§ 1302.12 [Removed]

2. Section 1302.12 is removed.

[FR Doc. 99–32420 Filed 12–14–99; 8:45 am]
BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 96–83; FCC 99–360]

Preemption of Local Zoning Regulation of Satellite Earth Stations and Restrictions on Over-the-Air Reception Devices: Television Broadcast Service, Direct Broadcast Satellite and Multichannel Multipoint Distribution Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition on reconsideration.

SUMMARY: This document denies three petitions seeking reconsideration of the *Second Report and Order* in which the Over-the-Air Reception Devices rule was expanded to apply to antenna restrictions on rental property where the viewer has exclusive use or control. The Commission also concluded in the *Second Report and Order* that antenna restrictions on common or restricted access areas were beyond the scope of statutory authority for the rule. This document concludes that the findings in the *Second Report and Order* are reaffirmed, as no new facts or arguments are raised in these petitions for reconsideration.

EFFECTIVE DATE: December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Eloise Gore at (202) 418-7200 or via internet at *egore@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order on Reconsideration,* CS Docket No. 96–83, FCC 99–360, adopted November 19, 1999 and released November 24, 1999. The complete text of this *Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036, or may be reviewed via internet at http://www.fcc.gov/csb/

Synopsis of Order on Reconsideration of the Second Report and Order

1. Three petitions were filed by: (1) Community Associations Institute (''CAI Petition''); (2) Personal Communications Industry Association (PCIA), Teligent, Inc., Association for Local Telecommunications Services, WinStar Communications, Inc., and Nextlink Communications, Inc. (collectively, ''PCIA Petition); and (3) Association for Maximum Service Television and the National Association of Broadcasters (''NAB) (collectively, ''NAB Petition''), requesting reconsideration of certain decisions in the *Second Report and Order,* which amended 47 CFR 1.4000, to prohibit restrictions on over-the-air reception devices on rental property.

2. CAI asks the Commission to reconsider the decision to permit tenants, who live in community associations, to install individual antennas without the permission of the home or unit owner from whom they rent. It argues that the only way for homeowners to prevent damage to their own property is through prior approval of tenants' antenna installations. While prematurely filed, the Commission addresses the merits of CAI's petition and concludes that there is not sufficient justification presented for allowing homeowners who rent out their property to require prior approval of antenna installations. Moreover, the threat of property damage in connection with antenna installation, as well as prior approval by a property owner, were issues which were already amply discussed and decided in the *Second Report and Order* and *Order on Reconsideration* of the *First Report and Order* (63 FR 67422), respectively.

3. The PCIA Petition seeks reconsideration of the Commission's conclusion in the *Second Report and Order* that prohibiting antenna restrictions in common or restricted access areas is beyond the authority granted to the Commission by Section 207 of the Telecommunications Act. Section 207 authorizes neither the imposition of affirmative duties on property owners nor the compensation mechanism necessary to avoid a potentially unconstitutional taking of private property. While PCIA Petitioners disagree with the Commission analysis in the *Second Report and Order,* they do not offer evidence or arguments that were not already thoroughly considered and discussed in the *Second Report and Order.*

4. Similarly, the NAB Petition disagrees with the Commission's analysis and interpretation of Section 207, but it too fails to offer new arguments or evidence to justify reconsideration of the Commission's conclusions in the *Second Report and Order.*

5. The parties have presented no new arguments or facts in the pleadings filed and the Commission is not required to reconsider arguments that have already been considered. Consequently, the Commission denies the petitions for reconsideration and affirms the *Second Report and Order.*

6. Accordingly, *it is ordered* that pursuant to Section 1, 4(i), 5(c) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 155(c) and 405, the petitions for reconsideration filed by the Community Associations Institute; by the Personal Communications Industry Association, Teligent, Inc., the Association for Local Telecommunications Services, WinStar Communications, Inc., and Nextlink Communications, Inc.; and by the Association for Maximum Service Television and the National Association of Broadcasters *are denied.*

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–32409 Filed 12–14–99; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2 and 95

[WT Docket No. 99–66, RM–9157, FCC 99–363]

Establishment of a Medical Implant Communications Service in the 402–405 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes a Medical Implant Communications Service (MICS) operating in the 402–405 MHz band. MICS operations will consist of high-speed, ultra-low power, non-voice transmissions to and from implanted medical devices such as cardiac pacemakers and defibrillators. The rules will allow use of newly-developed, life-saving medical technology without harming other users of the frequency band.

DATES: Effective January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Gene Thomson, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0634. TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This document was prepared in response to the Commission's *Notice of Proposed Rulemaking,* 64 FR 10266 (March 3, 1999) and is a summary of the Commission's *Report and Order,* WT Docket No. 99–66, FCC 99–363, adopted November 19, 1999, and released November 29, 1999. The full text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th St. S.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 1231 20th St. N.W., Washington, D.C. 20036, telephone (202) 857–3800. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0620 (voice), or (202) 418–2555 (TTY), or at mcontee@fcc.gov. The complete (but unofficial) text is also available on the Commission's Internet site at <http://www.fcc.gov/Bureaus/Wireless/Notices/1999/index.html> under the file name ''fcc99363.txt'' in ASCII text and ''fcc99363.wp'' in Word Perfect format.

