

and Order, MM Docket No. 99-79, adopted August 25, 1999, and released September 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 99-24757 Filed 9-22-99; 8:45 am]

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 97

[WT Docket No. 97-12; FCC 99-234]

#### Greater Use of Spread Spectrum Communication Technologies

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action revises the Amateur Radio Service rules applicable to Spread Spectrum (SS) emission types that an amateur station may transmit. The rule amendments are necessary so that amateur stations may transmit SS emission types that have been developed and become available since the original rules permitting amateur stations to transmit SS emission types were adopted in 1985. The effect of this action is to allow amateur stations greater flexibility in experimenting and communicating with SS emission types, to eliminate unnecessary restrictions in the amateur service rules and to simplify the rules applicable to stations that choose to transmit SS emission types.

**DATES:** Effective November 1, 1999.

#### FOR FURTHER INFORMATION CONTACT:

William T. Cross, Federal Communications Commission, Washington, DC 20554, (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, adopted August 31, 1999, and released September 3, 1999. The complete text of this Commission action, including the rule amendments,

is available for inspection and copying at the Federal Communications Commission, 445 12th Street SW, Washington, DC. The complete text of this *Report and Order* may also be obtained from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037, telephone (202) 857-3800, and from the FCC's internet World Wide Web home page, ><http://www.fcc.gov><.

#### Summary of Report and Order

1. By this action, we are amending the amateur service rules to allow amateur radio stations to transmit additional SS emission types. We conclude that the public interest would be served by removing the restriction in the amateur service rules that limit the SS emission types that amateur stations may transmit. Moreover, we believe that this change will (1) allow amateur service licensees to experiment with additional SS emission types; (2) allow amateur radio operators to develop innovations and improvements to communications products and develop new communications technologies; and (3) facilitate the ability of the amateur service to contribute to the development of SS communications by allowing amateur stations to transmit and experiment with SS technologies currently used in consumer and commercial products.

2. Also, by this action, we are also amending the amateur service rules adopt a requirement that amateur stations use automatic transmitter power control to limit transmitter power to the minimum power necessary to maintain communications when an amateur station transmits an SS emission type with more than 1 watt of power and we amend our rules to remove now-unnecessary recordkeeping and station identification requirements that presently apply only to stations transmitting SS emissions.

3. We also are amending the amateur service rules to insert numbers, which were inadvertently removed December 14, 1998, in 63 FR 68904, in front of each defined term in Section 97.3, thereby facilitating use of the rules by licensees.

4. The amended rules are set forth below, effective November 1, 1999.

5. This *Report and Order* and the rule amendments are issued under the authority contained in 47 U.S.C. 154(i) and (j), 303(r) and 403.

#### List of Subjects in 47 CFR Part 97

Radio.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

#### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 97 as follows:

#### PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

**Authority:** 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. Sections 97.3(a), (b), and (c) are amended by adding numbers in front of each defined term in the definitions, and revising paragraph (c)(8) to read as follows:

#### § 97.3 Definitions.

\* \* \* \* \*

(c) \* \* \*

(8) SS. Spread spectrum emissions using bandwidth-expansion modulation emissions having designators with A, C, D, F, G, H, J or R as the first symbol; X as the second symbol; X as the third symbol.

\* \* \* \* \*

3. Section 97.119(b)(5) is removed and the semicolon and the word "or" is removed from the end of paragraph (b)(4).

4. Section 97.305(b) is revised to read as follows:

#### § 97.305 Authorized emission types.

\* \* \* \* \*

(b) A station may transmit a test emission on any frequency authorized to the control operator for brief periods for experimental purposes, except that no pulse modulation emission may be transmitted on any frequency where pulse is not specifically authorized and no SS modulation emission may be transmitted on any frequency where SS is not specifically authorized.

\* \* \* \* \*

5. Section 97.311 is revised to read as follows:

#### § 97.311 SS emission types.

(a) SS emission transmissions by an amateur station are authorized only for communications between points within areas where the amateur service is regulated by the FCC and between an area where the amateur service is regulated by the FCC and an amateur station in another country that permits such communications. SS emission transmissions must not be used for the

purpose of obscuring the meaning of any communication.

(b) A station transmitting SS emissions must not cause harmful interference to stations employing other authorized emissions, and must accept all interference caused by stations employing other authorized emissions.

(c) When deemed necessary by a District Director to assure compliance with this part, a station licensee must:

(1) Cease SS emission transmissions;

(2) Restrict SS emission transmissions to the extent instructed; and

(3) Maintain a record, convertible to the original information (voice, text, image, etc.) of all spread spectrum communications transmitted.

