



FEDERAL  
COMMUNICATIONS  
COMMISSION

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# Rules and Regulations

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**VOLUME I • NOVEMBER 1963**

*Part 0—Commission Organization.*

*Part 1—Practice and Procedure.*

*Part 13—Commercial Radio Operators.*

*Part 17—Construction, Marking, and Lighting of Antenna  
Structures.*



# Introduction

Volume I of the Federal Communications Commission's Rules and Regulations contains all the rules concerning Commission Organization; Practice and Procedure; Commercial Radio Operators; and Construction, Marking, and Lighting of Antenna Structures. This edition is a revision of the August 1962 issue and includes all amendments adopted by the Commission through October 31, 1963.

When this Volume is amended, each amended section or subsection will be followed by a state-

ment of the effective date of the amendment. The number of the transmittal sheet covering the substitute pages will appear in the lower corner of each page. Substitute pages incorporating amendments to these rules will be mailed by the Superintendent of Documents, without request, to all purchasers of the Volume.

This Volume supersedes the August 1962 edition and no further amendments to that edition will be issued.

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## FCC Field Offices

Mailing addresses for Commission Field Offices are listed below. Street addresses can be found in local directories under "United States Government."

### FIELD ENGINEERING OFFICES

Address all communications to Engineer in Charge, FCC

Alabama, Mobile 36602  
Alaska, Anchorage (P.O. Box 644) 99501  
California, Los Angeles 90014  
California, San Diego 92101  
California, San Francisco 94126  
California, San Pedro 90731  
Colorado, Denver 80202  
District of Columbia, Washington 20555  
Florida, Miami (P.O. Box 150) 33101  
Florida, Tampa 33606  
Georgia, Atlanta 30303  
Georgia, Savannah (P.O. Box 77) 31402  
Hawaii, Honolulu 96808  
Illinois, Chicago 60604  
Louisiana, New Orleans 70130

Maryland, Baltimore 21202  
Massachusetts, Boston 02109  
Michigan, Detroit 48226  
Minnesota, St. Paul 55102  
Missouri, Kansas City 64106  
New York, Buffalo 14203  
New York, New York 10014  
Oregon, Portland 97205  
Pennsylvania, Philadelphia 19106  
Puerto Rico, San Juan (P.O. Box 2987)  
00903  
Texas, Beaumont (P.O. Box 1527) 77704  
Texas, Dallas 75202  
Texas, Houston 77002  
Virginia, Norfolk 23510  
Washington, Seattle 98104

### COMMON CARRIER FIELD OFFICES

Address all communications to Chief, Common Carrier Field Office

California, San Francisco 94105  
Missouri, St. Louis 63101  
New York, New York 10007

# Notice

The FCC Rules and Regulations are grouped into ten volumes and sold in volume units by the Superintendent of Documents, Government Printing Office. The price of the volume entitles the purchaser to receive its amended pages for an indefinite period.

The ten volumes are comprised of individual Parts, as follows:

## VOLUME I

Part 0, Commission Organization.  
Part 1, Practice and Procedure.  
Part 13, Commercial Radio Operators.  
Part 17, Construction, Marking, and Lighting of Antenna Structures.

## VOLUME II

Part 2, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.  
Part 5, Experimental Radio Services (other than Broadcast).  
Part 15, Radio Frequency Devices.  
Part 18, Industrial, Scientific, and Medical Equipment.

## VOLUME III

Part 73, Radio Broadcast Services.  
Part 74, Experimental, Auxiliary, and Special Broadcast Services.

## VOLUME IV

Part 81, Stations on Land in the Maritime Services.  
Part 83, Stations on Shipboard in the Maritime Services.  
Part 85, Public Fixed Stations and Stations of the Maritime Services in Alaska.

## VOLUME V

Part 87, Aviation Services.  
Part 89, Public Safety Radio Services.  
Part 91, Industrial Radio Services.  
Part 93, Land Transportation Radio Services.

## VOLUME VI

Part 95, Citizens Radio Service.  
Part 97, Amateur Radio Service.  
Part 99, Disaster Communications Service.

## VOLUME VII

Part 21, Domestic Public Radio Services (other than Maritime Mobile).  
Part 23, International Fixed Public Radio-communication Services.  
Part 25, Satellite Communications.

## VOLUME VIII

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies.  
Part 33, Uniform System of Accounts for Class C Telephone Companies.

## VOLUME IX *{Printing postponed indefinitely}*

Part 34, Uniform System of Accounts for Radiotelegraph Carriers.  
Part 35, Uniform System of Accounts for Wire-Telegraph and Ocean-Cable Carriers.

## VOLUME X

Part 41, Telegraph and Telephone Franks.  
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# RULES AND REGULATIONS

Part 0

*Commission Organization*

NOVEMBER 1963

FEDERAL COMMUNICATIONS COMMISSION



## CROSS REFERENCE TABLES

By Order adopted October 31, 1963, published in the Federal Register November 22, 1963, Part O was edited and rearranged, effective November 23, 1963, as set forth in the following cross reference tables:

### Redesignation of former sections

Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.
0.1	0.1	0.47	0.116	0.121	0.32	0.232	0.347	0.332	0.243
0.2		0.48	Deleted	0.122	0.33	0.241	0.281	0.333	0.247
(a-b)	0.2	0.49	0.121	0.123	0.34	0.242	0.287	0.341	0.261
(c)	0.181	0.61	0.131	0.124	0.35	0.251	0.291	0.351	0.371(a)
0.3	0.3	0.62	0.133	0.125	0.36	0.252	0.293	0.361	0.231
0.5	0.5	0.63	0.132	0.126	0.37	0.253	0.294	0.401	
0.10	0.71	0.64	0.133	0.131	0.31	0.254	0.295	(a-e)	0.401
0.11	0.73	0.65	0.134	0.132	0.52	0.255	0.296	(d-e)	0.403
0.12	0.72	0.66	0.135	0.133	0.53	0.256	0.297	0.402	0.411
0.13	0.74	0.67	0.136	0.134	0.54	0.257	0.302	0.404	0.415
0.14	0.75	0.68	0.137	0.135	0.55	0.258	0.303	0.405	0.413
0.15	0.76	0.69	0.138	0.136	0.56	0.259	0.304	0.406	
0.16	0.77	0.70	0.139	0.141	0.171	0.260	0.305	(a-f)	0.417
0.17	0.78	0.81	0.151	0.151	0.61	0.261	0.307	(g)	0.419
0.18	0.79	0.82	0.152	0.161	0.181	0.262	0.292	(h)	0.421
0.19	0.80	0.91	0.11	0.162	0.184	0.263	0.298	(i)	0.425
0.20	0.81	0.92	0.12	0.201	0.201	0.271	0.311	(j)	0.423
0.21	0.91	0.93	0.14	0.202	0.203	0.272	0.313	(k)	0.417(b)(2)
0.22	0.92	0.94	0.15	0.206	0.361	0.281	0.314	(l)	0.417(c)
0.23	0.93	0.95	0.16	0.207	0.365	0.282	0.317	0.407	0.427
0.24	0.94	0.96	0.17	0.211	0.211	0.284	0.316	0.408	0.407
0.25	0.95	0.97	0.19	0.212	0.212(a)	0.285	0.315	0.409	0.441
0.26	0.96		and 0.183	0.213	0.212(b)		and 0.385	0.410	0.449
0.27	0.97	0.98	0.18	0.214	0.214	0.286	0.386	0.411	0.451
0.28	0.98	0.111	0.41	0.215	0.215	Text preced-		0.412	0.453
0.29	0.99	0.112	0.42	0.216	0.186	ing 0.291	0.333	0.413	
0.41	0.111	0.113	0.43	0.217	0.383	0.291	0.331	(a-b)	0.443
0.42	0.113	0.114	0.44	0.218	0.218	0.292	0.332	(c)	0.445
0.43	0.112	0.115	0.45	0.219	0.381	0.293	0.337	0.414	0.447
0.44	0.113	0.116	0.46	0.224	0.351	0.322	0.251	0.415	0.405
0.45	0.114	0.117	0.47	0.225	0.357	0.323	0.257	0.416	0.429
0.46	0.115	0.120	0.31	0.231	0.341	0.331	0.241	0.417	0.431

### Source of redesignated sections

New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.
0.1	0.1	0.56	0.136	0.134	0.65	0.261	0.341	0.365	0.207
0.2	0.2 (a-b)	0.61	0.151	0.135	0.66	0.281	0.241	0.371	
0.3	0.3	0.71	0.10	0.136	0.67	0.287	0.242	(a)	0.351
0.5	0.5	0.72	0.12	0.137	0.68	0.291	0.251	(b)	New
0.11	0.91	0.73	0.11	0.138	0.69	0.292	0.262	0.381	0.219
0.12	0.92	0.74	0.13	0.139	0.70	0.293	0.252	0.383	0.217
0.13	New	0.75	0.14	0.151	0.81	0.294	0.253	0.385	0.285
0.14	0.93	0.76	0.15	0.152	0.82	0.295	0.254	0.386	0.286
0.15	0.94	0.77	0.16	0.161	New	0.296	0.255	0.387	New
0.16	0.95	0.78	0.17		(See 0.206)	0.297	0.256	0.401	0.401 (a-c)
0.17	0.96	0.79	0.18	0.171	0.141	0.298	0.263	0.403	0.401 (d-e)
0.18	0.98	0.80	0.19	0.181	0.181	0.302	0.257	0.405	0.415
0.19	New (See 0.97)	0.81	0.20		and 0.161	0.303	0.258	0.407	0.408
0.20	New	0.91	0.21	0.182	0.91(d)	0.304	0.259	0.411	0.402
0.31	0.120	0.92	0.22	0.183	0.97	0.305	0.260	0.413	0.405
0.32	0.121	0.93	0.23			0.307	0.261	0.415	0.404
0.33	0.122	0.94	0.24	0.184	0.162	0.311	0.271	0.417	0.406 (a-f),
0.34	0.123	0.95	0.25	0.186	0.216	0.313	0.272	(k-l)	
0.35	0.124	0.96	0.26	0.201	0.201	0.314	0.281	0.419	0.406(g)
0.36	0.125	0.97	0.27	0.203	0.202	0.315	New	0.421	0.406(h)
0.37	0.126	0.98	0.28	0.211	0.211		(See 0.285)	0.423	0.406(i)
0.41	0.111	0.99	0.29	0.212	0.212	0.316	0.284	0.425	0.406(i)
0.42	0.112	0.111	0.41		and 0.213	0.317	0.282	0.427	0.407
0.43	0.113	0.112	0.43	0.214	0.214	0.331	0.291	0.429	0.416
0.44	0.114	0.113	0.42	0.215	0.215	0.332	0.292	0.431	0.417
0.45	0.115		and 0.44	0.218		0.333	Text	0.441	0.409
0.46	0.116	0.114	0.45	(a-b)	0.218		preceding	0.443	0.413 (a-b)
0.47	0.117	0.115	0.46	(c)	New	0.291		0.445	0.413(c)
0.51	0.131	0.116	0.47	0.231	0.361	0.337	0.293	0.447	0.414
0.52	0.132	0.121	0.49	0.241	0.331	0.341	0.231	0.449	0.410
0.53	0.133	0.131	0.61	0.243	0.332	0.347	0.232	0.451	0.411
0.54	0.134	0.132	0.63	0.247	0.333	0.351	0.224	0.453	0.412
0.55	0.135	0.133	0.62	0.251	0.322	0.357	0.225		
			and 0.64	0.257	0.323	0.361	0.206		

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AUTHORITY : §§ 0.1–0.493 issued under secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; and 5 U.S.C. 552. Implement sec. 3(a)(1), 60 Stat. 238; 5 U.S.C. 1002(a)(1). Additional authority is cited in parentheses following the sections affected.



**SUBPART A—ORGANIZATION**

**AUTHORITY:** §§ 0.1–0.186 issued under sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155. Additional authority is cited in parentheses following the sections affected.

**GENERAL****§ 0.1 The Commission.**

The Federal Communications Commission is composed of 7 members, who are appointed by the President subject to confirmation by the Senate. Normally, one Commissioner is appointed or reappointed each year, for a term of 7 years.

【§ 0.1 *Headnote and text amended eff. 7-18-67; I(63)-17*】

**§ 0.2 [Deleted]**

【§ 0.2 *deleted eff. 8-24-67, I(63)-17*】

**§ 0.3 Chairman.**

(a) One of the members of the Commission is designated by the President to serve as Chairman, or chief executive officer, of the Commission. As Chairman, he has the following duties and responsibilities:

(1) To preside at all meetings and sessions of the Commission.

(2) To represent the Commission in all matters relating to legislation and legislative reports; however, any other Commissioner may present his own or minority views or supplemental reports.

(3) To represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies.

(4) To coordinate and organize the work of the Commission in such a manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission.

(b) The Commission will, in the case of a vacancy in the Office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, temporarily designate one of its members to act as Chairman until the cause or circumstance requiring such designation has been eliminated or corrected.

【§ 0.3 *amended eff. 7-18-67; I(63)-17*】

**§ 0.4 Standing committees of Commissioners.**

There are 3 standing committees of Commissioners; the Telegraph Committee, the Telephone Committee, and the Subscription Television Committee, each composed of 3 Commissioners. These committees are delegated authority to act or study and report on certain telegraph, telephone and subscription television matters from time to time.

【§ 0.4 *adopted eff. 7-18-67; I(63)-17*】

**§ 0.5 General description of Commission organization and operations.**

(a) *Principal staff units.* The Commission is assisted in the performance of its responsibilities by its staff, which is divided into the following principal units:

- (1) Office of Executive Director.
- (2) Office of Chief Engineer.
- (3) Office of General Counsel.
- (4) Broadcast Bureau.
- (5) Common Carrier Bureau.
- (6) Safety and Special Radio Services Bureau.
- (7) Field Engineering Bureau.
- (8) Office of Hearing Examiners.
- (9) Review Board.
- (10) Office of Opinions and Review.
- (11) Office of the Secretary.
- (12) Office of Information.
- (13) CATV Task Force.

