstanding application for ITFS channels by a nonlocal applicant will not prevent the filing and/or grant of an application by a local entity for those same channels.

(2) A publicly supported educational institution must be accredited by the

appropriate state department of education.

(3) A privately controlled educational institution must be accredited by the appropriate state department of education or the recognized regional and national accrediting organizations.

(4) Those applicant organizations whose eligibility is established by service to accredited institutional or governmental organizations must submit documentation from proposed receive sites demonstrating that they will receive and use the applicant's educational usage. In place of this documentation, a state educational television (ETV) commission may demonstrate that the public schools it proposes to serve are required to use its proposed educational usage.

(5) Nonlocal applicants, in addition to submitting letters from proposed receive sites, must demonstrate the establishment of a local program committee in each community where they apply.

(b) No numerical limit is placed on the number of stations which may be licensed to a single licensee. However, individual licensees will be governed by the limitations of §§ 74.902 and 74.990(d) of this part as to the number of channels which may be used. A single license may be issued for more than one transmitter if they are to be located at a common site and operated by the same licensee. Applicants are expected to accomplish the proposed operation by the use of the smallest number of channels required to provide the needed service.

(c) An application for a new instructional television fixed station or for changes in the facilities of an existing station shall specify the location of the transmitter, all proposed receiving installations, response transmitters, and any relay transmitters which will be under the control of or will be equipped for reception by the applicant. If reception is also intended at unspecified locations, i.e., if power is deliberately radiated to locations or areas so that voluntary reception will be possible, the applications shall include a complete statement as to the purpose of such additional reception.

(d) In case of permanent discontinuance of operation of a station licensed

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under this subpart, authority to operate is forfeited and the licensee shall forward the station license to the Commission for cancellation. For the purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued. If use of a channel(s) is discontinued, authority to operate on such channel(s) is forfeited and an application for modification shall be filed to delete such channel(s).

(e) No receive site more than 35 miles from the transmitter site shall be used to establish basic eligibility.

NOTE 1: A "local" licensee (or applicant) is an institution or organization that is physically located in the community, or metropolitan area, where service is proposed. For a college or university, this would include any area where it has a campus. An educational organization will generally be regarded as "local" if the address of the organization's headquarters is located within the area where the facility is sought. An entity created by a state or local government for the purpose of serving formal educational needs will be considered "local" throughout the area within the government's jurisdiction over which its authority is intended to extend. An educational entity located within a state and created by affiliated educational institutions within that state, including hospitals, will be considered "local" in those areas where the member institutions are located.

NOTE 2: Documentation from proposed receive sites which are to establish the eligibility of an entity not serving its own enrolled students for credit should be in letter form, written and signed by an administrator or authority who is responsible for the receive site's curriculum planning. The administrator must indicate that the applicant's program offerings have been viewed and that such programming will be incorporated in the site's curriculum. The letter should discuss the types of programming and hours per week of formal and informal programming expected to be used and the site's involvement in the planning, scheduling and production of programming. If other levels of authority must be obtained before a firm commitment to utilize the service can be made, the nature and extent of such additional authorization(s) must be provided.

NOTE 3: Letters submitted on behalf of a nonlocal entity must confirm that a member of the receive site's staff will serve on the local program committee and demonstrate a recognition of the composition and power of the committee. The letter should show that the staff member will aid in the selection,

scheduling and production of the programming received over the system.

[28 FR 13731, Dec. 14, 1963, as amended at 36 FR 8873, May 14, 1971; 49 FR 32596, Aug. 15, 1984; 50 FR 26760, June 28, 1985; 51 FR 9800, Mar. 21, 1986; 56 FR 57819, Nov. 14, 1991; 58 FR 44951, Aug. 25, 1993; 60 FR 20247, Apr. 25, 1995; 64 FR 63739, Nov. 22, 1999]

### § 74.933 Remote control operation.

Licensed ITFS stations may be operated by remote control without further authority.

[52 FR 3806, Feb. 6, 1987]

### § 74.934 Unattended operation.

Unattended operation of licensed ITFS stations is permitted without further authority.

(a) An unattended relay station may be employed to receive and retransmit signals of another station provided that the transmitter is equipped with circuits which permit it to radiate only when the signal intended to be retransmitted is present at the receiver input terminals.

[52 FR 3806, Feb. 6, 1987]

### § 74.935 EIRP limitations.

(a) The maximum EIRP of a main or booster station shall not exceed 33 dBW + 10log(X/6) dBW, where X is the actual bandwidth if other than 6 MHz, except as provided in paragraph (b) of this section.

(b) If a main or booster station sectorizes or otherwise uses one or more transmitting antennas with a non-omnidirectional horizontal plane radiation pattern, the maximum EIRP over a 6 MHz channel in dBW in a given direction shall be determined by the following formula:

$$\text{EIRP} = 33 \text{ dBW} + 10 \log(X/6) \text{ dBW} + 10 \log(360/\text{beamwidth}) \text{ dBW, where X is the channel width in MHz and } 10 \log(360/\text{beamwidth}) \leq 6 \text{ dB.}$$

Beamwidth is the total horizontal plane beamwidth of the individual transmitting antenna for the station or any sector measured at the half-power points.

(c) An increase in station EIRP, above currently-authorized or previously-proposed values, to the maximum values provided in paragraphs (a)