

## § 73.503

MHz) shall not cause harmful interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[43 FR 39715, Sept. 6, 1978, as amended at 47 FR 30068, July 12, 1982; 52 FR 43765, Nov. 16, 1987; 58 FR 44950, Aug. 25, 1993]

### § 73.503 Licensing requirements and service.

The operation of, and the service furnished by noncommercial educational FM broadcast stations shall be governed by the following:

(a) A noncommercial educational FM broadcast station will be licensed only to a nonprofit educational organization and upon showing that the station will be used for the advancement of an educational program.

(1) In determining the eligibility of publicly supported educational organizations, the accreditation of their respective state departments of education shall be taken into consideration.

(2) In determining the eligibility of privately controlled educational organizations, the accreditation of state departments of education and/or recognized regional and national educational accrediting organizations shall be taken into consideration.

(b) Each station may transmit programs directed to specific schools in a system or systems for use in connection with the regular courses as well as routine and administrative material pertaining thereto and may transmit educational, cultural, and entertainment programs to the public.

(c) A noncommercial educational FM broadcast station may broadcast programs produced by, or at the expense of, or furnished by persons other than the licensee, if no other consideration than the furnishing of the program and the costs incidental to its production and broadcast are received by the licensee. The payment of line charges by another station network, or someone other than the licensee of a noncommercial educational FM broadcast station, or general contributions to the operating costs of a station, shall not

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be considered as being prohibited by this paragraph.

(d) Each station shall furnish a non-profit and noncommercial broadcast service. Noncommercial educational FM broadcast stations are subject to the provisions of § 73.1212 to the extent they are applicable to the broadcast of programs produced by, or at the expense of, or furnished by others. No *promotional* announcement *on behalf of for profit entities* shall be broadcast at any time in exchange for the receipt, in whole or in part, of consideration to the licensee, its principals, or employees. However, acknowledgements of contributions can be made. *The scheduling of any announcements and acknowledgements may not interrupt regular programming*, except as permitted under paragraph (e) of this section.

(e) A noncommercial educational FM broadcast station may interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization, provided that all such fundraising activities conducted during any given year do not exceed one percent of the station's total annual airtime. A station may use the prior year's total airtime for purposes of determining how many hours constitute one percent of its total annual airtime. With respect to stations that multicast programming on two or more separate channels, the one-percent annual limit will apply separately to each individual programming stream. For purposes of this paragraph, a non-profit organization is an entity that qualifies as a non-profit organization under 26 U.S.C. 501(c)(3).

(1) *Audience disclosure.* A noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of a third-party non-profit organization must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

(2) *Reimbursement.* A noncommercial educational FM broadcast station that

interrupts regular programming to conduct fundraising activities on behalf of a third-party non-profit organization may accept reimbursement of expenses incurred in conducting third-party fundraising activities or airing third-party fundraising programs.

(3) *Exemption.* No noncommercial educational FM broadcast station that receives funding from the Corporation for Public Broadcasting shall have the authority to interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization.

(f) Mutually exclusive applications for noncommercial educational radio stations operating on reserved channels will be resolved pursuant to the point system in subpart K.

NOTE TO §73.503: Commission interpretation on this rule, including the acceptable form of acknowledgements, may be found in the *Second Report and Order* in Docket No. 21136 (Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations), 86 FCC 2d 141 (1981); the *Memorandum Opinion and Order* in Docket No. 21136, 90 FCC 2d 895 (1982); the *Memorandum Opinion and Order* in Docket 21136, 97 FCC 2d 255 (1984); and the *Report and Order* in Docket No. 12-106 (Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations), FCC 17-41, April 20, 2017. See also *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Public Notice, 7 FCC Rcd 827 (1992), which can be retrieved through the Internet at <http://www.fcc.gov/mmb/asd/nature.html>.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[28 FR 13651, Dec. 14, 1963, as amended at 35 FR 7558, May 15, 1970; 47 FR 36178, Aug. 19, 1982; 49 FR 29069, July 18, 1984; 63 FR 33877, June 22, 1998; 65 FR 36378, June 8, 2000; 82 FR 21135, May 5, 2017]

#### § 73.504 Channel assignments in the Mexican border area.

(a) NCE-FM stations within 199 miles (320 km) of the United States-Mexican border shall comply with the separation requirements and other provisions of the "Agreement between the United States of America and the United Mexican States Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band" as amended.

(b) Applicants for noncommercial educational FM stations within 199

miles (320 km) of the United States-Mexican border shall propose at least Class A minimum facilities (see §73.211(a)). However, existing Class D noncommercial educational stations may apply to change frequency within the educational portion of the FM band in accordance with the requirements set forth in §73.512.

(c) Section 73.208 of this chapter shall be complied with as to the determination of reference points and distance computations used in applications for new or changed facilities. However, if it is necessary to consider a Mexican channel assignment or authorization, the computation of distance will be determined as follows: if a transmitter site has been established, on the basis of the coordinates of the site; if a transmitter site has not been established, on the basis of the reference coordinates of the community, town, or city.

[52 FR 43765, Nov. 16, 1987]

#### § 73.505 Zones.

For the purpose of assignment of noncommercial educational FM stations, the United States is divided into three zones, Zone I, Zone I-A, and Zone II, having the boundaries specified in §73.205.

[42 FR 36823, July 18, 1977]

#### § 73.506 Classes of noncommercial educational FM stations and channels.

(a) Noncommercial educational stations operating on the channels specified in §73.501 are divided into the following classes:

(1) A Class D educational station is one operating with no more than 10 watts transmitter power output.

(2) A Class D educational (secondary) station is one operating with no more than 10 watts transmitter power output in accordance with the terms of §73.512 or which has elected to follow these requirements before they become applicable under the terms of §73.512.

(3) Noncommercial educational FM (NCE-FM) stations with more than 10 watts transmitter power output are classified as Class A, B1, B, C3, C2, C1, or C depending on the station's effective radiated power and antenna height above average terrain, and on the zone