(b) *Staff responsibilities and functions.* The organization and functions of these major staff units are described in detail in §§ 0.11–0.171. The defense and emergency preparedness functions of the Commission are set forth separately, beginning at § 0.181. For a complete description of staff functions, reference should be made to these provisions. (See also the U.S. Government Organization Manual, which contains a chart showing the Commission's organization, the names of the members and principal staff officers of the Commission, and other information concerning the Commission.) So that the public may more readily inform itself concerning the operations of the Commission as a whole, concerning the staff officials who exercise responsibility over matters in which they are interested and concerning the relationship between the several staff units in such matters, however, a brief overall description of staff functions and responsibilities is set forth in this paragraph.

(1) *The Executive Director.* The Executive Director is directly responsible to the Commission, works under the supervision of the Chairman, and assists him in carrying out the Commission's organizational and administrative responsibilities. His principle role is to see that other staff units work together and promptly dispose of the matters for which they are responsible. He is directly responsible for internal administrative matters such as personnel and budget planning, and supervises implementation of the Public Information Act of 1966.

(2) *The Chief Engineer and the General Counsel.* Though primary responsibility in most established areas of regulation is lodged in other staff units, the Chief Engineer and the General Counsel are responsible for advising the Commission concerning any engineering or legal matter involved in the making and implementation of policy or in the decision of cases.

For example, while policies relating solely to broadcasting are primarily the responsibility of the Broadcast Bureau, and the preparation of Commission opinions in hearing cases is primarily the responsibility of the Office of Opinions and Review, the Chief Engineer and the General Counsel may be called upon for advice and assistance in either area. The Chief Engineer and the General Counsel, in addition, exercise primary responsibility in areas of regulation which transcend the responsibilities of a single bureau. Thus, for example, the General Counsel is primarily responsible for the Rules of Practice and Procedure, Part 1 of this chapter, and the Chief Engineer is primarily responsible for frequency allocation and for other areas of regulation under Parts 2, 5, and 15. The General Counsel also represents the Commission in litigation in the courts and coordinates the preparation of the Commission's legislative program. Both the Chief Engineer and the General Counsel exercise responsibility in matters pertaining to international communications.

(3) *The operating bureaus.* The principal work load operations of the Commission are conducted by the four operating bureaus.

(i) Three of these bureaus: The Broadcast Bureau, Common Carrier Bureau, and Safety and Special Radio Services Bureau—exercise primary responsibility in the three principal areas of regulation into which the Commission has divided its responsibilities. The Broadcast Bureau, as its name indicates, is responsible for the regulation of broadcast stations (see Part 73 of this chapter) and related facilities (see Part 74). The Common Carrier Bureau is responsible for the regulation of communications common carriers whether carriage involves the use of wire or radio facilities (see Parts 21-66). The Safety and Special Radio Services Bureau is responsible for the regulation of all other radio stations with minor exceptions (e.g., experimental stations licensed under Part 5). These include amateur stations and numerous other categories of stations engaged in communication for safety, commercial or personal purposes (see Parts 81-99). Within its area of responsibility, each of these bureaus is responsible for developing and implementing a regulatory program; for processing applications for radio licenses or other filings; for the consideration of complaints and the conduct of investigations; for participation in Commission hearing proceedings as appropriate; and for the performance of such other functions as may be related to its area of responsibility.

(ii) The fourth operating bureau: The Field Engineering Bureau—maintains field offices and monitoring stations throughout the United States. It is responsible for detecting violations of regulations pertaining to the use of radio and, in this connection, monitors radio transmissions, periodically inspects stations, and investigates complaints of radio frequency inter-

ference. It issues violation notices to the station in question, thereby affording it an opportunity to take corrective measures. If formal enforcement action is appropriate, the proceedings are conducted by the staff unit which exercises primary responsibility over the station in question—usually one of the other operating bureaus. The Field Engineering Bureau, in addition, exercises responsibility over commercial radio operator matters (see Part 13 of this chapter), antenna structures (see Part 17), and the use of radio for purposes other than communication (see Part 18). It also conducts amateur operator examinations.

(4) *Staff units which exercise responsibility for the decision of hearing cases.* The Office of Hearing Examiners, the Review Board, and the Office of Opinions and Review exercise responsibility for the decision of hearing cases. The hearing examiners preside over hearing cases and issue initial decisions. In most cases, initial decisions are subject to review by the Review Board, which is a permanent body composed of three or more senior Commission employees. Initial decisions may also be reviewed by one or more Commissioners designated by the Commission. In such cases, the Board or designated Commissioner(s) issues a final decision, which is subject to possible review by the Commission. In other cases, the initial decision is reviewed directly by the Commission en banc. The Office of Opinions and Review assists and advises the Commission, and any Commissioner(s) designated to review an initial decision, in the decision of cases which come before them.

(5) *The Secretary.* The secretary signs Commission correspondence and documents. He is custodian of the Commission's seal and records. He maintains minutes and records of Commission actions and the dockets of hearing proceedings, and is responsible for their accuracy, authenticity and completeness. Except as otherwise provided in this chapter (see § 0.401), he is the proper addressee and recipient of papers mailed to or filed with the Commission.

(6) *Office of Information.* The Office of Information is responsible for informing the public concerning actions which have been taken by the Commission and is the contact point for the press, the industry and the public in the matter of general information relating to the Commission and its activities.

(7) *The CATV Task Force.* The CATV Task Force is responsible for the development and implementation of a regulatory program for community antenna television systems and community antenna relay stations (see Subparts J and K of Part 74 of this chapter). The licensing of related microwave radio facilities is coordinated with the Task Force by the Common Carrier Bureau and the Safety and Special Radio Services Bureau.

(c) *Delegations of authority to the staff.* Pursuant to section 5(d) of the Communications Act, the Commission has delegated authority to its staff to act on matters which are minor or routine or settled in nature and those in which immediate action may be necessary. See Subpart B of this Part. Actions taken under delegated authority are subject to review by the Commission, on its own motion or on an application for review filed by a person aggrieved by the action. Except for the possibility of review, actions taken under delegated authority have the same force and effect as actions taken by the Commission. The delegation of authority to a staff officer, however, does not mean that he will exercise that authority in all matters subject to the delegation. In non-hearing matters, the staff is at liberty to refer any matter at any stage to the Commission for action, upon concluding that it involves matters warranting the Commission's consideration, and the Commission may instruct the staff to do so. In like manner, in hearing cases, pursuant to § 0.361(b) and (c), the Commission may direct that matters pending before the Review Board be certified to the Commission for decision, and the Board may itself certify such matters to the Commission, with a request that they be acted upon by the Commission.

(d) *Commission action.* Matters requiring Commission action, or warranting its consideration, are dealt with by the Commission at regular weekly meetings, or at special meetings called to consider a particular matter. Meetings are normally held at the principal offices of the Commission in the District of Columbia, but may be held elsewhere in the United States. In appropriate circumstances, Commission action may be taken between meetings "by circulation," which involves the submission of a document to each of the Commissioners for his approval.

【§ 0.5(a)(12) and (b)(6) amended eff. 9-15-67; I(63)-18】

#### OFFICE OF EXECUTIVE DIRECTOR

##### § 0.11 Functions of the Office.

The Executive Director is designated by the Commission and is directly responsible to the Commission under the supervision of the Chairman. He has the following duties and responsibilities:

(a) To provide sustained administrative leadership and coordination of staff activities in carrying out the policies of the Commission, through overall supervision and coordination, but not control, of such staff activities. In this capacity, he coordinates the activities of policy making staff officers to assure that adequate information and recommendations in important policy areas are expeditiously considered by the staff and brought promptly to the attention of the Commission.

(b) To review with the Commission and with heads of the several bureaus and offices, the program and procedures of the Commission and to make recommendations thereon as may be necessary to administer the Communications Act most effectively in the public interest.

(c) To assist the Chairman in carrying out the administrative and executive responsibilities delegated to the Chairman as the administrative head of the agency and, in connection therewith, to plan, direct, coordinate, and manage the administrative affairs of the Commission with respect to the functions of personnel, budget, planning, office services, mail and files, messenger and chauffeur services, and international telecommunications settlements.

(d) Under the general direction of the Defense Commissioner, and with the advice and assistance of the heads of the several bureaus and offices, the Executive Director coordinates the defense activities of the Commission, and has the following duties and responsibilities:

(1) To act as Alternate Defense Coordinator in representation with other agencies with respect to planning for the continuity of the essential functions of the Commission under national emergency conditions, and serves as the alternate representative of the Commission to the Interagency Emergency Planning Committee of the Office of Emergency Planning.

(2) To serve as the alternate representative of the Commission to the Interagency Civil Defense Committee of the Office of Civil Defense, Department of the Army.

(3) To keep the Defense Commissioner informed as to significant developments in this area.

(e) With the concurrence of the General Counsel, to interpret the rules and regulations pertaining to application filing fees.

##### § 0.12 Units in the Office.

- (a) Immediate office of the Executive Director.
- (b) Budget and Fiscal Division.
- (c) Manpower Utilization and Survey Division.
- (d) Data Processing Division.
- (e) Office Services Division.
- (f) Mail and Files Division.
- (g) Office of Emergency Communications.
- (h) Office of Security.

##### § 0.13 Immediate Office of the Executive Director.

The Immediate Office of the Executive Director plans, directs, and coordinates the functions of the Office. It is composed of the immediate offices of the Executive Director and of the Deputy Executive Director.

**§ 0.14 Budget and Fiscal Division.**

The Budget and Fiscal Division develops and recommends to the Executive Director, Chairman, and Commission policies and procedures governing administration of the budget and fiscal activities of the Commission; issues suitable instructions and provides advice and assistance to the constituent units of the Commission concerning preparation of budget estimates, supporting data, systems of records and reports, and workload data; develops, recommends, and maintains formalized instructions such as the Budget, Finance, and Travel Manuals; coordinates budgets and justifications for presentation to the Bureau of the Budget and Congressional appropriations committees; prepares and recommends to the Executive Director, Chairman, and Commission proposed allotments and apportionments of the Commission's appropriations, and maintains prescribed fiscal controls; audits obligations and authorizes by certification expenditures of Commission funds; maintains its central fiscal and leave records; prepares financial reports; performs the payroll functions of the Commission; and makes settlements with foreign administrations for radiotelegraph traffic to and from ships under U.S. registration through foreign coastal stations.

**§ 0.15 Manpower Utilization and Survey Division.**

The Manpower Utilization and Survey Division advises, assists and makes recommendations to the Executive Director, Chairman, and Commission on matters dealing with personnel management, manpower utilization, and management analysis; administers all phases of the personnel program including recruitment, placement, classification, compensation, training, employee utilization, employee services and similar programs; develops, recommends and implements policies and programs; develops, and recommends to the Executive Director, Chairman, and Commission, a program of manpower utilization and control; provides advice and assistance to the operating bureaus on personnel management and techniques for improving management and manpower utilization; develops and recommends to the Executive Director, Chairman, and Commission a program of management analysis and administers such segments thereof as organization analysis, general management studies, systems and procedures studies, and management control programs in such areas as directives, reports, forms, correspondence and communications, and organization; and provides advice and assistance to the operating bureaus on organizational and functional arrangements.

**§ 0.16 Data Processing Division.**

The Data Processing Division reviews and analyzes the data processing system requirements of the Com-

mission; develops and recommends electronic or other data processing systems needed to fulfill the objectives of the Commission; operates the computer installation and associated peripheral and tabulating equipment in accordance with approved systems and manuals of procedure; measures the effectiveness of the installed systems against anticipated results; and continuously re-evaluates changing Commission responsibilities and information needs to determine the data processing systems most advantageous for the Commission's use.

**§ 0.17 Office Services Division.**

The Office Services Division acts for the Commission in the procurement, maintenance, disposal, and administration of supplies, equipment, real and personal property, contractual services, and printed matter; develops, recommends and maintains the Service, Supplies and Property Manual; establishes and maintains duplicating facilities and performs or secures all duplicating required for Commission activities; determines the need for, acquires and maintains telephone facilities and service; and provides building management services and related facilities at the seat of Government.

**§ 0.18 Mail and Files Division.**

The Mail and Files Division receives and records incoming and outgoing Commission mail, maintains central correspondence files, and operates intra-agency messenger and chauffeur services.

**§ 0.19 Office of Emergency Communications.**

The functions of the Office of Emergency Communications are set forth as § 0.183, in connection with other defense and emergency functions of the Commission.

**§ 0.20 Office of Security.**

The Office of Security is responsible for the management and security of records; for office space management and office security; and for personnel security. The Chief of the Office serves as the Security Officer, the Personnel Security Officer, and the Records Officer.

**OFFICE OF CHIEF ENGINEER****§ 0.31 Functions of the Office.**

The Office of the Chief Engineer has the following duties and responsibilities:

(a) To plan and direct broad programs to develop information on the progress of communication techniques and equipment, radio wave propagation, and new uses for communications, and to advise the Commission and bureaus in such matters.

(b) To represent the Commission on various national and international organizations devoted to the progress of communications and the development of information and standards relative thereto.

(c) To conduct scientific and technical studies in advanced phases of terrestrial and space communications and to conduct special projects to obtain theoretical and experimental data on new or improved techniques.

(d) To develop and administer procedures to acquire, store, and retrieve scientific and technical information useful in the engineering work of the Commission.

(e) To advise and represent the Commission on the allocation of radio frequencies, including international agreements pertaining to frequency allocations and usage.

(f) In cooperation with the General Counsel, to render advice to the Commission, participate in and coordinate the staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and to render advice with respect to rule making matters and proceedings affecting more than one bureau.

(g) To collaborate with the bureaus in the formulation of the technical requirements of the rules and regulations, and to advise the Commission on such matters.

(h) To administer Part 5 of this chapter, including licensing, record keeping, and rule making.

(i) To perform all engineering and management functions of the Commission with respect to formulating rules and regulations, technical standards, and general policies for Parts 15 and 18 of this chapter, and for type approval, type acceptance, and certification of radio equipment for compliance with the Commission's rules.

(j) To maintain liaison with other agencies of government and with technical experts representing foreign governments, and to deal with members of the public and of the industries concerned.

