

Federal Communications Commission

§ 101.31

and any other applicable form or associated Public Notices and by any applicable rules in this part.

[61 FR 26677, May 28, 1996, as amended at 62 FR 23164, Apr. 29, 1997; 63 FR 68981, Dec. 14, 1998; 65 FR 38327, June 20, 2000; 65 FR 59357, Oct. 5, 2000]

§ 101.23 Waiver of rules.

Waiver of these rules may be granted upon application or on the Commission's own motion in accordance with § 1.925 of this chapter.

[63 FR 68981, Dec. 14, 1998]

§ 101.31 Temporary and conditional authorizations.

(a) Operation at temporary locations.

(1) Authorizations may be issued upon proper application for rendition of temporary service to subscribers under the following conditions:

(i) When a fixed station, authorized to operate at temporary locations, is to remain at a single location for more than 6 months, an application for a station authorization designating that single location as the permanent location shall be filed at least 90 days prior to the expiration of the 6 month period;

(ii) The station shall be used only for rendition of communication service at a remote point where the provision of wire facilities is not practicable within the required time frame; and

(iii) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See § 101.125.

(2) Applications for authorizations to operate stations at temporary locations under the provisions of this section shall be made upon FCC Form 601. Blanket applications may be submitted for the required number of transmitters. An application for authority to operate a fixed station at temporary locations must specify the precise geographic area within which the operation will be confined. The area specified must be defined as a radius of operation about a specific coordinate (latitude/longitude), or as a county, or as a State. Exception to this specific re-

quirement may be made for exceptionally large areas, such as the continental United States. Sufficient data must be submitted to show the need for the proposed area of operation.

(3) Operations in the 17.8–19.7 GHz band are prohibited in the areas defined in § 1.924 of this chapter. Operations proposed in the areas defined in § 1.924 of this chapter may not commence without prior specific notification to, and authorization from, the Commission.

(b) *Conditional authorization.* (1) An applicant for a new point-to-point microwave radio station(s) or a modification of an existing station(s) in the 952.95–956.15, 956.55–959.75, 3,700–4,200; 5,925–6,425; 6,525–6,875; 10,550–10,680; 10,700–11,700; 11,700–12,200; 12,700–13,200; 13,200–13,250; 17,700–19,700; and 21,800–22,000 MHz, and 23,000–23,200 MHz bands (*see* § 101.147(s) for specific service usage) may operate the proposed station(s) during the pendency of its application(s) upon the filing of a properly completed formal application(s) that complies with subpart B of part 101 if the applicant certifies that the following conditions are satisfied:

(i) The frequency coordination procedures of § 101.103 have been successfully completed;

(ii) The antenna structure(s) has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by subpart B of part 17 of this chapter; or the antenna or tower structure does not exceed 6.1 meters above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC;

(iii) The grant of the application(s) does not require a waiver of the Commission's rules;

(iv) The applicant has determined that the facility(ies) will not significantly affect the environment as defined in § 1.1307 of this chapter;

(v) The station site does not lie within 56.3 kilometers of any international border, within areas identified in §§ 1.924(a) through (d) of this chapter unless the affected entity consents in writing to conditional operation or, if

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operated on frequencies in the 17.8–19.7 GHz band, within any of the areas identified in § 1.924 of this chapter;

(vi) If operated on frequencies in the 10.6–10.68 GHz band, the station site does not lie within any of the following regions:

Name of region	Dimensions=radius in kilometers	Center-point
Kitt Peak, Arizona	60	N31–57–22; W111–36–42
Big Pine, California	60	N37–13–54; W118–16–34
Vandenberg AFB, California	75	N34–43–00; W120–34–00
Denver, Colorado	150	N39–43–00; W104–46–00
Washington, DC	150	N38–48–00; W76–52–00
Eglin AFB, Florida	50	N30–29–00; W86–32–00
Mauna Kea, Hawaii	60	N19–48–16; W155–27–29
North Liberty, Iowa	60	N41–46–17; W91–34–26
Maryland Point, Maryland	60	N38–22–26; W77–14–00
Hancock, New Hampshire	60	N42–56–01; W71–59–12
Los Alamos, New Mexico	60	N35–46–30; W106–14–42
Pie Town, New Mexico	60	N34–18–04; W108–07–07
Socorro, New Mexico	160	N34–04–43; W107–37–04
WSMR, New Mexico	75	N32–23–00; W106–29–00
Minot AFB, North Dakota	80	N48–15–00; W101–17–00
Arecibo, Puerto Rico	160	N18–20–37; W66–45–11
Fort Davis, Texas	60	N30–38–06; W103–56–39
St. Croix, Virgin Islands	60	N17–45–31; W64–35–03
Brewster, Washington	60	N48–07–53; W119–40–55
Green Bank, West Virginia	160	N38–25–59; W79–50–24

Note: Coordinates are referenced to North American Datum 1983 (NAD83).

(vii) With respect to the 21.8–22.0 GHz and 23.0–23.2 GHz band, the filed application(s) does not propose to operate on a frequency pair centered on other than 21.825/23.025 GHz, 21.875/23.075 GHz, 21.925/23.125 GHz or 21.975/23.175 GHz and does not propose to operate with an E.I.R.P. greater than 55 dBm. The center frequencies are shifted from the center frequencies listed above for certain bandwidths as follows: add 0.005 GHz for 20 MHz bandwidth channels, add 0.010 GHz for 30 MHz bandwidth channels, and subtract 0.005 GHz for 40 MHz bandwidth channels. See specific channel listings in § 101.147(s).

(viii) The filed application(s) is consistent with the proposal that was coordinated pursuant to § 101.103.

(2) Conditional authority ceases immediately if the application(s) is returned by the Commission because it is not acceptable for filing.

(3) Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission’s discretion, the need for such action arises. An applicant operating

pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its applications(s).

[61 FR 26677, May 28, 1996, as amended at 62 FR 55538, Oct. 27, 1997; 63 FR 10779, Mar. 5, 1998; 63 FR 68981, Dec. 14, 1998; 65 FR 38327, June 20, 2000; 68 FR 4955, Jan. 31, 2003; 69 FR 17959, Apr. 6, 2004]

PROCESSING OF APPLICATIONS

§ 101.45 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications. The Commission will presume “harmful electrical interference” exists when the levels of § 101.105 are exceeded, or when there is a material impairment to service rendered to the public despite full cooperation in good faith by all applicants or parties to achieve reasonable technical adjustments which would avoid electrical conflict.