Summary of Report and Order

The Commission has released a *Report and Order* that (a) amends the Table of Frequency Allocations in § 2.106 of the Commission's Rules; (b) allocates the 402–405 MHz band on a shared basis and designates this shared allocation for use by the MICS; and (c) revises part 95 of the Commission's Rules to permit the operation of ultra-low power MICS transmitters in the 402–405 MHz band without an individual license issued by the Commission.

The 402–405 MHz band was selected because it is suitable for propagation of radio signals within the human body, and is available internationally for medical implant use. Sharing the band with the Meteorological Aids Service is feasible because of the low power and duty cycle of MICS transmitters. In order to insure compliance with the technical standards, the rules require certification of MICS transmitters, but the Commission did not adopt its proposal to require registration of transmitting equipment with the manufacturer.

Administrative Matters

Final Regulatory Flexibility Analysis (FRFA)

1. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice* prepared in this proceeding. The Commission sought written public comment on the proposals in the *Notice,* including comments on the IRFA. This present FRFA conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

2. In this proceeding, we amend parts 1, 2 and 95 of the Commission's Rules to establish the Medical Implant Communications Service (MICS) as a shared allocation in the Non-Government 402–405 MHz band, and to codify the service rules for the MICS. The adopted rules will permit the use of newly-developed, life-saving medical technology without causing interference to other users of the frequency band.

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

3. No comments were submitted specifically in response to the IRFA.

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

4. 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 proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 governmental jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities. Of the estimated 81,600 small governmental entities, many are hospital and health care facilities.

5. In addition, the adopted rules would apply to manufacturers of medical implant devices and users of the proposed MICS equipment, such as hospitals and clinics that are not government health care facilities. According to the SBA's regulations, nursing homes and hospitals must have annual gross receipts of $5 million or less in order to qualify as a small business concern. There are approximately 11,471 nursing care firms in the nation, of which 7,953 have annual gross receipts of $5 million or less. There are approximately 3,856 hospital firms in the nation, of which 294 have gross receipts of $5 million or less. We do not know how many hospitals would actually implement MICS equipment; however, the maximum number of facilities to which the adopted rules would apply is 8,247.

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

6. There is a reporting or recordkeeping requirement that will be imposed as a result of the actions adopted in this rule making proceeding. Manufacturers of medical implant programmer/control transmitters will continue to be required to follow our normal equipment authorization procedures, and include with each transmitting device a statement regarding harmful interference pursuant to §§ 95.1215(a) and 95.1217 of the Rules.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

7. By making frequency spectrum available, the adopted rules will have a beneficial economic impact on small business entities that would either manufacture, or contribute to the manufacturing of, equipment used in the MICS by enabling these businesses to increase their product lines. In addition, a beneficial, indirect, economic impact affects individuals who are the recipients of implanted MICS devices. While a precise determination of the cost savings is difficult to calculate, two examples are useful. First, over $15 million per year would be saved by eliminating the need to conduct quarterly interrogation of implanted cardiac defibrillators in the clinical setting. This estimate does not include the interrogation of pacemakers, which are implanted at a much higher

rate than defibrillators. Second, over $37 billion is currently spent annually on hospitalization due to heart failure. When devices currently under development for the management of heart failure incorporate the MICS technology, it is expected that there will be a meaningful reduction in hospitalization costs. Assuming this impact is as small as five percent, the estimated savings would be nearly $2 billion per year.

Report to Congress: 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 Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commisson will send a copy of the *Report and Order,* including FRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

1. Accordingly, pursuant to the authority of Sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 332(a)(2), parts 1, 2, and 95 of the Commission's Rules, that 47 CFR parts 1, 2 and 95 ARE AMENDED as set forth in the attached *Rule Changes.*

2. The rule changes adopted herein will become effective January 14, 2000.

3. The Commission's Reference Information Center, Consumer Information Bureau, SHALL SEND a copy of this *Report and Order,* WT Docket No. 99–66, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

4. Pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), that the late-filed comments (e-mail filed on April 9, 1999) by Dr. William Scanlon, ARE ACCEPTED for consideration in this proceeding.

5. Pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), that this proceeding *is terminated.*

List of Subjects in 47 CFR Parts 1, 2, and 95

Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, and 95 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r).

2. Section 1.1307 is amended by revising paragraph (b)(2) to read as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(2) Mobile and portable transmitting devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services (PCS), the Satellite Communications Services, the General Wireless Communications Service, the Wireless Communications Service, the Maritime Services (ship earth stations only) and the Specialized Mobile Radio Service authorized under Subpart H of parts 22, 24, 25, 26, 27, 80, and 90 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 2.1091 and 2.1093 of this chapter. Unlicensed PCS, unlicensed NII and millimeter wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 15.253(f), 15.255(g), 15.319(i), and 15.407(f) of this chapter. Equipment authorized for use in the Medical Implant Communications Service (MICS) as a medical implant transmitter (as defined in Appendix 1 to Subpart E of Part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in § 2.1093 of this chapter by finite difference time domain computational modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that specific absorption rate measurement data be submitted. All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§ 2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307, 336 and 337, unless otherwise noted.