(k) To calibrate and standardize technical equipments and installations used by the Commission.

(l) To exercise such authority as may be assigned or referred by the Commission pursuant to section 5(d) of the Communications Act of 1934, as amended.

### § 0.32 Units in the Office.

The Office of Chief Engineer comprises the following units:

- (a) Immediate Office of the Chief Engineer.
- (b) Research Division.
- (c) Technical Division.
- (d) Laboratory Division.
- (e) Frequency Allocation and Treaty Division.

### § 0.33 Immediate Office of the Chief Engineer.

The immediate Office of the Chief Engineer advises the Commission and bureaus on technical matters and directs and coordinates the functions of the Office.

### § 0.34 Research Division.

The Research Division analyzes and disseminates to the Commission and the several operating bureaus, technical and scientific data relating to advanced

phases of terrestrial and space communications; conducts scientific studies in wave propagation, satellite and space communications; studies technical aspects of potential new uses of radio; conducts special projects to obtain theoretical and experimental data on new or improved techniques; provides engineering assistance to the Commission and the several bureaus in the development of computer programs and automatic data processing techniques; develops procedures to acquire, store, and retrieve scientific and technical information; and maintains familiarity with relevant research activities by means of visits, conferences, and correspondence.

### § 0.35 Technical Division.

The Technical Division develops practical applications for results of research, including research conducted by the Research Division; develops technical rules and standards for the various radio services in consultation with the bureaus concerned; conducts technical studies of equipment design and performance; acts on applications for type acceptance of equipment and issues lists of type accepted and type approved equipment; administers Part 5 of the Commission's rules regulating the Experimental Radio Services; performs engineering and management functions with respect to formulating rules, technical standards and general policy for Parts 15 and 18 of the Commission's rules; performs rule making for that portion of Part 2 of the Commission's rules relative to equipment; provides Commission representation at national and international conferences; and reviews patents as they are issued by the Patent Office to determine which patents may dominate radio services regulated by the Commission and notifies the General Counsel as to such findings.

### § 0.36 Laboratory Division.

The Laboratory Division studies new phenomena, proposed new systems, and new equipment looking toward the greater use of radio, the reduction of interference, and the establishment of appropriate rules and regulations; participates in various intergovernmental, national, and international organizations looking toward the standardization of equipment and measuring units and methods as well as the more efficient use of the radio spectrum or the reduction of interference; designs and assembles apparatus for special tests and studies, and performs special tests and studies concerning propagation, equipment or systems, and evaluates the results of such tests or studies with regard to the Commission's problems, often looking toward new or modified rules; makes type approval tests on equipment including those equipments under Parts 18, 73, 74, 83, and 95 of this chapter requiring type approval, and makes recommendations regarding type approval; provides information and comments on test procedures and test results to assist the Technical Research Division in its evaluation of material supporting certifications and applications for type acceptance; conducts special tests of equipments

for the Technical Research Division in connection with the certification and type acceptance program; studies equipment problems of data procurement and enforcement and develops, designs, and constructs equipment for use in connection with the Commission's Field Engineering Bureau activities as well as other Commission activities; standardizes and calibrates equipment and installation for the Field Engineering Bureau; and makes tests of radio devices for other government departments.

### § 0.37 Frequency Allocation and Treaty Division.

The Frequency Allocation and Treaty Division makes continuing studies of new technical developments affecting frequency requirements and of utilization of the frequencies between the several radio services to establish their allocation requirements; proposes adjustments in the Table of Frequency Allocation when necessary; provides Commission representation on, and coordination with, the Interdepartment Radio Advisory Committee and, as may be required, on other national and international telecommunication bodies; coordinates frequency allocation policy matters involving government users of radio with the Office of Emergency Planning; maintains the Commission's master frequency record of assignments made; notifies United States frequency assignments to the International Frequency Registration Board of the International Telecommunication Union; performs staff functions relating to international communications conferences and agreements having to do with frequency allocation and assignment; and communicates as necessary with administrations in foreign countries, through appropriate channels, concerning matters which relate to assignment of radio frequencies and to control of radio interference.

#### OFFICE OF GENERAL COUNSEL

### § 0.41 Functions of the Office.

The Office of the General Counsel has the following duties and responsibilities:

- (a) To advise and represent the Commission in matters of litigation.
- (b) To advise and make recommendations to the Commission with respect to proposed legislation and to coordinate the preparation of Commission views thereon for submission to Congress.
- (c) To participate in international conferences and in the implementation of international agreements.
- (d) To interpret the statutes, international agreements, and international regulations affecting the Commission.
- (e) To prepare and make recommendations and interpretations concerning procedural rules of general applicability and to review all rules for consistency with other rules, uniformity, and legal sufficiency.
- (f) To conduct research in legal matters as directed by the Commission.
- (g) In cooperation with the Chief Engineer, to participate in, render advice to the Commission, and coordinate

the staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and to render advice with respect to rule making matters and proceedings affecting more than one bureau.

(h) To perform all legal functions with respect to experimental operations under Part 5 of this chapter; the operation of restricted radiation devices under Parts 15 and 18 of this chapter; and type approval and type acceptance of radio equipment.

(i) To exercise such authority as may be assigned or referred to it by the Commission pursuant to section 5(d) of the Communications Act of 1934, as amended.

(j) To cooperate with the Common Carrier Bureau and the Office of Chief Engineer on all matters pertaining to space satellite communications.

(k) To study the licensing practices of patentees and assignees in communications services regulated by the Commission, particularly in situations referred to it by the Office of Chief Engineer; and, in collaboration with the Office of Chief Engineer, to develop appropriate recommendations for Commission action.

(l) To interpret statutes and executive orders affecting the Commission's national defense responsibilities, and to perform such functions involving implementation of such statutes and executive orders as may be assigned to it by the Commission or the Defense Commissioner.

(m) To perform all legal functions with respect to leases, contracts, tort claims and such other internal legal problems as may arise.

(n) To prepare the bound volumes of the FCC Reports.

(o) To review the national security aspects of applications for commercial operator licenses or permits forwarded to it by the Field Engineering Bureau, and of applications for amateur operator and station licenses submitted to it by the Safety and Special Radio Services Bureau.

### § 0.42 Units in the Office.

The Office of General Counsel is divided into the following units:

- (a) Immediate Office of the General Counsel.
- (b) Litigation Division.
- (c) Legislation Division.
- (d) Administrative Law and Treaties Division.
- (e) Enforcement and Defense Division.

### § 0.43 Immediate Office of the General Counsel.

The Immediate Office of the General Counsel directs and coordinates the functions of the Office.

### § 0.44 Litigation Division.

The Litigation Division advises and represents the Commission in all matters of litigation to which the Commission is a party, advises the Commission as to legal questions involved in proposed actions and policies in the light of past and pending litigation, and conducts research in legal matters as directed by the General Counsel.



**§ 0.45 Legislation Division.**

The Legislation Division advises and makes recommendations to the Commission with respect to proposed legislation and coordinates the preparation of Commission views thereon for submission to Congress, interprets statutes affecting the Commission, and conducts research in legal matters as directed by the General Counsel.

**§ 0.46 Administrative Law and Treaties Division.**

The Administrative Law and Treaties Division has the following duties and responsibilities:

(a) To conduct research in legal matters and prepare legal opinions as directed by the General Counsel.

(b) To participate in international conferences and in the implementation of international agreements, and to interpret international agreements and international regulations affecting the Commission.

(c) To prepare and/or coordinate recommendations concerning procedural rules of general applicability, and to maintain liaison with Government agencies and private organizations concerned with improving the Commission's procedures.

(d) To coordinate rule making matters and proceedings affecting more than one Bureau.

(e) In cooperation with the Office of Chief Engineer, to participate in general frequency allocation proceedings affecting more than one Bureau and in rule making proceedings involving Parts 5, 15, or 18 of this chapter.

(f) To cooperate with the Common Carrier Bureau and the Office of Chief Engineer on matters pertaining to satellite communications.

(g) To study and develop recommendations with regard to the licensing practices of patentees and assignees in communications services regulated by the Commission.

(h) To perform any additional functions assigned to it by the General Counsel.

**§ 0.47 Enforcement and Defense Division.**

The Enforcement and Defense Division has the following duties and responsibilities:

(a) To advise the Commission and to take action, usually upon recommendations submitted by the operating bureaus, as to civil and criminal proceedings to enforce the Communications Act, the rules and regulations of the Commission, and Commission orders in the courts of the United States.

(b) To interpret statutes and executive orders affecting the Commission's national defense responsibilities, and to perform the functions of the Office of General Counsel involving implementation of such statutes and executive orders.

(c) To perform all legal functions involved in administering and enforcing the rules and regulations of the Commission pertaining to the Experimental Radio Service (Part 5 of this chapter), Radio Frequency Devices (Part 15 of this chapter), the Industrial, Scientific, and Medical Service (Part 18 of this chapter), and type approval and type acceptance

of radio equipment, including educational functions directed to obtaining voluntary compliance with the provisions of Parts 15 and 18 of this chapter.

(d) To perform all legal functions with respect to leases, contracts, tort claims and such other internal legal problems as may arise.

(e) To prepare the bound volumes of the FCC Reports.

(f) To review the national security aspects of applications for commercial operator licenses or permits submitted for review by the Field Engineering Bureau, and of applications for amateur operator and station licenses submitted for review by the Safety and Special Radio Services Bureau.

(g) To perform any additional functions assigned to it by the General Counsel.

**OFFICE OF THE SECRETARY****§ 0.51 Functions of the Office.**

The Office of the Secretary has the following duties and responsibilities:

(a) To maintain minutes and records of official Commission actions and sign official Commission correspondence and documents.

(b) Upon obtaining the approval of the chief of the bureau or head of the staff office primarily responsible for the particular part or section of the rules involved, to make nonsubstantive, editorial revisions of the Commission's rules and regulations.

(c) To maintain dockets of all Commission hearing proceedings.

(d) To maintain library and reference facilities.

(e) To direct and supervise the development and execution of a technical assistance program in cooperation with the Foreign Operations Administration and other Government agencies.

**§ 0.52 Units in the Office.**

The Office of the Secretary is divided into the following units:

(a) Dockets Division.

(b) Minute and Rules Division.

(c) Library Division.

(d) Technical Assistance Division.

**§ 0.53 Dockets Division.**

The Dockets Division maintains the official dockets of all Commission hearing cases.

**§ 0.54 Minute and Rules Division.**

The Minute and Rules Division maintains official minutes of all Commission actions and notations of Commission meetings; submits to the Office of the Federal Register all official Commission documents which require publication; maintains the Commission's official copy of the rules and regulations with history and background; and acts as provided for in § 0.51(b).

**§ 0.55 Library Division.**

The Library Division catalogues and maintains books, periodicals, and other reference material; pro-

vides reading and reference room facilities and service ; and provides library research and reference service to Commissioners and staff members.

#### § 0.56 Technical Assistance Division.

The Technical Assistance Division develops, in cooperation with the Agency for International Development, technical assistance programs with respect to communications in accordance with Commission policies, and maintains liaison with the Agency for International Development and other government agencies concerning technical assistance.

#### OFFICE OF INFORMATION

#### § 0.61 Functions of the Office.

The Office of Information is responsible for releasing public announcements of the Commission ; is the central depository of this material for reference and call ; prepares certain informational publications and material, including annual reports ; provides an internal information service for the Commissioners and staff ; and is the contact point for the press, industry and public in the matter of general information relating to the Commission and its activities.

【§ 0.61 center heading and text amended eff. 9-15-67 ; 1(63)-18】

#### BROADCAST BUREAU

#### § 0.71 Functions of the Bureau.

The Broadcast Bureau assists, advises, and makes recommendations to the Commission with respect to

the development of a regulatory program for the broadcast services and is responsible for the performance of any work, function, or activities to carry out that program in accordance with applicable statutes, international agreements, rules and regulations, and policies of the Commission. The Bureau performs the following functions :

(a) Receives, examines, files, indexes, records and processes applications in the broadcast services, makes recommendations to the Commission thereon and issues authorizations in accordance with Commission instructions and directions.

(b) Processes petitions in broadcast matters (protests and orders of designation) not specified in § 0.171.

(c) By notification in accordance with the procedures set forth in the North American Regional Broadcasting Agreement establishes priorities for United States stations under this and associated agreements. Receives and examines notifications of assignments in other North American countries, and resolves conflicts by negotiation.

(d) Participates in hearings involving applications, rule making, and other matters which pertain to the radio broadcast services, including proceedings pursuant to sections 312 and 316 of the Communications Act of 1934, as amended.

(e) Makes recommendations to the Commission concerning the promulgation of rules and standards in the broadcast services.

(f) Participates in international conferences with

respect to broadcast services, and in implementation of international broadcast agreements.

(g) Studies frequency requirements in the broadcast services and makes recommendations with respect to the allocation of frequencies and the drafting of frequency assignment plans in such services.

(h) Confers with government and industry groups interested in the problems of broadcast services.

(i) Studies and establishes technical requirements for equipment in the broadcast services in accordance with standards established by the Commission.

(j) Exercises such authority as may be assigned or referred by the Commission pursuant to section 5(d) of the Communications Act of 1934, as amended.

#### § 0.72 Units in the Bureau.

The Broadcast Bureau is divided into the following units:

- (a) Office of the Bureau Chief.
- (b) Broadcast Facilities Division.
- (c) Renewal and Transfer Division.
- (d) Hearing Division.
- (e) Rules and Standards Division.
- (f) License Division.
- (g) Research and Education Division.
- (h) Office of Network Study.
- (i) Complaints and Compliance Division.

#### § 0.73 Office of the Bureau Chief.

The Office of the Bureau Chief is composed of the immediate offices of the Chief and the Assistant Chiefs of the Broadcast Bureau, and of the Administrative

Assistant. It assists the Chief of the Broadcast Bureau in planning, directing, coordinating and executing the functions of the Bureau.

#### § 0.74 Broadcast Facilities Division.

The Broadcast Facilities Division is responsible for all functions indicated in the statement contained in § 0.71, insofar as such functions pertain to standard (AM), FM, television, international, experimental, and auxiliary broadcast services, excluding functions stated in §§ 0.75, 0.76, 0.77, and 0.81.

