

FCC file number(s) under which the license was granted;

(4) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten percent (10%) of the equity of the licensee, and the percentage of equity owned by each of those entities (to the nearest one percent (1%));

(5) Interlocking directorates. The name of any interlocking directorates, as defined in § 63.09(g) of this chapter, with each foreign carrier named in the notification. See § 63.09(g) of this chapter.

(6) With respect to each foreign carrier named in the notification, a statement as to whether the notification is subject to paragraph (a) or (c) of this section. In the case of a notification subject to paragraph (a) of this section, the licensee shall include the projected date of closing. In the case of a notification subject to paragraph (c) of this section, the licensee shall include the actual date of closing.

(7) If a licensee relies on an exception in paragraph (b) of this section, then a certification as to which exception the foreign carrier satisfies and a citation to any adjudication upon which the licensee is relying. Licensees relying upon the exceptions in paragraph (b)(2) of this section must make the required certified demonstration in paragraph (b)(2)(i) of this section or the certified commitment to comply with the reporting requirements in paragraph (b)(2)(ii) of this section in the notification required by paragraph (c) of this section.

(f) If the licensee seeks to be excepted from the reporting requirements contained in § 1.767(l), the licensee should demonstrate that each foreign carrier affiliate named in the notification lacks market power pursuant to § 63.10(a)(3) of this chapter. See § 63.10(a)(3) of this chapter.

(g) *Procedure.* After the Commission issues a public notice of the submissions made under this section, interested parties may file comments within fourteen (14) days of the public notice.

(1) If the Commission deems it necessary at any time before or after the deadline for submission of public comments, the Commission may impose reporting requirements on the licensee based on the provisions of § 1.767(l). See § 1.767(l).

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section in which the foreign carrier is authorized to operate in, or own a cable landing station in, a non-WTO Member, the licensee must demonstrate that it continues to serve the public interest for

it to retain its interest in the cable landing license for that segment of the cable that lands in the non-WTO destination market by demonstrating either that the foreign carrier lacks market power in that destination market pursuant to § 63.10(a)(3) of this chapter or the market offers effective opportunities for U.S. companies to land and operate a submarine cable in that country. If the licensee is unable to make either required showing or is notified that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules under 47 U.S.C. 34 through 39 and Executive Order No. 10530, dated May 10, 1954, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.

Note to paragraph (g)(2): The assessment of whether a destination market offers effective opportunities for U.S. companies to land and operate a submarine cable will be made under the standard established in *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23946 at paragraph 130, 62 FR 64741, December 9, 1997.

(h) All licensees are responsible for the continuing accuracy of information provided pursuant to this section for a period of forty-five (45) days after filing. During this period if the information furnished is no longer accurate, the licensee shall as promptly as possible, and in any event within ten (10) days, unless good cause is shown, file with the Secretary in duplicate a corrected notification referencing the FCC file numbers under which the original notification was provided.

(i) A licensee that files a prior notification pursuant to paragraph (a) of this section may request confidential treatment of its filing, pursuant to § 0.459 of this chapter, for the first twenty (20) days after filing. Such a request must be made prominently in a cover letter accompanying the filing.

Note to § 1.768: The terms "affiliated" and "foreign carrier," as used in this section, are defined as in § 63.09 of this chapter except that the term "foreign carrier" also shall include an entity that owns or controls a cable landing station in a foreign market.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket 98-156; FCC 01-357]

Certification of Equipment in the 24.05-24.25 GHz Band at Field Strengths up to 2500 mV/m

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to allow the operation of fixed point-to-point transmitters in the 24.05-24.25 GHz band at field strengths of up to 2500 mV/m. Devices operating at these higher levels will be required to use highly directional antennas to minimize the possibility of creating harmful interference to other services in the band. This action will facilitate the introduction of a variety of new, innovative products and services in the band, such as managing the network traffic on a high-speed wireless internet service or connecting a multiple building intra-office network.

DATES: Effective February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418-2408, TTY (202) 418-2989, e-mail: nmcneil@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, ET Docket 98-156, FCC 01-357, adopted December 11, 2001 and released December 14, 2001. The full text of this document is available on the Commission's internet site at www.fcc.gov. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this document may be purchased from the Commission's duplication contractor Qualex International, (202) 863-2893 voice, (202) 863-2898 Fax, qualexint@aol.com e-mail, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554.