(d) The transmitter power must not exceed 100 W under any circumstances. If more than 1 W is used, automatic transmitter control shall limit output power to that which is required for the communication. This shall be determined by the use of the ratio, measured at the receiver, of the received energy per user data bit (Eb) to the sum of the received power spectral densities of noise ( $N_0$ ) and co-channel interference ( $I_0$ ). Average transmitter power over 1 W shall be automatically adjusted to maintain an  $E_b / (N_0 + I_0)$  ratio of no more than 23 dB at the intended receiver.

[FR Doc. 99-24372 Filed 9-22-99; 8:45 am]

BILLING CODE 6712-01-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Part 1815

#### NASA Structured Approach for Profit or Fee Objective

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the agency's structured approach for developing a profit or fee objective. This rule eliminates the element of cost approach currently prescribed for establishing profit and fee objectives and focuses on performance risk analysis which requires the evaluation of specific technical, management and cost risk factors; provides a new method for determining contract type risk and introduces a working capital adjustment provision; retains with modification the Other Considerations factor contained in the structured approach currently prescribed; and establishes a ceiling for facilities capital cost of money offset.

**EFFECTIVE DATE:** September 23, 1999.

**FOR FURTHER INFORMATION CONTACT:**  
Donna Fortunat, NASA Headquarters,  
Code HC, Washington, DC 20546,  
telephone: (202) 358-0426; email:  
donna.fortunat@hq.nasa.gov.

#### SUPPLEMENTARY INFORMATION:

##### Background

A proposed rule was published in the **Federal Register** on June 8, 1999 (64 FR 30468-30472). Comments were received from one respondent, an industry association. All comments were considered in the development of this final rule. This final rule includes changes to adjust the specified values under Contract Type Risk to preclude a situation where the calculated profit objective would be greater for a fixed price contract with progress payments than it would for a similar contract without government financing. Other Consideration values for both Corporate Capital Investment and Unusual Request for GFP are adjusted. The facilities capital cost of money offset was changed to establish a ceiling of one percent. This final rule also includes changes made for clarification purposes.

FAR 15.404-4(b)(1)(i) requires agencies to use a structured approach for determining profit or fee prenegotiation objectives. This revision to the NASA structured approach method uses a performance risk method for calculating profit and fee objectives instead of the currently used cost element approach. The revised approach is expected to provide more appropriate emphasis on the nature of the goods and services being acquired and on the risks inherent in delivering those goods and services and thereby prove to be more effective in motivating and rewarding contractor performance. In addition, the revised policy provides a common framework for NASA and industry to evaluate potential risk and profitability in a way that is relevant to both parties. FAR 15.404-4(b)(2) permits agencies to use another agency's structured approach and the changes in this revised policy represent an Agency adaptation of DoD's alternate structured approach.

##### Impact

##### *Regulatory Flexibility Act*

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because most small entities receive contracts based on competition and are not subject to the structured fee process.

##### *Paperwork Reduction Act*

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Part 1815

Government procurement.

**Tom Luedtke,**

*Associate Administrator for Procurement.*

Accordingly, 48 CFR Part 1815 is amended as follows:

1. The authority citation for 48 CFR Part 1815 continues to read as follows:

**Authority:** 42 U.S.C. 2473(c)(1).

#### PART 1815—CONTRACTING BY NEGOTIATION

2. Sections 1815.404-4, 1815.404-470, and 1815.404-471 are revised and sections 1815.404-471-1, 1815.404-471-2, 1815.404-471-3, 1815.404-471-4, and 1815.404-471-5 are added to read as follows:

##### **§ 1815.404-4 Profit. (NASA supplements paragraphs (b) and (c))**

(b)(1)(i)(a) The NASA structured approach for determining profit or fee objectives, described in 1815.404-471 shall be used to determine profit or fee objectives in the negotiation of contracts greater than or equal to \$100,000 that use cost analysis and are:

(1) Awarded on the basis of other than full and open competition (see FAR 6.3);

(2) Awarded under NASA Research Announcements (NRAs) and Announcements of Opportunity (AO's); or

(3) Awarded under the Small Business Innovative Research (SBIR) or the Small Business Technology Transfer Research (STTR) programs.

(b) The rate calculated for the basic contract may only be used on actions under a negotiated contract when the conditions affecting profit or fee do not change.

(c) Although specific agreement on the applied weights or values for individual profit or fee factors shall not be attempted, the contracting officer may encourage the contractor to—

(1) Present the details of its proposed profit amounts in the structured approach format or similar structured approach; and

(2) Use the structured approach method in developing profit or fee objectives for negotiated subcontracts.