#### § 0.75 Renewal and Transfer Division.

The Renewal and Transfer Division is responsible for all functions indicated in the statement contained in § 0.71, insofar as such functions pertain to applications for renewal or assignment of a license or construction permit, or for transfer of control of a corporate licensee or permittee.

#### § 0.76 Hearing Division.

The Hearing Division is responsible for all functions indicated in the statement contained in § 0.71, insofar as such functions pertain to applications which have been designated for hearing or to proceedings pursuant to sections 312 and 316 of the Communications Act of 1934, as amended.

#### § 0.77 Rules and Standards Division.

The Rules and Standards Division is responsible for all functions indicated in the statement contained in § 0.71, insofar as such functions relate to the development or revision of rules and standards, to interna-



tional conferences, and to special projects in the broadcast services.

**§ 0.78 License Division.**

The License Division exercises responsibility for the receipt, initial examination, filing, indexing, recording and routing of all applications in the broadcast services; the clerical functions with respect to the issuance of broadcast authorizations; and for the maintenance of a public reference room in cooperation with the Dockets Division of the Office of the Secretary where public information with respect to all broadcast matters and all docketed proceedings may be examined.

**§ 0.79 Research and Education Division.**

The Research and Education Division compiles data and prepares reports to the Commission on the condition and status of the broadcast industry; studies the social and economic factors affecting communications; and advises the Bureau and the Commission with respect to the development and promotion of the educational broadcasting and the commercial broadcasting services.

**§ 0.80 Office of Network Study.**

The Office of Network Study conducts studies and compiles data relating to radio and television network operations necessary for the Commission to develop and maintain an adequate regulatory program.

**§ 0.81 Complaints and Compliance Division.**

The Complaints and Compliance Division is responsible for all functions indicated in the statement contained in § 0.71, insofar as such functions pertain to complaints concerning the conduct of radio and television broadcast operations and compliance with statutes, international agreements, and policies and rules of the Commission, except insofar as functions are specifically delegated to other bureaus and staff offices of the Commission.

**CATV TASK FORCE**

**§ 0.85 Functions of the Task Force.**

The CATV Task Force assists, advises and makes recommendations to the Commission with respect to the development of a regulatory program for community antenna television systems and related private and common carrier microwave radio facilities. The Task Force performs the work and activities involved in the implementation of the Commission's regulatory program as it pertains to the regulation of community antenna television systems (see Subpart K, Part 74 of this chapter); and performs the work and activities involved in the licensing and regulation of Community Antenna Relay stations, after coordination with the Broadcast Bureau (see Subpart J, Part 74). The licensing and regulation of related common carrier microwave facilities are coordinated with the Task Force by the Common Carrier Bureau (see Subpart I, Part 21). The licensing and regulation of related microwave facilities in the Business Radio Service are coordinated with the Task Force by the Safety and Special Radio Services Bureau (see Subpart L, Part 91). The Task Force performs the following functions:

(a) Processes proposals, applications, and requests regarding community antenna television systems, makes recommendations thereon to the Commission, and takes appropriate actions in accordance with Commission instructions and directions.

(b) Makes recommendations to the Commission concerning the promulgation of rules and regulations affecting community antenna television systems.

(c) Participates in hearings involving applications, rulemaking, and other matters which may have a significant impact on the Commission's regulatory program for community antenna television systems.

(d) Confers with Government and industry groups interested in problems relating to community antenna television systems.

(e) Exercises such authority as may be assigned or referred by the Commission pursuant to section 5(d) of the Communications Act of 1934, as amended.

【§ 0.85 and Center Heading adopted eff. 12-30-66; I(63)-15】

#### COMMON CARRIER BUREAU

##### § 0.91 Functions of the Bureau.

The Common Carrier Bureau develops, recommends, and administers policies and programs with respect to the regulation of rates, services, accounting, and facilities of communication common carriers involving the use of wire, cable, radio, and space satellites. The Bureau performs the following functions:

(a) Advises and makes recommendations to the Commission and represents the Commission in matters pertaining to common carrier regulation and licensing.

(b) Participates in all phases of international conferences involving common carrier matters.

(c) Collaborates with representatives of State regulatory commissions and with the National Association of Railroad and Utilities Commissioners in the conduct of cooperative studies of regulatory matters of common concern.

(d) Participates, as a party, in adjudicatory hearings in which significant common carrier issues are involved.

(e) Advises and assists members of the public and the industries regulated on communication matters.

(f) Makes recommendations to the Commission on policy and technical determinations regarding the use of space satellites for other than common carrier communication purposes.

(g) Exercises such authority as may be assigned or referred to it by the Commission pursuant to section 5(d) of the Communications Act of 1934, as amended.

【§ 0.91 amended eff. 12-23-66; I(63)-15】

##### § 0.92 Units in the Bureau.

(a) Office of the Bureau Chief.

(b) International and Satellite Communication Division.

(c) Domestic Rates Division.

(d) Domestic Radio Division.

(e) Domestic Services and Facilities Division.

(f) Field Operations Division.

(g) Economic Studies Division.

【§ 0.92 adopted eff. 12-23-66; I(63)-15】

##### § 0.93 Field Offices.

Common Carrier Bureau field offices are located at 90 Church Street, New York, N.Y. 10007; Post Office and Courthouse Building, Seventh and Mission Streets, San Francisco, Calif. 94103; and Room 906, 1114 Market Street, St. Louis, Mo. 63101.

【§ 0.93 adopted eff. 12-23-66; I(63)-15】

##### 【§§ 0.94—0.99 Deleted】

【§§ 0.94—0.99 deleted eff. 12-23-66; I(63)-15】

#### FIELD ENGINEERING BUREAU

##### § 0.111 Functions of the Bureau.

The Field Engineering Bureau is responsible for all Commission engineering activities performed in the field relating to radio stations including station inspections, surveys, monitoring, direction finding, signal measurement and investigations; for those enforcement activities performed in the field dealing with the suppression of interference and the inspection of devices possessing electromagnetic radiation characteristics; and such other field inspections or investigations as might be required by the Commission, or the bureaus and staff offices. The Bureau also performs the following functions:

(a) Develops rules and regulations which will provide such classes of commercial operators as may be required in the various radio services regulated by the Commission, and administers and enforces such rules and regulations.

(b) Prepares and conducts commercial radio operator examinations and issues commercial operator licenses.

(c) Conducts amateur examinations, and upgrades amateur licenses in situations where the upgrading can be accomplished by endorsements.

(d) Processes data with respect to proposed new or modified antenna structures covered in Part 17 of this chapter to determine whether such proposed construction will create hazards to air navigation.

(e) Represents the Commission and participates in interagency committees and in international conferences with respect to matters for which the Bureau is responsible.

(f) Enforces and administers Parts 15 and 18 of this chapter relative to equipment, interference, and related problems in the industrial, scientific and medical services arising from restricted radiation devices.

(g) Subject to the policy guidance of the Defense Commissioner, and in consultation with the Executive Director, and the Chief, Office of Emergency Communications.

(1) Prepares detailed plans for and coordinates the development of the FCC owned, leased, and operated communications systems designated as assets of the National Communications System;

(2) Selects and prepares detailed plans for the physical facilities designated as FCC Emergency Relocation facilities, including plans for the utilization of such facilities on a day-to-day basis;

(3) Prepares detailed operational plans, procedures, and arrangements for certain classified activities with other Government Agencies, as related to the FCC owned, leased and operated communications systems;

(4) Prepares the detailed emergency operational staffing plans and procedures for performing certain classified functions of the Field Engineering Bureau under national emergency conditions, including selection, assignment, emergency notification, transportation, and specialized training of personnel and Special Task Forces (FEB) personnel; and

(5) Investigates violations of pertinent law and regulations in an emergency involving occupancy of the radio spectrum, and develops procedures designated to initiate, recommend, or otherwise bring about appropriate enforcement action required in the interest of national security.

(h) Subject to the policy guidance of the Defense Commissioner, provides the principal representation for the Commission to the Regional Preparedness Committees of the Office of Emergency Planning for the purpose of carrying out detailed planning for the continuity of essential Government functions in a national emergency.

(i) In cooperation with the Office of Emergency Communications, and subject to the policy guidance of the Defense Commissioner, provides alternate repre-

sentation for the Commission to the Regional Civil Defense Coordinating Boards.

(j) Exercises such authority as may be assigned or referred by the Commission pursuant to section 5(d) of the Communications Act of 1934, amended.

ⓘ § 0.111, amended in I(63)-4, as further amended *re par.* (g) *eff.* 11-28-64; I(63)-5Ⓢ

#### § 0.112 Units in the Bureau.

The Bureau consists of the following units:

- (a) Office of the Bureau Chief.
- (b) Engineering and Facilities Division.
- (c) Field Offices Division and its associated field organization consisting of district offices, suboffices, marine offices, and mobile enforcement units.
- (d) Monitoring Systems Division and its associated field organization consisting of monitoring stations.

#### § 0.113 Office of the Bureau Chief.

The Office of the Bureau Chief plans, directs, and coordinates the functions of the Bureau. It includes a Deputy Chief; an Assistant Chief; an administrative branch, which performs the administrative functions of the Bureau and is responsible for planning, coordinating and administering the Bureau's employee technical supervisory training programs; a Special Assistant to the Chief of the Bureau responsible for directing the detailed planning and development of the FCC owned, leased and operated communications systems designated as assets of the National Communications System; and an Attorney Advisor, who advises the Chief of the Bureau and the divisions of the Bureau

on legal questions relative to such matters as applications for commercial operator licenses, interference problems, investigations, and other activities of the Bureau.

ⓘ § 0.113 as amended *eff.* 11-28-64; I(63)-5Ⓢ

#### § 0.114 Engineering and Facilities Division.

The Engineering and Facilities Division is responsible for all functions indicated in § 0.111 insofar as technical engineering standards are concerned; for the development of measuring procedures and techniques for the guidance of field personnel in performing engineering measurements; for the determination of technical equipment and facilities requirements of all Bureau field installations in the conduct of their assigned duties and for the provision of such equipment and facilities; the administration, interpretation and revision of Part 17 of this chapter governing construction, marking, and lighting of antenna structures, including the processing of data concerning proposed new or modified antenna construction to insure no hazard to air navigation results from the proposed construction; for liaison with the Federal Aviation Agency in respect to matters concerning antenna tower construction and antenna hazards; and for liaison with the Office of the Chief Engineer and with other Government agencies with respect to technical engineering matters of Bureau concern.

#### § 0.115 Field Offices Division.

The Field Offices Division is responsible for:

- (a) The examination functions of the Bureau, in-



cluding responsibility for Part 13 of this chapter concerning the licensing of commercial radio operators, and recommending action on matters of noncompliance with rules, acts, or treaties by these operators.

(b) The inspection functions of the Bureau, including responsibility for the development and making of recommendations with respect to the priority and frequency of station inspections.

(c) Planning enforcement and investigative programs for the Bureau; directing and supervising investigations by the field offices; and maintaining liaison with other bureaus and offices of the Commission with respect to the conduct of investigations in their behalf.

(d) The administration of Parts 15 and 18 of this chapter relative to equipment, interference and related problems involving the devices and equipment regulated by these parts, including review and action upon certifications submitted to the Commission pursuant to Part 18 of this chapter.

(e) Supervising and managing the activities of the Engineers in Charge of the district offices, the Radio Engineers in Charge of suboffices, the Marine Supervisors and the Engineers in Charge of mobile TV enforcement units; and performing those administrative activities which will insure the most effective performance of the field operations of the Bureau.

§ 0.116 Monitoring Systems Division.

The Monitoring Systems Division is responsible for standards, techniques and field operations indicated in § 0.111 for the radio monitoring function, including coordinating Commission monitoring activities with centralizing offices for international monitoring in other countries, with other Federal Government agencies, and with industry self-help groups. The monitoring stations, whose operations are directed and the results evaluated by this Division, perform surveillance of the radio spectrum, detect and locate illegal radio stations and sources of interference, enforce radio laws and regulations, gather facts through monitoring and engineering measurements to resolve interference problems and to assist the Commission in rulemaking, participate through direction finding in search and rescue operations involving distressed ships and aircraft, and perform monitoring and direction finding work under contractual arrangements with other Federal governmental agencies.

§ 0.121 Location of field offices and monitoring stations.

(a) District Offices and their suboffices are located at the following addresses:

Radio district	Address of the Engineer in Charge	Territory within district	
		States	Counties
1	Customhouse, Boston, Mass. 02109.	Connecticut..... Maine..... Massachusetts..... New Hampshire..... Rhode Island..... Vermont.....	All counties. Do. Do. Do. Do. Do.
2	Federal Bldg., 641 Washington St., New York, N.Y. 10014.	New Jersey..... New York.....	Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren. Albany, Bronx, Columbia, Delaware, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Schenectady, Suffolk, Sullivan, Ulster, and Westchester.
3	New U.S. Customhouse, Philadelphia, Pa. 19106.	Delaware..... New Jersey..... Pennsylvania.....	New Castle. Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem. Adams, Berks, Bucks, Carbon, Chester, Cumberland, Dauphin, Delaware, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York.
4	U.S. Customhouse, Gay and Water Sts., Baltimore, Md. 21202.	Delaware..... Maryland..... Virginia..... West Virginia.....	Kent and Sussex. All except District 24. Clarke, Fairfax all except District 24, Fauquier, Frederick, Loudoun, Page, Prince William, Rappahannock, Shenandoah, and Warren. Barbour, Berkeley, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Upshur.
5	Federal Bldg., Norfolk, Va. 23510..	North Carolina..... Virginia.....	All except District 6. All except Districts 4 and 24.
6	2310 Atlanta Merchandise Mart, 240 Peachtree St., NE, Atlanta, Ga. 30302. Suboffice: P.O. Box 77, Post Office Bldg., Savannah, Ga. 31402.	Alabama..... Georgia..... North Carolina..... South Carolina..... Tennessee..... Florida.....	All except District 8. All counties. Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, Yancey. Do. All counties. Do. All except District 8.
7	P.O. Box 150, Federal Bldg, Miami, Fla. 33101.	Alabama..... Arkansas..... Florida..... Louisiana..... Mississippi..... Texas.....	Baldwin and Mobile. All counties. Escambia. All counties. Do. City of Texarkana only.