Summary of Report and Order

1. In the *NPRM* in this proceeding, the Commission proposed to modify § 15.249 to allow operation of fixed point-to-point devices in the 24.05-24.25 GHz band segment of the 24 GHz spectrum in accordance with the field strength limit and antenna gain requirements requested by Sierra Digital Communications, Inc., 63 FR 50185, September 21, 1998. This *Report and Order* amends § 15.249 to permit the

operation of unlicensed point-to-point transmitters in the 24.05–24.25 GHz band with field strengths up to 2500 mV/m measured at 3 meters, provided that such devices use directional antennas with gains of at least 33 dBi or a main lobe beamwidth not exceeding 3.5 degrees. Using a directional antenna with either the specified minimum gain or maximum main lobe beamwidth will produce a narrow radiation pattern thereby minimizing the area over which interference to other devices may occur. We find that it is in the public interest to allow such operations on an unlicensed basis to supplement the growing demand for licensed point-to-point facilities to satisfy important communications needs. As Sierra observes, increasing the field strength limit will promote greater use of part 15 unlicensed devices for purposes such as emergency restoration of communications in disaster situations, low-cost telecommunications delivery in rural areas, and other beneficial applications.

2. ARRL argues that the amateur service in the 24.05–24.25 GHz band uses sensitive receivers that will be threatened by part 15 devices operating pursuant to the proposed rules. We do not agree that there will be an increased risk of interference to amateur operations in the 24.05–24.25 GHz band segment. The use of a directional antenna will change the shape of the radiated radio frequency field but not the amount of geographic area contained in that field. While signals will travel further in the intended direction of communication, they will be limited in all other directions. As Sierra demonstrated in response to ARRL's concerns, the total area encompassed by the radiated field of the directional antenna will be equal to or less than the area encompassed by the radiated field of a lower-powered omni-directional antenna. We also note that § 15.245 of the rules allows field disturbance sensors to operate in the same band at 2500 mV/m. These devices have been authorized to operate for years with no adverse affects to other users in the band, including amateur operations. We thus find that, devices operating with field strengths up to 2500 mV/m with a directional antenna as prescribed herein will have the same or less interference potential as other devices currently authorized under part 15. Our decision here is also consistent with our earlier ruling in the *Report and Order* in ET Docket No. 96–8 wherein the Commission stated that the directional antenna requirement adopted for spread spectrum transmitters would ensure that

the area over which harmful interference can occur is equivalent to what would be caused by a transmitter using an omni-directional antenna operating at a lower output power.

3. In an effort to ensure, to the greatest extent possible, that devices operating in accordance with these regulations will not create unwanted adjacent band interference, we are imposing more stringent operating conditions than proposed in the *NPRM*. Although the *NPRM* proposed a frequency stability requirement of only 0.003%, we will require these devices to maintain their transmitting frequency within 0.001% of nominal. Requiring 0.001% frequency stability in lieu of 0.003% will ensure that emissions remain within the authorized transmission bandwidth and minimize drift into the adjacent bands which are allocated on a primary basis to the amateur satellite service (24.00–24.05 GHz) and the DEMS (24.25–24.45 GHz) both of which are susceptible to interference from relatively low-level signals. Additionally, we are requiring, under § 15.249, that the field strength of emissions outside of the 24.05–24.25 GHz band, except for harmonics, be attenuated by at least 50 dB below the fundamental or to the general emissions limits contained in § 15.209 of the Commission's rules, whichever is the lesser attenuation.

4. Finally, we will address harmonic emissions. Section 15.209 set the limit for out-of-band emissions of part 15 devices, which is 500 uV/m at 3 meters. Harmonic emissions from transmitters operating under § 15.249 are permitted at different levels, generally higher, than other out-of-band emissions, and those limits are specified in that section. Section 15.205(b), however, provides that the § 15.209 limits shall not be exceeded in the restricted bands. All of the harmonics of the 24 GHz transmitters at issue here fall into the restricted band above 38.6 GHz, and thus must observe the 15.209 limits, rather than the less restrictive 15.249 limits. The Commission is considering in a separate proceeding, the possibility of removing the § 15.209 limits for some bands above 38.6 GHz, among other issues. For more information see *Notice of Proposed Rulemaking* in ET Docket 01–278, released October 15, 2001, 66 FR 59209, November 27, 2001.

5. In conclusion, we find that the public interest is served by permitting unlicensed point-to-point devices to operate at 2500 mV/m, under the conditions discussed, in the 24.05–24.25 GHz band. The band has accommodated unlicensed transmissions, government radar, and amateur facilities with no major

conflicts. By allowing a greater variety of systems to occupy the band, we will provide the opportunity for innovative products and services to be made available to the American public as quickly as demand dictates.