4. In § 2.106, the Table of Frequency Allocations is amended by revising the entries for 402–403 MHz and 403–406 MHz, and adding footnote US345 in numerical order to read as follows:

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
402–403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	402–403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	402–403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	402–403 METEOROLOGICAL AIDS (radiosonde) US70 Earth Exploration-Satellite (Earth-to-space) Meteorological Satellite (Earth-to-space) US345	402–403 METEOROLOGICAL AIDS (radiosonde) US70 Earth Exploration-Satellite (Earth-to-space) Meteorological Satellite (Earth-to-space) US345	Personal (95)	Medical Implant Communications (MICS)
403–406 METEOROLOGICAL AIDS Fixed Mobile except aeronautial mobile	403–406 METEOROLOGICAL AIDS Fixed Mobile except aeronautial mobile	403–406 METEOROLOGICAL AIDS Fixed Mobile except aeronautial mobile	403–406 METEOROLOGICAL AIDS (radiosonde) US70 US345	403–406 METEOROLOGICAL AIDS (radiosonde) US70 US345	Personal (95)	Medical Implant Communications (MICS)
*	*	*	*	*	*	*

UNITED STATES (US) FOOTNOTES

* * * * *

US345 In the band 402–405 MHz, the mobile, except mobile aeronautical, service is allocated on a secondary basis and is limited to, with the exception of military tactical mobile stations, Medical Implant Communications Service (MICS) operations. MICS stations are authorized by rule on the condition that harmful interference is not caused to stations in the meteorological aids, meteorological-satellite, and earth exploration-satellite services, and that MICS stations accept interference from stations in the meteorological aids, meteorological-satellite, and earth exploration-satellite services.

* * * * *

5. Section 2.1204 is amended by adding paragraph (a)(9) to read as follows:

§ 2.1204 Import conditions.

* * * * *

(a) * * *

(9) The radio frequency device is a medical implant transmitter inserted in a person granted entry into the United States or is a medical implant programmer/controller transmitter associated with such an implanted transmitter, provided, however that the transmitters covered by this provision otherwise comply with the technical requirements applicable to transmitters authorized to operate in the Medical Implant Communications Service under part 95 of this chapter. Such transmitters are permitted to be imported without the issuance of a grant of equipment authorization only for the personal use of the person in whom the medical implant transmitter has been inserted.

PART 95—PERSONAL RADIO SERVICES

6. The authority for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

7. Section 95.401 is amended by adding paragraph (d) to read as follows:

§ 95.401 (CB Rule 1) What are the Citizens Band Radio Services?

* * * * *

(d) The Medical Implant Communications Service (MICS)—an ultra-low power radio service for the transmission of non-voice data for the purpose of facilitating diagnostic and/or therapeutic functions involving implanted medical devices. The rules for this service are contained in subpart I of this part.

8. Section 95.601 is amended by revising the last sentence in the undesignated text to read as follows:

§ 95.601 Basis and purpose.

* * * The Personal Radio Services are the GMRS (General Mobile Radio Service)—subpart A, the Family Radio Service (FRS)—subpart B, the R/C (Radio Control Radio Service)—subpart C, the CB (Citizens Band Radio Service)—subpart D, the Low Power Radio Service (LPRS)—subpart G, and the Medical Implant Communications Service (MICS)—subpart I.

9. Section 95.603 is amended by adding paragraph (f) to read as follows:

§ 95.603 Certification required.

* * * * *

(f) Each Medical Implant Communications Service transmitter (a transmitter that operates or is intended to operate in the MICS) must be certificated except for medical implant transmitters that are not marketed for use in the United States, but which otherwise comply with the MICS technical requirements and are operated in the United States by individuals who have traveled to the United States from abroad. Medical implant transmitters (as defined in Appendix 1 to subpart E of part 95 of this chapter) are subject to the

radiofrequency radiation exposure requirements specified in §§ 1.1307 and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a finite difference time domain (FDTD) computational modeling report showing compliance with these provisions for fundamental emissions. The Commission retains the discretion to request the submission of specific absorption rate measurement data.

10. Section 95.605 is amended by revising the first paragraph of the undesignated text to read as follows:

§ 95.605 Certification procedures.

Any entity may request certification for its transmitter when the transmitter is used in the GMRS, R/C, CB, IVDS, LPRS, or MICS following the procedures in part 2 of this chapter. Medical implant transmitters shall be tested for emissions and EIRP limit compliance while enclosed in a medium that simulates human body tissue in accordance with the procedures in § 95.639(g). Frequency stability testing for MICS transmitters shall be performed over the temperature range set forth in § 95.628.

* * * * *

11. Section 95.628 is added to read as follows:

§ 95.628 MICS Transmitter.