Radio district	Address of the Engineer in Charge	Territory within district	
		States	Counties
9	New Federal Office Bldg., 515 Rusk Ave., Room 5636, Houston, Tex. 77002. Suboffice: P. O. Box 1527, Post Office Bldg., 300 Wilow St., Beaumont, Tex. 77704.	Texas .....	Angelina, Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bexar, Blanco, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, De Witt, Dimmit, Duval, Edwards, Fayette, Fort Bend, Frio, Galveston, Gillespie, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Hidalgo, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kinney, Kleberg, La Salle, Lavaca, Lee, Liberty, Live Oak, Madison, Matagorda, Maverick, McMullen, Medina, Montgomery, Nacogdoches, Newton, Nueces, Orange, Polk, Real, Refugio, Sabine, San Augustine, San Jacinto, San Patricio, Starr, Travis, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala.
10	States General Life Ins. Bldg., 708 Jackson St., Dallas, Tex. 75202.	Oklahoma .....	All counties.
11	849 South Broadway, Los Angeles, Calif. 90014. Suboffice: Fox Theatre Bldg., 1245 7th Ave., San Diego, Calif. 92101.	Texas .....	All except District 9 and the city of Texarkana.
12	Customhouse (555 Battery St.), San Francisco, Calif. 94126.	Arizona .....	All counties.
13	New U. S. Courthouse, 620 SW, Main St., Portland, Oreg. 97205.	California .....	Imperial, Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.
14	Federal Office Bldg. (First Ave. and Marion), Seattle Wash. 98104.	Nevada .....	Clark.
15	New Customhouse (19th between California and Stout Sts.), Denver, Colo. 80202.	California .....	All except District 11.
16	Federal Courts Bldg., 6th and Market Sts., St. Paul, Minn. 55102.	Nevada .....	All except Clark.
17	Federal Office Bldg., 911 Walnut St., Kansas City, Mo. 64106.	Idaho .....	All except District 14.
18	U.S. Courthouse, 219 South Clark St., Chicago, Ill. 60604.	Oregon .....	All counties.
19	New Federal Bldg., Detroit, Mich. 48226.	Washington .....	Clark, Cowitz, Klickitat, Skamania, and Wahkiakum.
20	Post Office Bldg., Buffalo, N.Y. 14203.	Idaho .....	Benewah, Bonner, Boundary, Clearwater, Idaho Kootenai, Latah, Lewis, Nez Perce, Shoshone.
21	P. O. Box 1021, Federal Bldg., Honolulu, Hawaii. 96808.	Montana .....	All counties.
22	P. O. Box 2987, Federal Bldg., San Juan, P. R. 00903.	Washington .....	All except District 13.
23	P. O. Box 644, U.S. P. O. and Courthouse Bldg., Anchorage, Alaska 99501.	Colorado .....	All counties.
24	1101 Pennsylvania Ave. N.W., Room 10110, Washington, D.C. 20555.	Utah .....	Do.
		Wyoming .....	Do.
		Nebraska .....	Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux.
		New Mexico .....	All counties.
		South Dakota .....	Butte, Custer, Fall River, Lawrence, Meade, Pennington, Shannon, Washabaugh.
		Minnesota .....	All counties.
		Michigan .....	Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft.
		South Dakota .....	All counties except District 15.
		North Dakota .....	All counties.
		Wisconsin .....	All counties except District 18.
		Iowa .....	All except District 18.
		Kansas .....	All counties.
		Missouri .....	Do.
		Nebraska .....	All except District 15.
		Illinois .....	All counties.
		Indiana .....	Do.
		Iowa .....	Allamakee, Buchanan, Cedar, Clayton, Clinton, Delaware, Des Moines, Dubuque, Fayette, Henry, Jackson, Johnson, Jones, Lee, Linn, Louisa, Muscatine, Scott, Washington, and Winneshiek.
		Wisconsin .....	Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door, Fond du Lac, Grant, Green, Iowa, Jefferson, Kenosha, Kewaunee, Lafayette, Manitowoc, Marinette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha, and Winnebago.
		Kentucky .....	All counties except District 19.
		Kentucky .....	Bath, Bell, Boone, Bourbon, Boyd, Bracken, Breathitt, Campbell, Carter, Clark, Clay, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Greenup, Harlan, Harrison, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Madison, Magoffin, Martin, Mason, McCreary, Menifee, Montgomery, Morgan, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Scott, Wayne, Whitley, Wolf, and Woodford.
		Ohio .....	All counties.
		Michigan .....	All counties except District 16.
		West Virginia .....	All counties except District 4.
		New York .....	All except District 2.
		Pennsylvania .....	All except District 3.
		Hawaii and outlying Pacific possessions.	
		Puerto Rico .....	
		Virgin Islands .....	
		Alaska .....	
		District of Columbia and 10 miles beyond the boundary of the District of Columbia in each direction.	

(b) The Marine Offices are located at the following addresses:

Marine Office, 221 N. Howard Ave., Spradlin Bldg., Tampa, Florida 33606.

Marine Office, 356 West 5th Street, San Pedro, California 90731.

(c) The Class A monitoring stations are located at the following addresses:

Federal Communications Commission, P.O. Box 89, Allegan, Michigan 49010.

Federal Communications Commission, P.O. Box 788, Grand Island, Nebraska 68801.

Federal Communications Commission, P.O. Box 632, Kingsville, Texas 78363.

Federal Communications Commission, P.O. Box 31, Laurel, Maryland 20810.

Federal Communications Commission, P.O. Box 989, Livermore, California 94551.

Federal Communications Commission, P.O. Box 374, Canandaigua, New York 14424.

Federal Communications Commission, P.O. Box 5165, Portland, Oregon 97216.

Federal Communications Commission, P.O. Box 98, Powder Springs, Georgia 30073.

Federal Communications Commission, P.O. Box 2215, Santa Ana, California 92704.

Federal Communications Commission, P.O. Box 1035, Wai-pahu, Hawaii 96797.

Federal Communications Commission, P.O. Box 5098, Fort Lauderdale, Florida 22836.

(d) The Class B monitoring stations are located at the following addresses:

Federal Communications Commission, P.O. Box 810, Fairbanks, Alaska 99701.

Federal Communications Commission, P.O. Box 251, Chillicothe, Ohio 45601.

Federal Communications Commission, Ambrose Monitoring Station, P.O. Box 6310, Denison, Texas 75021.

Federal Communications Commission, P.O. Box 191, Spokane, Washington 99200.

Federal Communications Commission, P.O. Box 1101, Douglas, Arizona 85607.

Federal Communications Commission, P.O. Annex, Box 6303, Anchorage, Alaska 99502.

(e) The Class C monitoring stations are located at the following addresses:

Federal Communications Commission, P.O. Box 64, Prospect Harbor, Maine (Winter Harbor) 04669.

(f) An examination office for amateur operator license applicants is located at 334 York Street, Gettysburg, Pa.

【§ 0.121, amended in I(63)-2, as further amended to adopt par. (f) eff. 9-1-65; I(63)-7】

#### SAFETY AND SPECIAL RADIO SERVICES BUREAU

##### § 0.131 Functions of the Bureau.

The Safety and Special Radio Services Bureau develops, recommends, and administers policies and programs for the development and regulation of the Safety and Special Radio Services. These services include nationwide and international uses of radio by persons, businesses, state and local governments, and other organizations licensed to operate their own communication systems for their own use as an adjunct of

their primary business or other activity. This program includes, among others, (1) the compulsory use of radio for safety at sea purposes, and (2) the regulation, jointly with the Common Carrier Bureau, of certain classes of radio stations which render communication service for hire. The Bureau performs the following functions:

(a) Advises and makes recommendations to the Commission and acts for the Commission in matters pertaining to the regulation and development of the Safety and Special Radio Services. These matters include: Rule making, waivers of rules, action on applications for authorizations, adjudicative hearings, enforcement activities, legislation, and defense matters.

(b) Participates in treaty activities and all phases of international conferences concerning the Safety and Special Radio Services.

(c) Conducts studies of frequency requirements in the Safety and Special Radio Services; recommends allocations of frequencies and drafts frequency assignment plans for these services.

(d) Studies technical requirements for equipment for the Safety and Special Radio Services in accordance with standards established by the Chief Engineer.

(e) Collaborates and coordinates with Federal and State Government agencies in matters involving the Safety and Special Radio Services.

(f) Advises and assists members of industry and user groups interested in the Safety and Special Radio Services.

【§ 0.131 amended eff. 5-9-66, I(63)-12】

#### § 0.132 Units in the Bureau.

The detailed operations of the Bureau are performed within five major units, as follows:

- (a) Legal, Advisory, and Enforcement Division;
- (b) Industrial and Public Safety Rules Division;
- (c) Industrial and Public Safety Facilities Division;
- (d) Aviation and Marine Division; and
- (e) Amateur and Citizens Division.

【§ 0.132 amended eff. 5-9-66, I(63)-12】

#### §§ 0.133-0.139 [Deleted]

【§§ 0.133-0.139 deleted eff. 5-9-66, I(63)-12】

#### OFFICE OF HEARING EXAMINERS

#### § 0.151 Functions of the Office.

The Office of Hearing Examiners consists of a Chief Hearing Examiner, an Assistant Chief Hearing Examiner, and as many other Hearing Examiners qualified and appointed pursuant to the requirements of section 11 of the Administrative Procedure Act as the Commission may find necessary. It is responsible for hearing and conducting all adjudicatory cases designated for any evidentiary adjudicatory hearing other than those designated to be heard by the Commission en banc or

by one or more members of the Commission, and for such other hearings as the Commission may assign.

#### § 0.152 Responsibilities of the Chief Hearing Examiner.

The Chief Hearing Examiner and, in his absence, an Acting Chief Hearing Examiner appointed by the Chief Hearing Examiner, have the following administrative responsibilities:

(a) To coordinate and supervise administratively the activities of the Office of Hearing Examiners.

(b) To prepare and maintain hearing calendars, showing the time and place of the commencement of hearings.

(c) To receive, correlate and approve recommendations of the Hearing Examiners of the Commission on matters relating to changes in rules and regulations governing hearing procedures, and recommend to the Commission desirable changes in said rules and regulations to promote the simplified and expeditious conduct of proceedings.

(d) To require and prepare reports, statistical data and other information requested or required by the U.S. Civil Service Commission or other offices or agencies of the U.S. Government concerned with the proper operation of the Office of Hearing Examiners.

(e) To serve, upon instruction of the Commission or the Chairman, as liaison for the Commission and the Office of Hearing Examiners in the making of appropriate arrangements for the securing of advice or information from representatives of other agencies, bar associations, and other interested persons in connection with the formulation and improvement of administrative procedures and practices applicable to the Commission's proceedings.

(f) To exercise such authority as may be assigned to him by the Commission pursuant to section 5(d) of the Communications Act, as amended.

#### REVIEW BOARD

##### § 0.161 Functions of the Board.

The Review Board is a permanent body with continuing functions, composed of three or more Commission employees designated by the Commission. The Board reviews initial decisions and other hearing matters referred to it by the Commission, takes original action on certain interlocutory matters which arise during the course of hearing proceedings, and performs such additional duties not inconsistent with these functions as may be assigned to it by the Commission.

#### OFFICE OF OPINIONS AND REVIEW

##### § 0.171 Functions of the Office.

The Office of Opinions and Review is composed of legal, engineering, accounting, and other personnel and is headed by a Chief. It assists and makes recommendations to the Commission, and to individual commissioners designated to review initial decisions, in the disposition of matters arising in cases of adjudication (as defined in the Administrative Procedure Act and such other cases as by Commission policy are handled in the same manner) which have been designated for hearing.

#### DEFENSE AND EMERGENCY PREPAREDNESS FUNCTIONS

##### § 0.181 The Defense Commissioner.

A Defense Commissioner and two Alternate Defense Commissioners are designated by the Commission. The Defense Commissioner directs the defense activities of the Commission and has the following duties and responsibilities:

(a) To keep the Commission informed as to significant developments in the field of emergency preparedness, defense mobilization, and any defense activities that involve formulation or revision of Commission policy in any area of responsibility of the Commission.

(b) To represent the Commission in national defense matters requiring conferences or communications with other governmental officers, departments, or agencies.

(c) To act as the Defense Coordinator in representations with other agencies with respect to planning for the continuity of the essential functions of the Commission under national emergency conditions, and to serve as the principal representative of the Commission to the Interagency Emergency Planning Committee of the Office of Emergency Planning.

(d) To serve as the principal representative of the Commission to the Interagency Civil Defense Committee of the Office of Civil Defense, Department of the Army.

(e) To serve as the principal point of contact for the Commission on all matters pertaining to the National Communications System.

(f) To take such measures as will assure continuity of the Commission's functions under any foreseeable circumstances with a minimum of interruption.

(g) In the event of enemy attack, or the imminent threat thereof, or other disaster resulting in the inability of the Commission to function at its offices in Washington, D.C., to assume all of the duties and responsibilities of the Commission and the Chairman.

until relieved or augmented by other Commissioners or members of the staff, as set forth in §§ 0.186 and 0.383.

(h) To perform such other duties and assume such other responsibilities related to the Commission's defense activities as may be necessary for the continuity of functions and the protection of personnel and property of the Commission.

☐ § 0.181 as amended eff. 10-26-64; I(63)-4 ☐

#### § 0.182 Executive Director.

Under the general direction of the Defense Commissioner, and with the advice and assistance of the heads of the several bureaus and offices, the Executive Director coordinates the defense activities of the Commission, and has the following duties and responsibilities.

(a) To act as Alternate Defense Coordinator in representations with other agencies with respect to planning for the continuity of the essential functions of the Commission under national emergency conditions, and to serve as the alternate representative of the Commission to the Interagency Emergency Planning Committee of the Office of Emergency Planning.

