

## Federal Communications Commission

## § 2.801

(b) That the emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available, and

(c) That the Commission at Washington, D.C., and the Engineer in Charge shall be notified immediately when such special use of the station is terminated: *Provided further,*

(d) That in no event shall any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Commission, or by law: *And provided further,*

(e) That any such emergency communication undertaken under this section shall terminate upon order of the Commission.

NOTE: Part 73 of this chapter contains provisions governing emergency operation of standard, FM, noncommercial educational FM, and television broadcast stations. Part 97 of this chapter contains such provisions for amateur stations.

[28 FR 13785, Dec. 18, 1963]

### § 2.406 National defense; free service.

Any common carrier subject to the Communications Act may render to any agency of the United States Government free service in connection with the preparation for the national defense. Every such carrier rendering any such free service shall make and file, in duplicate, with the Commission, on or before the 31st day of July and on or before the 31st day of January in each year, reports covering the periods of 6 months ending on the 30th day of June and the 31st day of December, respectively, next prior to said dates. These reports shall show the names of the agencies to which free service was rendered pursuant to this rule, the general character of the communications handled for each agency, and the charges in dollars which would have accrued to the carrier for such service rendered to each agency if charges for all such communications had been collected at the published tariff rates.

### § 2.407 National defense; emergency authorization.

The Federal Communications Commission may authorize the licensee of

any radio station during a period of national emergency to operate its facilities upon such frequencies, with such power and points of communication, and in such a manner beyond that specified in the station license as may be requested by the Army, Navy, or Air Force.

## Subparts F–G [Reserved]

## Subpart H—Prohibition Against Eavesdropping

### § 2.701 Prohibition against use of a radio device for eavesdropping.

(a) No person shall use, either directly or indirectly, a device required to be licensed by section 301 of the Communications Act of 1934, as amended, for the purpose of overhearing or recording the private conversations of others unless such use is authorized by all of the parties engaging in the conversation.

(b) Paragraph (a) of this section shall not apply to operations of any law enforcement officers conducted under lawful authority.

[31 FR 3400, Mar. 4, 1966]

## Subpart I—Marketing of Radio-frequency Devices

SOURCE: 35 FR 7898, May 22, 1970, unless otherwise noted.

### § 2.801 Radiofrequency device defined.

As used in this part, a radiofrequency device is any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means. Radiofrequency devices include, but are not limited to:

(a) The various types of radio communication transmitting devices described throughout this chapter.

(b) The incidental, unintentional and intentional radiators defined in part 15 of this chapter.

(c) The industrial, scientific, and medical equipment described in part 18 of this chapter.

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(d) Any part or component thereof which in use emits radiofrequency energy by radiation, conduction, or other means.

[35 FR 7898, May 22, 1970, as amended at 54 FR 17711, Apr. 25, 1989]

### § 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(b) *General rule.* No person may market a radio frequency device unless:

(1) For devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter; or

(2) For devices subject to authorization under verification or Declaration of Conformity in accordance with the rules in subpart J of this chapter, the device complies with all applicable technical, labeling, identification and administrative requirements; or

(3) For devices that do not require a grant of equipment authorization under subpart J of this chapter but must comply with the specified technical standards prior to use, the device complies with all applicable, technical, labeling, identification and administrative requirements.

(c) *Exceptions.* The following marketing activities are permitted prior to equipment authorization:

(1) Activities under product development and market trials conducted pursuant to subpart H of part 5.

(2) Limited marketing is permitted, as described in the following text, for devices that could be authorized under the current rules; could be authorized under waivers of such rules that are in effect at the time of marketing; or could be authorized under rules that have been adopted by the Commission but that have not yet become effective. These devices may not be operated unless permitted by § 2.805.

(i) Conditional sales contracts (including agreements to produce new devices manufactured in accordance with designated specifications) are permitted between manufacturers and wholesalers or retailers provided that delivery is made contingent upon compliance with the applicable equipment authorization and technical requirements.

(ii) A radio frequency device that is in the conceptual, developmental, design or pre-production stage may be offered for sale solely to business, commercial, industrial, scientific or medical users (but not an offer for sale to other parties or to end users located in a residential environment) if the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution.

(iii) (A) A radio frequency device may be advertised or displayed, (*e.g.*, at a trade show or exhibition) if accompanied by a conspicuous notice containing this language:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

(B) If the device being displayed is a prototype of a device that has been properly authorized and the prototype, itself, is not authorized due to differences between the prototype and the authorized device, this language may be used instead: Prototype. Not for Sale.

(iv) An evaluation kit as defined in § 2.1 may be sold provided that:

(A) Sales are limited to product developers, software developers, and system integrators;

(B) The following notice is included with the kit:

FCC NOTICE: This kit is designed to allow:

(1) Product developers to evaluate electronic components, circuitry, or software associated with the kit to determine whether to incorporate such items in a finished product and