(a) *Frequency monitoring.* Medical implant programmer/control transmitters must incorporate a mechanism for monitoring the channel or channels that the MICS system devices intend to occupy. The monitoring system antenna shall be the antenna normally used by the programmer/control transmitter for a communications session. Before a medical implant programmer/control transmitter initiates a MICS communications session, the following access criteria must be met:

(1) The monitoring system bandwidth measured at its 20 dB down points must be equal to or greater than the emission bandwidth of the intended transmission.

(2) Within 5 seconds prior to initiating a communications session, circuitry associated with a medical implant programmer/control transmitter must monitor the channel or channels the MICS system devices intend to occupy for a minimum of 10 milliseconds per channel.

(3) Based on use of an isotropic monitoring system antenna, the monitoring threshold power level must not be more than 10logB(Hz) − 150 (dBm/Hz) + G(dBi) where B is the emission bandwidth of the MICS communication session transmitter having the widest emission and G is the medical implant programmer/control transmitter monitoring system antenna gain relative to an isotropic antenna. For purposes of showing compliance with the above provision, the above calculated threshold power level must be increased or decreased by an amount equal to the monitoring system antenna gain above or below the gain of an isotropic antenna, respectively.

(4) If no signal in a MICS channel above the monitoring threshold power level is detected, the medical implant programmer/control transmitter may initiate a MICS communications session involving transmissions to and from a medical implant device on that channel. The MICS communications session may continue as long as any silent period between consecutive data transmission bursts does not exceed 5 seconds. If a channel meeting the criteria in paragraph (a)(3) of this section is unavailable, the channel with the lowest ambient power level may be accessed.

(5) When a channel is selected prior to a MICS communications session, it is permissible to select an alternate channel for use if communications is interrupted, provided that the alternate channel selected is the next best choice using the above criteria. The alternate channel may be accessed in the event a communications session is interrupted by interference. The following criteria must be met:

(i) Before transmitting on the alternate channel, the channel must be monitored for a period of at least 10 milliseconds.

(ii) The detected power level during this 10 millisecond or greater monitoring period must be no higher than 6 dB above the power level detected when the channel was chosen as the alternate channel.

(iii) In the event that this alternate channel provision is not used by the MICS system or if the criteria in (i) and (ii) are not met, a channel must be selected using the access criteria specified in paragraphs (a)(1) through (a)(4) of this section.

(6) As used in this section, the following definitions apply:

(i) *Emission bandwidth*—Measured as the width of the signal between the points on either side of carrier center frequency that are 20 dB down relative to the maximum level of the modulated carrier. Compliance will be determined using instrumentation employing a peak detector function and a resolution bandwidth approximately equal to 1% of the emission bandwidth of the device under test.

(ii) *MICS channel*—Any continuous segment of spectrum that is equal to the emission bandwidth of the device with the largest bandwidth that is to participate in a MICS communications session. (Note: The rules do not specify a channeling scheme for use by MICS systems.)

(iii) *MICS communications session*—A collection of transmissions, that may or may not be continuous, between MICS system devices.

(b) MICS communications sessions initiated by a medical implant event are not required to use the access criteria set forth in paragraph (a) of this section.

(c) Stations may operate on any of the frequencies in the band 402–405 MHz, provided that the out-of-band emissions are attenuated in accordance with § 95.635.

(d) The authorized bandwidth of the emission from a MICS station shall not exceed 300 kHz, and no communications session involving MICS stations shall use more than a total of 300 kHz of bandwidth during such a session. Note: This provision does not preclude full duplex or half duplex communications provided that the total amount of bandwidth utilized by all of the MICS channels employed in such a MICS communications session does not exceed 300 kHz.

(e) Each transmitter in the MICS service must maintain a frequency stability of +/− 100 ppm of the operating frequency over the range:

(1) 25°C to 45°C in the case of medical implant transmitters; and

(2) 0°C to 55°C in the case of medical implant programmer/control transmitters.

(f) The provisions of this section shall not be used to extend the range of spectrum occupied over space or time for the purpose denying fair access to spectrum for other MICS systems.

12. Section 95.631 is amended by adding paragraph (h) to read as follows:

§ 95.631 Emission types.

* * * * *

(h) A MICS station may transmit any emission type appropriate for communications in this service. Voice communications, however, are prohibited.

13. Section 95.633 is amended by adding paragraph (e) to read as follows:

§ 95.633 Emission bandwidth.

* * * * *

(e) For transmitters in the MICS:

(1) The maximum authorized emission bandwidth is 300 kHz.

(2) Lesser authorized emission bandwidths may be employed, provided that the unwanted emissions are

attenuated as provided in § 95.635 and that the power radiated in any 300 kHz bandwidth does not exceed 25 microwatts EIRP. See §§ 95.605 and 95.639(g) regarding power measurement procedures.

(3) Emission bandwidth will be determined by measuring the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, that are 20 dB down relative to the maximum level of the modulated carrier. Compliance with the emission bandwidth limit is based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

14. Section 95.635 is amended by revising paragraph (b) and adding paragraph (d) to read as follows:

§ 95.635 Unwanted radiation.