(b) To serve as the alternate representative of the Commission to the Interagency Civil Defense Committee of the Office of Civil Defense, Department of the Army.

(c) To keep the Defense Commissioner informed as to significant developments in this area.

☐ § 0.182 as amended eff. 10-26-64; I(63)-4 ☐

#### § 0.183 Office of Emergency Communications.

(a) The Chief of the Office of Emergency Communications plans, directs and coordinates the functions of the Office. The Office of Emergency Communications under the supervision and direction of the Executive Director and in collaboration with, and with the concurrence of the responsible Bureau Heads and Staff Officers, develops, prepares, and recommends to the Defense Commissioner national emergency plans and develops preparedness programs covering (See Executive Orders 10312, 10346, as amended, 11007, 11092, and 11179):

(1) Provision of service by common carriers, broadcasting facilities, and the safety and special radio services under national emergency conditions;

(2) Assignment of radio frequencies to Commission licensees under national emergency conditions;

(3) Preparation of data with respect to facilities operated by the non-Government communications industry for use by the National Resources Evaluation Center;

(4) Control of radio stations in an emergency, except those belonging to, or operated by, any department or agency of the United States Government;

(5) Investigations of violations of pertinent law and regulations in an emergency, and development of procedures designated to initiate, recommend, or otherwise bring about the appropriate enforcement actions required in the interest of national security;

(6) Provision of financial, credit, or other assistance to common carriers and Commission licensees who might need such assistance in various conditions of mobilization, particularly those resulting from attack;

(7) Stimulation of the development by common carriers and licensees, of standby plans for the conservation and salvage of supplies and equipment and the rehabilitation, restoration, or replacement of essential communication facilities after an attack;

(8) Preparation, as claimant agency for the non-Government communications industry, to claim materials, manpower, equipment, supplies, and services needed in support of the common carriers, and Commission licensees from the appropriate resource agencies, and work with such agencies in developing programs to insure availability of such resources in an emergency;

(9) Provision of advice and guidance to achieve such industry protection as is necessary to maintain the integrity of the facilities and services provided by common carriers and radio station licensees, and promote a national program to stimulate disaster preparedness and damage control, including, but not limited to, organizing and training facility employees, personnel shelter, evacuation and relocation plans, records protection, continuity of management, security, emergency repair and recovery of facilities, deconcentration and dispersal of facilities, and mutual aid associations for emergency;

(10) Development and maintenance of a capability to assess the effects of attack on communication facilities and services subject to Commission regulation, which are essential in a national emergency, and provide data to the Department of Defense; and

(11) Fostering or conducting research in areas directly concerned with the Commission's emergency preparedness responsibilities;

(b) The Office of Emergency Communications, in collaboration with, and with the concurrence of, Bureau Heads and Staff Officers, prepares plans for the continuity of Government functions of the Commission in the event of a national emergency (except for certain designated functions of the Field Engineering Bureau, as set forth in § 0.111) as prescribed by Executive Order 10346, as amended, including plans for

emergency mobilization of the Commission's personnel; positioning, maintenance, and protection of supplies, material and essential records; and selection, training, transportation and emergency assignment, notification and funding arrangements for the Commission's Executive Reserve Unit of the National Defense Executive Reserve Program under the provisions of Executive Order 11179 (except for certain designated functions of the Field Engineering Bureau as set forth in § 0.111).

(c) The Office of Emergency Communications provides the Executive Secretariat for the National Industry Advisory Committee, its sub-committees at the Regional, State and Local level, and special working groups as may be formed for specific purposes by the Defense Commissioner.

(d) The Office of Emergency Communications is composed of the Office of the Chief, including the NIAC Secretariat and the FCC Mobilization Planning Officer, the Emergency Communication Systems Division, and the Emergency Communication Resources Plans Division, with functions as set forth in paragraphs (e), (f), and (g) of this section.

(e) Emergency Communication Systems Division: The Emergency Communication Systems Division develops and recommends plans and procedures for the following:

(1) *Broadcasting service.* Construction, activation, deactivation of broadcasting facilities and services, the continuation or suspension of broadcasting services and facilities, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency.

(2) *Safety and special radio services.* Authorization, operation, and use of specified safety and special radio services, facilities, and personnel in the national interest in an emergency.

(3) *Electromagnetic radiation.* Control of radio stations in an emergency, except for those belonging to, or operated by, any department or agency of the United States Government.

(4) *Facilities protection.* Provide advice and guidance to achieve such industry protection as is necessary to maintain the integrity of the facilities and station licensees and promote a national program to stimulate disaster preparedness and damage control. The guidance shall include, but not be limited to, organizing and training facility employees, personnel shelter, evacuation and relocation plans, records protection, continuity of management, security, emergency repair and recovery of facilities, deconcentration and dispersal of facilities, and mutual aid associations for emergency.

(5) *Research.* Foster or conduct research in areas directly concerned with the Commission's emergency preparedness responsibilities.

(f) Emergency Communication Resources Plans Division: (1) The Emergency Communication Resources Plans Division develops and recommends plans and procedures for the following:

(i) *Common carrier service.* (a) Extension, discontinuance, or reduction of common carrier facilities or services, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency; and control of all rates, charges, practices, classifications, and regulations for service to Government and non-Government users during an emergency, in consonance with national economic stabilization policies.

(b) Development and administration of priority systems for public correspondence and for the use and resumption of leased inter-city private line service in an emergency.

(c) Use of common carrier facilities and services to overseas points to meet vital needs in an emergency.

(ii) *Safety and special radio services.* Authorization, operation and use of specified safety and special radio services, facilities, and personnel in the national interest in an emergency.

(iii) *Radio frequency assignment.* Assignment of radio frequencies to, and their use by, Commission licensees in an emergency.

(iv) *Resource data.* Provision of assistance and data with respect to facilities operated by Commission licensees for national resource evaluation purposes of the Office of Emergency Planning.

(v) *Financial aid.* Provision of financial, credit, or other assistance to common carriers and Commission licensees who might need such assistance in various conditions of mobilization, particularly those resulting from attack.

(vi) *Conservation, salvage, and rehabilitation.* Stimulation of the development, by common carriers and by licensees, of standby plans for the conservation and salvage of supplies and equipment and the rehabilitation, restoration, or replacement of essential communication facilities after an attack.

(vii) *Claimancy.* Preparation, as claimant agency for the non-Government communications industry, to claim materials, manpower, equipment, supplies, and services needed in support of the common carriers and Commission licensees from the appropriate resource agencies, and insure availability of such resources in an emergency.

(viii) *Damage assessment.* Maintain a capability to assess the effects of attack on communication facilities and services subject to Commission regulation which are essential in a national emergency, and provide data to the Department of Defense.

(2) The Emergency Communication Resources Plans Division coordinates and directs the activities of the Commission's Damage Assessment Unit, and co-

ordinates the activities of the Commission's Resource Data Officer assigned to the National Resources Evaluation Center.

(3) The Emergency Communication Resources Plans Division conducts the review of plans developed by the State Task Groups and the Commission's representatives to the Regional Preparedness Committees of the Office of Emergency Planning.

(g) FCC Mobilization Planning Officer: (1) The FCC Mobilization Planning Officer, pursuant to the provisions of Executive Order 10346, as amended, and in consultation with the Bureau Heads and Staff Officers of the Commission, has responsibility for the preparation of plans for recommendation to the Defense Commissioner for maintenance of the Commission's essential functions at the seat of Government, and elsewhere, during a national emergency (except for certain designated functions of the Field Engineering Bureau as set forth in § 0.111) including the following specific functions:

(i) Prepares detailed plans for the emergency mobilization, assignment and utilization of present Commission personnel and augmentation staff, including emergency notification, transportation, and continuity of funding arrangements.

(ii) Makes detailed advance arrangements for selection, positioning, maintenance, and protection of supplies and materials required by emergency relocation personnel for the execution of the plans for continuity of the Commission's essential functions in the event of a national emergency.

(iii) Prepares recommendations for the selection, positioning, maintenance, and protection of essential records for the performance of essential functions of the Commission in the event of a national emergency.

(iv) Prepares plans for the selection, training, emergency assignment, emergency notification, transportation, and emergency funding arrangements for personnel in the Commission's Executive Reserve Unit of the National Defense Executive Reserve Program under the provisions of Executive Order 11179.

(v) Selects and prepares detailed plans for training, emergency assignment, emergency notification, and transportation of the Emergency Task Forces assigned to the Special Facilities Division of the Office of Emergency Planning and to the Commission's Principal Emergency Relocation Facility.

(vi) In cooperation with the Chief, Emergency Communication Systems Division, and the Chief, Emergency Communication Resources Plans Division, makes detailed plans for appropriate investigation, enforcement and carrying out by Emergency Task Forces of all approved emergency preparedness plans (except for certain functions of the Field Engineering Bureau)

under the provisions of Executive Orders 11092 and 10312.

(vii) Prepares plans for and conducts tests and exercises (except for certain activities of the Field Engineering Bureau as set forth in § 0.111) to determine the state of operational readiness of the Commission and its emergency facilities to execute its essential emergency functions and emergency mobilization plans in the event of a national emergency; and performs such other duties related to the Commission's continuity of Government activities and responsibilities as directed.

(viii) Prepares data and information with respect to continuity of the essential functions of the Commission in a national emergency (except for the Field Engineering Bureau as set forth in § 0.111), for use by the Defense Coordinator and Alternate Defense Coordinator at Interagency Emergency Planning Committee meetings, as directed, and prepares initial drafts of documents to implement any required actions as a result of such meetings.

(h) Executive Secretariat of the National Industry Advisory Committee: The Executive Secretary of the National Industry Advisory Committee provides secretariat service to the National Industry Advisory Committee and its subcommittees at the Regional, State and Local level and special working groups as may be formed for specific purposes by the Defense Commissioner, in accordance with the provisions of Executive Order 11007, as follows:

(1) Preparation of appointments to Committees or Working Groups as directed by the Defense Commissioner and maintenance of membership rosters, records and files of all committees and requests for appropriate security clearance for selected members.

(2) Preparation, certification, and appropriate distribution of agendas and associated material for meetings of all committees.

(3) Arrangements for preparation of appropriate minutes of meetings, and distribution thereof.

(4) Preparation of interagency coordination of National Industry Advisory Committee recommendations as directed.

(5) Coordinates preparation of the required agenda items for consideration by the Commission to effect implementation of National Industry Advisory Committee recommendations.

§ 0.183 as amended eff. 11-28-64; I (63)-5

#### § 0.184 Field Liaison Offices of the Office of Emergency Communications.

(a) Field Liaison officers of the Office of Emergency Communications (OEC) are designated as FCC representatives to Regional Civil Defense Coordinating Boards of the Office of Civil Defense, Department of



the Army (DOA). (Engineers in Charge of Field Engineering Bureau (FEB) district offices at Boston, Massachusetts; Baltimore, Maryland; Atlanta, Georgia; Detroit, Michigan; Dallas, Texas; Denver, Colorado; San Francisco, California; and Seattle, Washington are designated as alternates.)

(b) Field Liaison officers of the OEC are designated to serve as alternate FCC representatives to the OEP Regional Preparedness Committees. (The Engineers in Charge listed in paragraph (a) of this section are principal representatives.)

(c) The field offices of the Office of Emergency Communications are located at the following addresses:

OCD/OEP Region	Address of the FCC Field Liaison Officer	States
1	OCD Region One, Oak Hill Road, Harvard, Mass., 01451.	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont.
2	OCD Region Two, Olney, Md., 20832.	Delaware, District of Columbia, Kentucky, Maryland, Ohio, Pennsylvania, Virginia, West Virginia.
3	OCD Region Three, Thomasville, Ga., 71792.	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virgin Islands, Puerto Rico.
4	OCD Region Four, Federal Center, Battle Creek, Mich., 49016.	Illinois, Indiana, Michigan, Minnesota, Wisconsin.
5	OCD Region Five, Denton Federal Center, Denton, Tex., 76202.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
6	OCD Region Six, Denver Federal Center, Denver, Colo., 80225.	Colorado, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, Wyoming.
7	OCD Region Seven, Federal Center, Santa Rosa, Calif., 95401.	American Samoa, Arizona, California, Guam, Hawaii, Nevada, Utah.
8	OCD Region Eight, Everett, Wash., 98201.	Alaska, Idaho, Oregon, Montana, Washington.

FCC Field Supervisor, Eastern United States (OCD Regions 1, 2, 3, 4) located at OCD Region 3, Thomasville, Ga.

FCC Field Supervisor, Western United States (OCD Regions 5, 6, 7, 8) located at OCD Region 7, Santa Rosa, Calif.

(d) The FCC Field Liaison officers listed in paragraph (c) of this section are designated as the FCC representatives to attend and supervise all Regional and State Industry Advisory Committee meetings within their respective Regions and States pursuant to the requirements of Executive Order 11007.

*[Former § 0.184 redesignated § 0.185; new § 0.184 as adopted eff. 10-26-64; I(63)-4]*

**§ 0.185 Responsibilities of the bureaus and staff offices.**

The heads of each of the several bureaus and staff offices, in rendering advice and assistance to the Executive Director in the performance of his duties with respect to defense activities, will have the following duties and responsibilities:

(a) To keep the Executive Director informed of the instigation, progress, and completion of programs,

plans, or activities with respect to defense in which they are engaged or have been requested to engage.

(b) To render assistance and advice to the Executive Director on matters which relate to the functions of their respective bureaus or staff offices.

(c) To render such assistance and advice to other agencies as may be consistent with the functions of their respective bureaus or staff offices and the Commission's policy with respect thereto.

(d) To perform such other duties related to the Commission's defense activities as may be assigned to them by the Commission.

*[Former § 0.184 as redesignated § 0.185 eff. 10-26-64; I(63)-4]*

**§ 0.186 Emergency Relocation Board.**

(a) An Emergency Relocation Board, to be convened at the Commission's relocation headquarters, performs the functions of the Commission in the event of the inability of the Commission to function at its offices in Washington, D.C., resulting from disaster or the threat of imminent disaster from enemy attack or from natural causes, either:

(1) At the time of or under circumstances specified in a directive from the President.