Final Regulatory Flexibility Analysis

6. As required by section 603 of the Regulatory Flexibility Act (“RFA”),¹ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making* (NPRM).² The Commission sought written public comment on the proposal in the NPRM, including comment on the IRFA. The Commission's Final Regulatory Flexibility Analysis (“FRFA”) in the Report and Order conforms to the RFA.³

A. Need for and Objective of the Rules

7. The rule changes adopted in this *Report and Order* will help satisfy the growing demand for readily available unlicensed systems in the 24 GHz band.⁴ The rules will allow fixed point-to-point transmitters to operate in the 24.05–24.25 GHz band at field strengths of up to 2500 mV/m. This action will facilitate the introduction of a variety of new services to the band. The requirement to use directional antennas will minimize the possibility of creating harmful interference to existing services while, at the same time, providing for communication links of greater distances.

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

8. No comments were filed in direct response to the IRFA. Moreover, no comments in response the *NPRM* discussed small business-related issues.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

9. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.⁵ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁶ In addition, the term “small business” has the same meaning

¹ 5 U.S.C. 603.

² See ET Docket 98–156, 63 FR 50185 (1998).

³ See 5 U.S.C. 604.

⁴ Unlicensed transmitters are permitted to operate in the 24 GHz band pursuant to certain conditions. See *Report and Order* at paragraph 2. See also 47 CFR 15.249.

⁵ 5 U.S.C. 603(b)(3).

⁶ 5 U.S.C. 601(6).

as the term "small business concern" under the Small Business Act.⁷ A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁸

10. The Commission has not developed a definition of small entities applicable to unlicensed communications devices. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA regulations, unlicensed transmitter manufacturers must have 750 or fewer employees on order to qualify as a small business concern.⁹ Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.¹⁰

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

11. Part 15 transmitters are already required to be authorized under the Commission's certification procedure as a prerequisite to marketing and importation. The changes adopted in this proceeding do not change any of the current reporting or recordkeeping requirements. Further, the regulations add permissible methods of operation and do not require the modification of any existing products.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

12. The rule changes adopted in this *Report and Order* will permit manufacturers, including small entities, to market more diverse products in the

24 GHz band. The American Radio Relay League filed comments suggesting that the Commission also require manufacturers to maintain detailed records of their customers' installations of these devices. This information would be given to ARRL periodically to aid in coordination. The Commission believes that compliance with this additional regulation would create an undue economic burden for device manufacturers, especially smaller entities. The Commission noted that instituting such a rule could lead to more expensive part 15 equipment and slower speed to market. Therefore, the Commission declined to adopt such a requirement.

F. Report to Congress

13. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.¹¹ In addition, the Commission will send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA.

14. It is Further Ordered that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 15

Communications equipment.
Federal Communications Commission.
Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 304, 307, 336 and 544A.

2. Amend § 15.249 as follows:

(a) Revise paragraph (a) introductory text;

(b) Redesignate paragraphs (b), (c), (d) and (e) as paragraphs (c), (d), (e) and (f);

(c) Add new paragraph (b); and

(d) Revise newly designated paragraph (e).

§ 15.249 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, 5725–5875 MHz, and 24.0–24.25 GHz.

(a) Except as provided in paragraph (b) of this section, the field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

* * * * *

(b) Fixed, point-to-point operation as referred to in this paragraph shall be limited to systems employing a fixed transmitter transmitting to a fixed remote location. Point-to-multipoint systems, omnidirectional applications, and multiple co-located intentional radiators transmitting the same information are not allowed. Fixed, point-to-point operation is permitted in the 24.05–24.25 GHz band subject to the following conditions:

(1) The field strength of emissions in this band shall not exceed 2500 millivolts/meter.

(2) The frequency tolerance of the carrier signal shall be maintained within $\pm 0.001\%$ of the operating frequency over a temperature variation of -20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(3) Antenna gain must be at least 33 dBi. Alternatively, the main lobe beamwidth must not exceed 3.5 degrees. The beamwidth limit shall apply to both the azimuth and elevation planes. At antenna gains over 33 dBi or beamwidths narrower than 3.5 degrees, power must be reduced to ensure that the field strength does not exceed 2500 millivolts/meter.

* * * * *

(e) As shown in § 15.35(b), for frequencies above 1000 MHz, the field strength limits in paragraphs (a) and (b) of this section are based on average limits. However, the peak field strength of any emission shall not exceed the maximum permitted average limits specified above by more than 20 dB under any condition of modulation. For point-to-point operation under paragraph (b) of this section, the peak field strength shall not exceed 2500 millivolts/meter at 3 meters along the antenna azimuth.

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⁷ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the *Federal Register*."

⁸ 15 U.S.C. 632.

⁹ See 13 CFR 121.201, NAICS Code 334220 (SIC Code 3663). Although SBA now uses the NAICS classifications, instead of SIC, the size standard remains the same.

¹⁰ See U.S. Dept. of Commerce, 1992 *Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663 (NAICS Code 334220).

¹¹ See 5 U.S.C. 801(a)(1)(A).