* * * * *

(b) The power of each unwanted emission shall be less than TP as specified in the applicable paragraphs listed in the following table:

Transmitter	Emission type	Applicable paragraphs (b)
GMRS	A1D, A3E, F1D, G1D, F3E, G3E with filtering	(1), (3), (7).
	A1D, A3E, F1D, G1D, F3E, G3E without filtering	(5), (6), (7).
	H1D, J1D, R1D, H3E, J3E, R3E	(2), (4), (7).
FRS	F3E with filtering	(1), (3), (7).
R/C:		
27 MHz	As specified in § 95.631(b)	(1), (3), (7).
72–76 MHz	As specified in § 95.631(b)	(1), (3), (7), (10), (11), (12).
CB	A1D, A3E	(1), (3), (8), (9).
	H1D, J1D, R1D, H3E, J3E, R3E	(2), (4), (8), (9).
	A1D, A3E type accepted before September 10, 1976	(1), (3), (7).
	H1D,J1D, R1D, H3E, J3E, R3E type accepted before September 10, 1986.	(2), (4), (7).
LPRS	As specified in paragraph (c).	
MICS	As specified in paragraph (d).	

Note 1—Filtering noted for GMRS and FRS transmitters refers to the requirement in § 95.637(b).

Note 2—Unwanted R radiation may be stated in mean power or in peak envelope power, provided it is stated in the same parameter as T.

Note 3—Paragraphs (b)(1), (b)(10), (b)(11), and (b)(12) of this section apply to transmitters operating in the 72–76 MHz band that are manufactured or imported into the United States on or after March 1, 1992, or marketed or sold on or after March 1, 1993. Paragraphs (b)(1), (b)(3), and (b)(7) of this section apply to transmitters operating in the 72–76 MHz band manufactured or imported into the United States before March 1, 1992, or marketed before March 1, 1993.

Note 4—If spurious or harmonic emissions result in harmful interference (any transmission, radiation or induction that endangers the functioning of a radionavigation or other safety service or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with applicable laws, treaties and regulations), the FCC may, at its discretion, require appropriate technical changes in the station equipment to alleviate the interference, including the use of a low pass filter between the transmitter antenna terminals and the antenna feed line.

(1) At least 25 dB (decibels) on any frequency removed from the center of the authorized bandwidth by more than 50% up to and including 100% of the authorized bandwidth.

(2) At least 25 dB on any frequency removed from the center of the authorized bandwidth by more than 50% up to and including 150% of the authorized bandwidth.

(3) At least 35 dB on any frequency removed from the center of the authorized bandwidth by more than 100% up to and including 250% of the authorized bandwidth.

(4) At least 35 dB on any frequency removed from the center of the authorized bandwidth by more than 150% up to and including 250% of the authorized bandwidth.

(5) At least 83 $\log_{10}$ (f_d/5) dB on any frequency removed from the center of the authorized bandwidth by a displacement frequency (f_d in kHz), of more than 5 kHz up to and including 10 kHz.

(6) At least 116 $\log_{10}$ (f_d/6.1) dB, or if less, 50 + 10 $\log_{10}$ (T) dB, on any frequency removed from the center of the authorized bandwidth by a displacement frequency (f_d in kHz), of more than 10 kHz up to and including 250% of the authorized bandwidth.

(7) At least 43 + 10 $\log_{10}$ (T) dB on any frequency removed from the center of the authorized bandwidth by more than 250%.

(8) At least 53 + 10 $\log_{10}$ (T) dB on any frequency removed from the center of the authorized bandwidth by more than 250%.

(9) At least 60 dB on any frequency twice or greater than twice the fundamental frequency.

(10) At least 45 dB on any frequency removed from the center of the authorized bandwidth by more than 100% up to and including 125% of the authorized bandwidth.

(11) At least 55 dB on any frequency removed from the center of the authorized bandwidth by more than 125% up to and including 250% of the authorized bandwidth.

(12) At least 56 + 10 $\log_{10}$ (T) dB on any frequency removed from the center of the authorized bandwidth by more than 250%.

* * * * *

(d) For transmitters designed to operate in the MICS, emissions shall be attenuated in accordance with the following:

(1) Emissions more than 250 kHz outside of the MICS band (402–405 MHz) shall be attenuated to a level no greater than the following field strength limits:

Frequency (MHz)	Field strength (μV/m)	Measurement distance (m)
30–88	100	3
88–216	150	3
216–960	200	3
960 and above	500	3

Note—At band edges, the tighter limit applies.

(2) The emission limits shown in the above table are based on measurements employing a CISPR quasi-peak detector except that above 1 GHz, the limit is based on measurements employing an average detector. Measurements above 1 GHz shall be performed using a minimum resolution bandwidth of 1 MHz. See also § 95.605.

(3) The emissions from a MICS transmitter must be measured to at least the tenth harmonic of the highest

fundamental frequency designed to be emitted by the transmitter.