(2) In the absence thereof, upon receipt of a warning signal indicating that an attack on the Capital is likely.

(3) In the absence of either a directive or warning signal, immediately following an actual attack.

(b) The Board shall comprise such Commissioners as may be present and able to act or, if no Commissioner is present and able to act, the occupant of the following positions, in the order listed, who is present and able to act:

- (1) The Chief, Field Engineering Bureau.
- (2) The General Counsel.
- (3) The Chief Engineer.
- (4) The Chief, Safety and Special Radio Services Bureau.
- (5) The Chief, Broadcast Bureau.
- (6) The Chief, Common Carrier Bureau.
- (7) The Executive Director.
- (8) The Deputy Chief, Field Engineering Bureau.
- (9) The Deputy General Counsel.
- (10) The Associate Chief Engineer.
- (11) The Assistant Chief, Safety and Special Radio Services Bureau.
- (12) An Assistant Chief, Broadcast Bureau.
- (13) The Associate Chief, Common Carrier Bureau.
- (14) The Chief of Division, ranking in the same order as indicated in subparagraphs (1) to (7) of this paragraph.

*[§ 0.186(b) (8) as amended eff. 11-30-64; I(63)-5]*



## SUBPART B—DELEGATIONS OF AUTHORITY

AUTHORITY: §§ 0.201–0.387 issued under sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155. Additional authority is cited in parentheses following the sections affected.

### GENERAL

#### § 0.201 General provisions.

(a) There are three basic categories of delegations made by the Commission pursuant to section 5(d) of the Communications Act of 1934, as amended:

(1) *Delegations to act in non-hearing matters and proceedings.* The great bulk of delegations in this category are made to bureau chiefs and other members of the Commission's staff. This category also includes delegations to individual commissioners and to boards or committees of commissioners, such as the Telegraph and Telephone Committees.

(2) *Delegations to rule on interlocutory matters in hearing proceedings.* Delegations in this category are made to the Review Board and to the Chief Hearing Examiner.

NOTE: Interlocutory matters which are delegated neither to the Review Board nor to the Chief Hearing Examiner are ruled on by the presiding officer by virtue of the authority vested in him to control the course and conduct of the hearing. This authority stems from section 7 of the Administrative Procedure Act and section 409 of the Communications Act rather than from delegations of authority made pursuant to section 5(d) of the Communications Act. (See §§ 0.218 and 0.341.)

(3) *Delegations to review an initial decision.* Delegations in this category are made to individual commissioners, to panels of commissioners, or to the Review Board.

(b) Delegations are arranged in this subpart under headings denoting the person, panel, or board to whom authority has been delegated, rather than by the categories listed in paragraph (a) of this section.

(c) Procedures pertaining to the filing and disposition of interlocutory pleadings in hearing proceedings are set forth in §§ 1.291–1.298 of this chapter. Procedures pertaining to appeals from rulings of the presiding officer are set forth in § 1.301. Procedures pertaining to reconsideration of the presiding officer's rulings are set forth in § 1.303. Procedures pertaining to reconsideration and review of actions taken pursuant to delegated authority are set forth in §§ 1.101, 1.102, 1.104, 1.106, 1.113, 1.115, and 1.117. Procedures pertaining to exceptions to initial decisions are set forth in §§ 1.276–1.279.

(d) The Commission, by vote of a majority of the members then holding office, may delegate its functions either by rule or by order, and may at any time amend, modify, or rescind any such rule or order.

(1) Functions of a continuing or recurring nature are delegated by rule. The rule is published in the FEDERAL REGISTER and is included in this subpart.

(2) Functions pertaining to a particular matter or proceeding are delegated by order. The order is published in the FEDERAL REGISTER and associated with the record of that matter or proceeding, but neither the order nor any reference to the delegation made thereby is included in this subpart.

#### § 0.203 Authority of person, panel, or board to which functions are delegated.

(a) The person, panel, or board to which functions are delegated shall, with respect to such functions, have all the jurisdiction, powers, and authority conferred by law upon the Commission, and shall be subject to the same duties and obligations.

(b) Except as provided in § 1.102 of this chapter, any action taken pursuant to delegated authority shall have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the Commission.

### COMMISSIONERS

#### § 0.211 Chairman.

The responsibility for the general administration of internal affairs of the Commission is delegated to the Chairman of the Commission. The Chairman will keep the Commission advised concerning his actions taken under this delegation of authority. This authority includes:

(a) Actions of routine character as to which the Chairman may take final action.

(b) Actions of non-routine character which do not involve policy determinations. The Chairman may take final action on these matters but shall specifically advise the Commission on these actions.

(c) Actions of an important character or those which involve policy determinations. In these matters the Chairman will develop proposals for presentation to the Commission.

(d) To act within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. § 2672, upon tort claims directed against the Commission where the amount of damages does not exceed \$5,000.

(e) Actions under § 0.417 (c) involving a request for inspection of records or files not routinely available for public inspection, or the disclosure of information contained therein; and actions under § 0.417 (d) involving a demand (subpena, order or other demand) for the production of such records or files, or for testimony concerning information contained therein.

☐ § 0.211 amended in I(63)–7; (d) amended eff. 9–9–66; I(63)–13 ☐

#### § 0.212 Board of Commissioners.

(a) Whenever the Chairman or Acting Chairman of the Commission determines that a quorum of the Commission is not present or able to act, he may convene a Board of Commissioners. The Board shall be composed of all Commissioners present and able to act.

(b) The Board of Commissioners is authorized to act upon all matters normally acted upon by the Commission en banc, except the following:

(1) The final determination on the merits of any adjudicatory or investigatory hearing proceeding or of any rule making proceeding, except upon a finding by the Board that the public interest would be disserved by awaiting the convening of a quorum of the Commission.

(2) Petitions for reconsideration of Commission actions.

(3) Applications for review of actions taken pursuant to delegated authority.

(c) The Board of Commissioners is authorized to act upon all matters normally acted upon by an individual Commissioner (when he or his alternates are not present or able to act) or by a committee of Commissioners (in the absence of a quorum of the committee).

(d) Actions taken by the Board of Commissioners shall be recorded in the same manner as actions taken by the Commission en banc.

(e) This section has no application in circumstances in which the Commission is unable to function at its offices in Washington, D.C. See §§ 0.181-0.186 and 0.381-0.387.

ⓘ § 0.212 as amended eff. 7-30-65; I(63)-7

#### § 0.214 Telegraph Committee.

(a) A Telegraph Committee, composed of three Commissioners, designated as such by the Commission or a majority thereof, will act, except as otherwise ordered by the Commission, upon all applications or requests submitted under sections 214 or 319 of the Communications Act of 1934, as amended, by carriers engaged principally in record communication, for certificates or authorization for the construction, acquisition, operation, or extension of telegraph wire, cable, or radio facilities, for temporary or emergency telegraph service, for supplementing existing telegraph facilities, or for discontinuance, reduction, or impairment of telegraph service, except those covered by §§ 0.291 and 0.294.

(b) Actions taken by the Telegraph Committee shall be recorded each week in writing and filed in the official minutes of the Commission.

#### § 0.215 Telephone Committee.

(a) A Telephone Committee, composed of three Commissioners, designated as such by the Commission, or a majority thereof, will act, except as otherwise ordered by the Commission, upon all applications or requests submitted under sections 214 or 319 of the Communications Act of 1934, as amended, by carriers engaged principally in telephone communication, for certificates or authorizations for the construction, acquisition, operation, or extension of telephone or telegraph wire, cable, or radio facilities, for temporary or emergency telephone service, for supplementing exist-

ing telephone or telegraph facilities, or for discontinuance, reduction, or impairment of telephone or telegraph service, except those covered by §§ 0.291 and 0.294.

(b) Actions taken by the Telephone Committee shall be recorded each week in writing and filed in the official minutes of the Commission.

#### § 0.216 Delegation to Subscription Television Committee.

(a) A Subscription Television Committee, composed of three Commissioners, designated as such by the Commission, or a majority thereof, will act, except as otherwise ordered by the Commission, upon all requests and other matters pertaining to trial subscription television operations authorized in accordance with the provisions of the Third Report in Docket No. 11279, with the exception of applications for authority to conduct trial subscription television operations on stations not previously engaged in such operations.

(b) All actions which are taken by the Subscription Television Committee which dispose of requests or applications shall be recorded in writing and filed in the official minutes of the Commission.

ⓘ § 0.216 as adopted eff. 12-17-63; I(63)-1

#### § 0.218 Authority of, and delegated to, an individual commissioner or commissioners.

(a) One or more members of the Commission may be designated to preside in a hearing proceeding. The commissioner or commissioners designated to preside at such a hearing shall fix the time and place of the hearing and shall act upon all motions, petitions or other matters which may arise while the proceeding is in hearing status.

(b) One or more members of the Commission may be designated to review an initial decision issued in any hearing case.

(c) Except for actions taken during the course of a hearing and upon the record thereof, actions taken by a commissioner or commissioners pursuant to the provisions of this section shall be recorded in writing and filed in the official minutes of the Commission.

#### EXECUTIVE DIRECTOR

#### § 0.231 Authority delegated.

(a) The Executive Director, or his designee, is delegated authority to exempt Standard, FM, and Television broadcast licensees from the requirement of installing and maintaining the necessary equipment to receive Emergency Action Notifications and Terminations and arranging for either an associated listening watch, or automatic alarm, or both. (See § 73.922 of this chapter.)

(b) The Executive Director, or his designee, upon securing concurrence of the General Counsel, is delegated authority to execute in the name of the Commis-

sion all agreements pertaining to the loan of United States Government property to radio station licensees for national defense purposes.

(c) The Executive Director, or his designee, upon securing concurrence of the General Counsel, is delegated authority to act upon requests for waiver of the filing fee requirements for modification applications occasioned by natural disasters.

⌈§ 0.231 amended in I(63)-4; par. (c) adopted eff. 11-12-65; I(63)-10⌋

#### CHIEF ENGINEER

##### § 0.241 Authority delegated to the Chief Engineer.

The Chief Engineer is delegated authority to act upon the following matters which are not in hearing status:

(a) With respect to type approval of radio frequency equipment and certification of radio frequency equipment as acceptable for licensing, to exercise all functions of the Commission pertaining to the:

(1) Examination of all applications for type approval of radio frequency equipment as provided for in this chapter; performance of tests, analysis of data, and determination of compliance with the provisions of this chapter; issuance of type approval certificates for radio frequency equipment which complies with the provisions of this chapter; and issuance of lists of type approved equipment.

(2) Examination of all applications for certification of radio frequency equipment as acceptable for licensing as provided for in this chapter; notification to the applicant that an examination of the certified technical information and data submitted in accordance with the provisions of this chapter indicates that the equipment does or does not appear to be acceptable for licensing in the particular radio service or services involved; and issuance of lists of radio frequency equipment certified as acceptable for licensing.

(b) With respect to stations operating in the Experimental Radio Service that are not engaged in the development of an established service and administered by a single Bureau, to act upon the following matters:

(1) Applications to assign frequencies, power, emission, and types of equipment and to approve the apparatus to be employed by these radio stations so as to provide the maximum results from the experimentation which can reasonably be expected of the licensee.

(2) Applications from existing licensees which involve a change in frequency, power, or type of emission.

(3) Applications which involve only a change in location, type, model, design or number of transmitters.

(4) Requests by licensees or permittees for cancellation of their station licenses, construction permits or other authorizations.

(5) Applications for license or modification of license to cover construction permit.

(6) Applications for renewal of licenses.

(7) Applications for extension of the expiration date of construction permits.

(8) For addition, modification, or coordination of programs of research or experimentation so as to provide the maximum results from the experimentation which can be reasonably expected of the licensee or licensees.

(9) Requests for operation with a modified antenna system where formal application is not required.

(10) Requests for extension of time within which to comply with technical requirements specified in authorizations, orders, rules, or releases of Commission.

(11) Representation of compliance with technical requirements specified in authorizations, orders, rules, or releases of the Commission (except formal applications).

(12) Requests to operate at a temporary location with a temporary antenna system.

(13) Request for special conditions of operation necessary to comply with technical requirements specified in authorizations, orders, rules, or releases of the Commission.

(14) Request for special temporary authority in emergency cases, at times outside of the regular office hours of the Commission and requiring immediate action during those hours.

(15) Request for exemption from station identification requirements.

(16) Request for exemption from transmitter control requirements.

(17) Request for exemption from limitation on authorized points of communication.

(c) To assign new or modified call signs to stations in all of the radio services except the Citizens and Amateur Radio Services. See §§ 0.332(a) and 1.550 of this chapter.

⌈§ 0.241, amended in I(63)-1, as further amended re par. (c) eff. 12-22-64; I(63)-5⌋

##### § 0.243 Authority delegated to the Chief Engineer upon securing concurrence of the General Counsel.

(a) The Chief Engineer, upon securing concurrence of the General Counsel, is delegated authority with respect to stations operating in the experimental radio services, other than experimental and developmental stations operating in established services under the jurisdiction of a single bureau, to act upon the following matters:

(1) Applications for construction permits for new stations.

(2) All requests for withdrawal of papers in accordance with § 1.8 of this chapter.

(3) Applications for consent to assignment and transfer of control of station authorizations.

(4) The extension of time previously ordered by the Commission within which transfers of control or assignment of licenses be effectuated.

(b) The Chief Engineer, upon securing concurrence of the General Counsel, is authorized to determine under § 1.80 of this chapter whether forfeiture liability has been incurred in connection with the operation of any station governed by Part 5 of this chapter, and to issue notices of apparent liability as provided in § 1.80.

(c) The Chief Engineer, upon securing concurrence of the General Counsel, is delegated authority to act upon requests for waiver of the all-channel television receiver rules contained in Part 15 of this chapter where the receiver involved in such requests is an integral part of a hospital communications system. In such cases, a grant may be made when there is no danger of adversely affecting the audience potential of present or future UHF television stations, and benefits are to be derived from the grant of the requests.