(4) Emissions within the MICS band (402–405 MHz) more than 150 kHz away from the center frequency of the spectrum the transmission is intended to occupy, will be attenuated below the transmitter output power by at least 20 dB. Compliance with this limit is based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(5) Emissions 250 kHz or less that are above and below the MICS band (402–405 MHz) will be attenuated below the maximum permitted output power by at least 20 dB. Compliance with this limit is based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

15. Section 95.639 is amended by adding paragraph (f) to read as follows:

§ 95.639 Maximum transmitter power.

* * * * *

(f) In the MICS the following limits apply:

(1) The maximum EIRP for MICS transmitter stations is 25 microwatts. The antenna associated with any MICS transmitter must be supplied with the transmitter and shall be considered part of the transmitter subject to equipment authorization. Compliance of any MICS transmitter with the 25 microwatts EIRP limit may be determined by measuring the radiated field from the equipment under test at 3 meters and calculating the EIRP. The equivalent radiated field strength at 3 meters for 25 microwatts EIRP is 18.2 mV/meter when measured on an open area test site, or 9.1 mV/meter when measured on a test site equivalent to free space such as a fully anechoic test chamber. In either case, compliance is based on measurements using a peak detector function and measured over an interval of time when transmission is continuous and at its maximum power level. In lieu of using a peak detector function, instrumentation techniques set forth in ANSI C63.17–1998, Section 6.1.2.2.1 or Section 6.1.2.2.2 may be used in determining compliance with the above specifications.

(2) For a transmitter intended to be implanted in a human body, the following test fixture must be used to simulate operation of the implant under actual operating conditions. See § 95.605.

(i) For measurement purposes to determine compliance with emission limits, the radiating characteristics of an implant transmitter placed in a test fixture should approximate those of an implant transmitter placed in a human body. An appropriate human torso simulator for testing medical implant transmitters consists of a cylindrical Plexiglas container with a size of 30 cm by 76 cm with a sidewall thickness of 0.635 cm. It must be completely filled with a material that is sufficiently fluidic that it will flow around the implant without any voids. The dielectric and conductivity properties of this material must match the dielectric and conductivity properties of human muscle tissue at 403.5 MHz. All emissions measurements will be made using the above specification at a nominal temperature of 20–25°C. Simple saline solutions do not meet the above criteria. A mounting grid for the implant inside the container must be provided that permits the radiating element or elements of the implant to be positioned vertically and horizontally. The grid should also support any additional implant leads associated with the therapeutic function in a fixed repeatable manner. The implant must be mounted 6 cm from the sidewall and centered vertically within the container. The above fixture shall be placed on a turntable such that the implant transmitter will be located at a nominal 1.5-meter height above ground and at a 3-meter distance from the measurement antenna. Radiated emissions measurements shall then be performed to insure compliance with the applicable technical specifications.

(ii) A formula for a suitable tissue substitute material is defined in the paper ''Simulated Biological Materials for Electromagnetic Radiation Absorption Studies'' by G. Hartsgrove, A. Kraszewski, and A. Surowiec as published in ''Bioelectromagnetics 8:29–36 (1987)''.

(3) The power radiated in any 300 kHz bandwidth shall not exceed 25 microwatts EIRP. See §§ 95.633(e) and 95.639(g).

16. Section 95.649 is revised to read as follows:

§ 95.649 Power capability.

No FRS, R/C, CB, LPRS, or MICS transmitter shall incorporate provisions for increasing its transmitter power to any level in excess of the limits specified in § 95.639.

17. Section 95.651 is revised to read as follows:

§ 95.651 Crystal control required.

All transmitters used in the Personal Radio Services must be crystal controlled, except an R/C station that transmits in the 26–27 MHz frequency band, a FRS unit, a LPRS unit, or a MICS transmitter.

18. APPENDIX 1 TO SUBPART E TO PART 95—GLOSSARY OF TERMS is revised to read as follows:

Appendix 1 to Subpart E to Part 95—Glossary of Terms

The definitions used in part 95, Subpart E are:

Authorized bandwidth. Maximum permissible bandwidth of a transmission.

Carrier power. Average TP during one unmodulated RF cycle.

CB. Citizens Band Radio Service.

CB transmitter. A transmitter that operates or is intended to operate at a station authorized in the CB.

Channel frequencies. Reference frequencies from which the carrier frequency, suppressed or otherwise, may not deviate by more than the specified frequency tolerance.

Crystal. Quartz piezo-electric element.

Crystal controlled. Use of a crystal to establish the transmitted frequency.

dB. Decibels.

EIRP. Effective Isotropic Radiated Power. Antenna input power times gain for free-space or in-tissue measurement configurations required by MICS, expressed in watts, where the gain is referenced to an isotropic radiator.

FCC. Federal Communications Commission.

Filtering. Refers to the requirement in § 95.633(b).

FRS. Family Radio Service.

GMRS. General Mobile Radio Service.

GMRS transmitter. A transmitter that operates or is intended to operate at a station authorized in the GMRS.

Harmful interference. Any transmission, radiation or induction that endangers the functioning of a radionavigation or other safety service or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with applicable laws, treaties and regulations.

Mean power. TP averaged over at least 30 cycles of the lowest modulating frequency, typically 0.1 seconds at maximum power.

MICS. Medical Implant Communications Service.

Medical implant device. Apparatus that is placed inside the human body for the purpose of performing diagnostic or therapeutic functions.

Medical implant event. An occurrence or the lack of an occurrence recognized by a medical implant device, or a duly authorized health care professional, that requires the transmission of data from a medical implant transmitter in order to protect the safety or well-being of the person in whom the medical implant transmitter has been implanted.

Medical implant communications service (MICS) transmitter. A transmitter authorized to operate in the MICS.

Medical implant programmer/control transmitter. A MICS transmitter that operates or is designed to operate outside of a human body for the purpose of communicating with a receiver connected to a medical implant device.

Medical implant transmitter. A MICS transmitter that operates or is designed to operate within a human body for the purpose of facilitating communications from a medical implant device.

Peak envelope power. TP averaged during one RF cycle at the highest crest of the modulation envelope.

R/C. Radio Control Radio Service.

R/C transmitter. A transmitter that operates or is intended to operate at a station authorized in the R/C.

RF. Radio frequency.

Transmitter. Apparatus that converts electrical energy received from a source into RF energy capable of being radiated.

TP. RF transmitter power expressed in W, either mean or peak envelope, as measured at the transmitter output antenna terminals.

W. Watts.

19. Section 95.1019 is revised to read as follows:

§ 95.1019 Marketing limitations.

Transmitters intended for operation in the LPRS may be marketed and sold only for those uses described in § 95.1009.

Subpart H—[Reserved]

20. Subpart H is added and reserved.

21. Subpart I is added to read as follows:

Subpart I—Medical Implant Comminications (MICS)

Sec.

§ 95.1201 Eligibility.

Operation in the MICS is permitted by rule and without an individual license issued by the FCC. A person is permitted to operate medical implant transmitters connected to medical implant devices that have been implanted in that person by a duly authorized health care professional and medical implant programmer/control transmitters associated with their medical implant transmitter(s). Duly authorized health care professionals are permitted by rule to operate MICS transmitters. Manufacturers of medical implant devices and MICS transmitters and their representatives are authorized to operate transmitters in this service for the purpose of demonstrating such equipment to duly authorized health care professionals. No entity that is a foreign government or which is acting in its capacity as a representative of a foreign government is eligible to operate a MICS transmitter. The term ''duly authorized health care professional'' means a physician or other individual authorized under state or federal law to provide health care services using medical implant devices. Operations that comply with the requirements of this part may be conducted under manual or automatic control.

§ 95.1203 Authorized locations.

MICS operation is authorized anywhere CB station operation is authorized under § 95.405.

§ 95.1205 Station Identification.

A MICS station is not required to transmit a station identification announcement.

§ 95.1207 Station inspection.

All non-implanted MICS apparatus must be made available for inspection upon request by an authorized FCC representative. Persons operating implanted medical implant transmitters shall cooperate reasonably with duly authorized FCC representatives in the resolution of interference.

§ 95.1209 Permissible communications.

(a) Except for the purposes of testing and for demonstrations to health care professionals, medical implant programmer/control transmitters may transmit only operational, diagnostic and therapeutic information associated with a medical implant device that has been implanted by a duly authorized health care professional.

(b) Except in response to a medical implant event, no medical implant transmitter shall transmit except in response to a transmission from a medical implant programmer/control transmitter or a non-radio frequency actuation signal generated by a device external to the body in which the medical implant transmitter is implanted or is to be implanted.

(c) Medical implant programmer/control transmitters may be interconnected with other telecommunications systems including the public switched telephone network.

(d) Medical implant programmer/control transmitters may transmit during a MICS communications session, as defined in § 95.628, for the purpose of facilitating MICS system operation for no more than 5 seconds without the communications of data.

(e) Medical implant programmer/control transmitters may not be used to relay information to a receiver that is not included with a medical implant device. Wireless retransmission of information intended to be transmitted by a medical implant programmer/control transmitter or information received from a medical implant transmitter shall be conducted using other radio services that operate in spectrum outside of the MICS band.

§ 95.1211 Channel use policy.

(a) The channels authorized for MICS operation by this part of the FCC Rules are available on a shared basis only and will not be assigned for the exclusive use of any entity.

(b) Those using MICS transmitters must cooperate in the selection and use of channels in order to reduce interference and make the most effective use of the authorized facilities. Channels must be selected in an effort to avoid interference to other MICS transmissions. See § 95.628.

(c) Operation is subject to the condition that no harmful interference is caused to stations operating in the 400.150–406.000 MHz band in the Meteorological Aids, Meteorological Satellite, or Earth Exploration Satellite Services. MICS stations must accept any interference from stations operating in the 400.150–406.000 MHz band in the Meteorological Aids, Meteorological Satellite, or Earth Exploration Satellite Services.

§ 95.1213 Antennas.

No antenna for a medical implant programmer/control transmitter shall be configured for permanent outdoor use, provided, however, that any antenna used outdoors shall not be affixed to any structure for which the height to the tip of the antenna will exceed three (3) meters (9.8 feet) above ground.

§ 95.1215 Disclosure polices.

(a) Manufacturers of MICS transmitters must include with each transmitting device the following statement: ''This transmitter is authorized by rule under the Medical Implant Communications Service (part 95 of the FCC Rules) and must not cause harmful interference to stations operating in the 400.150–406.000 MHz band in the Meteorological Aids (*i.e.* transmitters and receivers used to communicate weather data), the Meteorological Satellite, or the Earth Exploration Satellite Services and must accept interference that may be caused by such aids, including interference that may cause undesired operation. This transmitter shall be used only in accordance with the FCC Rules governing the Medical Implant Communications Service. Analog and digital voice communications are prohibited. Although this transmitter has been approved by the Federal Communications Commission, there is no guarantee that it will not receive

interference or that any particular transmission from this transmitter will be free from interference.''

§ 95.1217 Labeling requirements.

(a) Medical implant programmer/controller transmitters shall be labeled as provided in part 2 of this chapter and shall bear the following statement in a conspicuous location on the device:

This device may not interfere with stations operating in the 400.150–406.000 MHz band in the Meteorological Aids, Meteorological Satellite, and Earth Exploration Satellite Services and must accept any interference received, including interference that may cause undesired operation.

(b) Where a medical implant programmer/control transmitter is constructed in two or more sections connected by wire and marketed together, the statement specified in this section is required to be affixed only to the main control unit.

(c) Medical implant transmitters shall be identified with a serial number. The FCC ID number associated with the transmitter and the information required by § 2.925 of the FCC Rules may be placed in the instruction manual for the transmitter and on the shipping container for the transmitter, in lieu of being placed directly on the transmitter.

§ 95.1219 Marketing limitations.

Transmitters intended for operation in the MICS may be marketed and sold only for those uses described in § 95.1209 of this part.

[FR Doc. 99–32454 Filed 12–14–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 808, 812, 813, 852 and 853

RIN 2900–AJ16

VA Acquisition Regulation: Simplified Acquisition Procedures

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning simplified acquisition procedures. It amends VAAR provisions to conform to the Federal Acquisition Regulation, to update references and section titles, and to remove obsolete material. It also makes non-substantive changes for purposes of clarity.

EFFECTIVE DATE: December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Don Kaliher, Acquisition Policy Team (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420, telephone number (202) 273–8819.

SUPPLEMENTARY INFORMATION: On June 4, 1999, we published in the **Federal Register** (64 FR 29981) a proposal to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to make changes relating to simplified acquisition procedures (VAAR part 813 and related parts). Comments were solicited concerning the proposal for 60 days, ending August 3, 1999. We did not receive any comments. The information presented in the proposed rule document still provides a basis for this final rule. Based on the rationale set forth in this document and in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule with no changes, other than non-substantive changes for purposes of clarity.

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This final rule does not make any substantive changes to the VA Acquisition Regulation and would have little, if any, impact on small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects

48 CFR Part 808

Government procurement, Utilities.

48 CFR Parts 812, 813 and 853

Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Approved: November 18, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR Chapter 8 is amended as follows:

PART 808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1. The authority citation for part 808 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

808.404–1 [Removed]

2. Section 808.404–1 is removed.

808.404–3 [Removed]

3. Section 808.404–3 is removed.

PART 812—ACQUISITION OF COMMERCIAL ITEMS

4. The authority citation for part 812 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

5. In section 812.301, paragraphs (c)(13), (c)(14), and (c)(15) are redesignated as paragraphs (c)(14), (c)(15), and (c)(16), respectively; newly redesignated paragraph (c)(16) is revised and a new paragraph (c)(13) is added to read as follows:

812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(c) * * *

(13) 852.252–1, Provisions or clauses requiring completion by the offeror or prospective contractor.

* * * * *

(16) 852.270–3, Purchase of shellfish.

* * * * *

PART 813—SIMPLIFIED ACQUISITION PROCEDURES

6. The part heading for part 813 is revised to read as set forth above.

7. The authority citation for part 813 is revised to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

8. Subpart 813.1 is added to read as follows:

Subpart 813.1—Procedures

Subpart 813.5 [Redesignated as Subpart 813.3]

9. Subpart 813.5 is redesignated as subpart 813.3; and the subpart heading is revised to read as follows:

Subpart 813.3—Simplified Acquisition Methods

10. Section 813.302 and heading are added to read as follows:

813.302 Purchase orders.

813.305–2 [Redesignated as 813.307]

11. Section 813.505–2 is redesignated as 813.307 and is transferred to subpart 813.3; the section heading and paragraphs (a) and (e) are revised to read as follows:

813.307 Forms.

(a) VA Form 90–2138, Order for Supplies or Services, VA Form 90–2139,