(d) The Chief Engineer, upon securing concurrence of the General Counsel, is authorized to dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(e) The Chief Engineer, upon securing concurrence of the General Counsel, is authorized to dismiss or deny petitions for rule making which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

¶ § 0.243 (c) adopted in I(63)-2; par. (d) adopted eff. 2-25-66, and par. (e) eff. 3-18-66; I(63)-11

#### § 0.247 Authority to issue orders; record of actions taken.

In matters pertaining to authority granted in §§ 0.241 and 0.243, the Chief Engineer is authorized to make orders in letter form for the signature of the Secretary of the Commission. The application and authorization files and other appropriate files of the Office of the Chief Engineer are designated as the official minute entries of action taken pursuant to the aforesaid delegated authority. The authorization issued by the Office of the Chief Engineer in accordance with its assigned functions and the delegations of authority shall bear the signature of the Secretary of the Commission.

#### GENERAL COUNSEL

#### § 0.251 Authority delegated.

(a) [Reserved]

(b) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the General Counsel is delegated authority to act upon requests for extension of time within which briefs, comments or pleadings may be filed.

(c) The General Counsel is delegated authority to dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(d) The General Counsel is delegated authority to dismiss or deny petitions for rule making which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

¶ § 0.251 amended in I(63)-7, I(63)-11 and I(63)-13; (b) amended eff. 10-21-66; I(63)-14

#### § 0.257 Record of actions taken.

Actions taken in accordance with § 0.251 shall be recorded each week and filed in the official minutes of the Commission.

#### SECRETARY

#### § 0.261 Authority delegated.

(a) The Secretary is delegated authority to make nonsubstantive, editorial revisions of the Commission's rules and regulations upon approval of the bureau or staff office primarily responsible for the particular part or section involved.

(b) The Secretary is delegated authority, upon securing the approval of the Field Engineering Bureau, to delete or modify, from time to time, as need may appear, the location of radio operator examination points as set forth in § 0.445 and in the appendix to Part 97 of this chapter.

(c) Actions taken in accordance with this section shall be recorded each week in writing and filed in the official minutes of the Commission.

#### CHIEF, BROADCAST BUREAU

#### § 0.281 Authority delegated.

The Chief of the Broadcast Bureau is delegated authority to act upon applications, requests, and other matters which are not in hearing status relating to broadcast services as follows:

(a) Formal applications for broadcast authorizations:

(1) For construction permits for new or changed standard, FM, noncommercial educational FM, television, television translator, and UHF television booster facilities, or for modification thereof; for licenses or modification thereof; or for renewal of licenses for

such facilities for the normal license term, which applications comply fully with the requirements of the Communications Act and the provisions of this chapter, accord with Commission policy and standards, are not mutually exclusive with any other application, and concerning which no petition to deny pursuant to § 1.580 of this chapter or other substantial objection has been filed.

(2) For assignment of broadcast licenses or permits or for transfer of control of broadcast licensees or permittees, which applications comply fully with the requirements of the Communications Act and the provisions of this chapter, accord with Commission policy and standards, and concerning which no petition to deny pursuant to § 1.580 of this chapter or other substantial objection has been filed.

(3) For new or modified experimental, developmental, and auxiliary broadcast authorizations covered by Part 74 of this chapter, or for renewal of authority for such facilities.

(4) For reinstatement of expired construction permits.

(5) For new or modified Subsidiary Communications Authorizations, or for renewal of such Authorizations.

(b) Designate for hearing, upon appropriate issues, mutually exclusive applications for new or modified standard, FM, noncommercial FM, and television facilities.

(c) Requests for temporary authority:

(1) For temporary waiver of technical operating requirements relating to overall system performance or elements thereof and rules requiring that specified items of equipment be employed.

(2) For operation with temporary antenna system.

(3) For operation with auxiliary transmitter as main transmitter.

(4) For operation with new or modified equipment pending repair of existing equipment or pending receipt and action upon a formal application.

(5) For operation with reduced power or to make other changes in operation of authorized equipment for technical reasons.

(6) For special operation necessary to facilitate equipment, program and service tests or to comply with technical requirements specified in authorizations, orders, rules or releases of the Commission.

(7) For operation with licensed, new, or modified equipment at a temporary site with a temporary antenna system when in case of an emergency it becomes impossible to continue operating at the regularly authorized site.

(8) For special operation of stations in the experimental, developmental and auxiliary broadcast services covered by Part 74 of this chapter.

(9) For temporary authority in emergency cases, at times outside of the regular office hours of the Commission, which require immediate action during such hours.

(10) For authority for television broadcast stations to operate with visual-to-aural power other than that specified in this chapter.

(d) Miscellaneous applications and requests:

(1) For temporary operation, for a lesser period of time than specified by §§ 73.71, 73.261, and 73.651 of this chapter, or to remain silent for temporary periods.

(2) For extension of time within which a transfer of control or assignment of license may be effectuated.

(3) For authority for FM broadcast stations to transmit multiplex facsimile in accordance with § 73.266 of this chapter.

(4) For authority to rebroadcast when authorization is required under Parts 73 and 74 of this chapter.

(5) For any permit required by the provisions of section 325(b) of the Communications Act.

(6) For cancellation of licenses, construction permits or other authorizations.

(7) For withdrawal of papers in accordance with § 1.8 of this chapter.

(8) For extension of time within which to file briefs, comments and pleadings in rulemaking proceedings.

[[§ 0.821 (d) (8) amended eff. 10-21-66; I(63)-14]]

(9) For conducting equipment and program tests.

(10) For operation during daytime for specified periods with the nighttime facilities in order to check measurements and operation.

(11) For extensions of time within which to comply with technical requirements specified in authorizations, orders, and rules or releases of the Commission.

(12) For television site survey.

(13) For standard broadcast special field test authorizations.

(14) For authority to relocate the main studio outside the corporate limits of the community to which the station is assigned, when no change in station location or identification is involved.

(15) For waiver of the transmitter inspection requirements imposed by §§ 73.93(e), 73.265(e), and 73.565(e) of this chapter.

(16) To waive the provisions of the note to §§ 1.571 and 73.37 of this chapter to the extent necessary to accept for filing an application by an existing standard broadcast facility for change of site or antenna efficiency, which would result in new or increased co-channel or first adjacent channel overlap, if it is found that good cause for the change exists, and such overlap





is not in excess of 2 miles along the line of maximum penetration.

(17) For waiver of the provisions of § 73.652(a) of this chapter to permit multiple-city identification, where the additional community or communities with which identification is sought, are provided with the requisite field intensity specified in § 73.685(a) of this chapter by the station seeking such authority.

(e) Applications or requests concerning experimental or developmental broadcast stations involving:

(1) Assignment from time to time of the frequency or frequencies, power, emission, and type of equipment to be employed by any experimental or developmental broadcast station, so as to provide the maximum results from the experimentation with the minimum interference.

(2) Addition, modification, or coordination of programs of research or experimentation of any experimental or developmental broadcast station, so as to provide the maximum results from the experimentation which can be reasonably expected of the licensee or licensees.

(f) To withdraw authorizations for equipment and service or program tests where the terms of the construction permit have not been met.

(g) Requests for modification of tower painting and lighting specifications.

(h) To issue such National Defense Emergency Authorizations as may be required to permit stations licensed by the Commission to participate in approved National Defense Plans during a national emergency, and to issue such further authorizations as may be appropriate under Executive Order 11092.

(i) To dismiss applications without prejudice (1) as provided in § 1.568 (a) and (b) of this chapter, or (2) where an application is not timely filed under the Commission's rules in order to receive comparative consideration with an application or applications with which it is mutually exclusive.

(j) To give written consent to applicants who request authority to make minor changes in effecting transfers of control, or assignment of licenses, previously authorized by the Commission.

(k) To advise licensees to cease operation in the event renewal applications are not filed with the Commission prior to the expiration date of the particular license.

(l) To defer action on those renewal license applications received subsequent to the fifteenth day of the month prior to the expiration date of the particular license.

(m) To grant, for good cause shown, requests for temporary authority to continue operation for a period not to exceed 90 days, where an application for renewal of license has been filed subsequent to the expiration of the particular license.

(n) To dismiss or return applications or petitions which are not acceptable under Commission rules.

(o) To extend the time to file oppositions to petitions relating to broadcast applications not designated for hearing.

(p) To administer, interpret, and apply orders or rules of practice and procedure promulgated by the Commission relating to financial and statistical data of stations in the broadcast service and broadcast networks and chains, including applications for extension of time in which to file financial and statistical statements and reports.

(q) To declare a construction permit for a broadcast facility automatically forfeited if the station authorized by the construction permit is not ready for operation within the time specified therein or within such further time as the Commission may have allowed for completion, and if no application for extension of construction permit has been granted by the Commission or timely filed by the permittee, and to place a notation of the forfeiture in the records of the Commission as of the expiration date of the construction permit.

(r) With respect to international broadcasting, to act upon requests for the use of frequencies and frequency hours for transmission to specific target areas subject to the conditions set forth in Part 73 of this chapter.

(s) To determine whether an application for modification constitutes a major change in facilities, and whether an amendment to an application constitutes a major amendment; and, if so, to so designate such change or amendment.

(t) To direct standard broadcast stations to refrain from pre-sunrise operation with their daytime facilities pursuant to § 73.87 of this chapter.

(u) To dismiss petitions and other pleadings which have clearly been rendered moot.

(v) To extend the time to file responses to official correspondence.

(w) With the concurrence of the General Counsel, to issue rulings and interpretations with respect to, and to act upon complaints arising under, section 315 of the Communications Act and §§ 73.120, 73.290, 73.590, or 73.657 of this chapter.

(x) To issue Notices of Apparent Liability in amounts not in excess of \$250, under Section 503(b) of the Communications Act and § 1.621 of this chapter.

(y) To issue lists of applications for standard broadcast facilities establishing a "cut-off" date pursuant to the provisions of § 1.571(c) of this chapter.

(z) To dismiss, subject to request within 30 days for reinstatement and hearing, applications for extensions of time in which to construct a station where it appears that the failure to complete was due to causes under the control of the grantee.

(aa) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(bb) To dismiss or deny petitions for rule making which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

(cc) To act on requests for temporary exemption from the provisions of § 73.242 (a) of the Commission's rules and regulations, and if good cause is shown to grant temporary exemption for a period of no more than 3 months.

(dd) To accept and grant reinstatement applications beyond the 30-day period in § 1.534(b) of this chapter.

(ee) To grant temporary operation by remote control pending receipt and consideration of a formal application.

(ff) To waive the provisions of the note to §§ 1.571 and 73.37 of this chapter to the extent necessary to accept and grant an application by an existing standard broadcast facility for change of site or antenna efficiency, which would result in new or increased co-channel or first adjacent channel overlap, if it is found that good cause for the change exists, and such overlap is not in excess of 2 miles along the line of maximum penetration.

(gg) To grant, grant in part, or dismiss, as appropriate, informal applications for Presunrise Service Authority (PSA) in accordance with § 73.99 of this chapter, and to suspend, modify, or withdraw such authority under the circumstances outlined therein.

(hh) To grant temporary authority for subchannel operation.

(ii) In conjunction with the Office of Chief Engineer, to rule on objections based on claimed phonetic similarity arising under § 1.550 of this chapter.

(jj) In conjunction with the Office of Chief Engineer, to waive the provisions of § 1.550(d) (1) of this chapter if an examination of the call signs of the broadcast stations notified by applicant clearly indicates that no significant likelihood of public confusion could arise and that no purpose would be served by the waiting period prescribed.

¶ § 0.281(dd)-(jj) adopted eff. 7-18-67; I(63)-17

#### § 0.287 Authority to issue orders; record of actions taken.

In matters pertaining to the authority delegated in § 0.281, the Chief of the Broadcast Bureau is authorized to make orders, including orders in letter form, for the signature of the Secretary of the Commission. All minutes of all actions taken by the Chief of the Broadcast Bureau pursuant to the authority delegated in § 0.281 shall be maintained for public inspection in the Broadcast Bureau. The authorizations and orders issued by the Broadcast Bureau in ac-

cordance with its assigned functions and the delegations of authority shall bear the seal of the Commission and the signature of the Secretary.

#### CHIEF, CATV TASK FORCE

#### § 0.289 Authority delegated.

(a) The Chief, CATV Task Force, in coordination with the Broadcast Bureau, is delegated authority to act upon the following applications for Community Antenna Relay station authorizations, if such authorizations comply fully with the requirements of the Communications Act, the provisions of this chapter (see, in particular, Subpart J of Part 74 of this chapter), and Commission policy and standards; if no mutually exclusive application has been filed; and if no petition to deny or other substantial objection to the application has been filed:

(1) Applications for construction permits for new or changed stations.

(2) Applications for licenses to cover construction permits.

(3) Applications for modification, assignment, transfer of control, or renewal.

(b) All minutes of all actions taken by the Chief of the CATV Task Force pursuant to the authority delegated in § 0.289 shall be maintained for public inspection by the CATV Task Force. The authorizations issued by the Task Force in accordance with its assigned functions and delegations of authority shall bear the seal of the Commission and the signature of the Secretary.

(c) The Chief, CATV Task Force, is delegated authority to act upon the following matters:

(1) Requests for extensions of time in which to comply with Commission orders directing carriage and/or program exclusivity by a CATV system for a reasonable period of time upon a showing of good cause.

(2) For withdrawal of papers in accordance with § 1.8 of this chapter.

(3) To dismiss or return applications or petitions which are not acceptable under Commission rules.

(4) For extension of time within which to file briefs and comments with respect to rule making.

(5) To extend the time to file pleadings related to waiver requests or applications not designated for hearing.

(6) To dismiss petitions and other pleadings which have clearly been rendered moot.

(7) To initiate official correspondence where appropriate, and to extend the time to file responses to official correspondence.

(8) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(9) To dismiss or deny petitions for rule making which are repetitive or moot or which, for other rea-

sions, plainly do not warrant consideration by the Commission.

(10) To dismiss premature requests for waivers of the Commission's rules.

(11) To grant requests for waiver of §§ 74.1037 and 74.1067 of this chapter.

【§ 0.289 amended in I(63)-15; (c) adopted eff. 3-10-67, (c) (10) adopted eff. 4-12-67 and (c) (11) adopted eff. 5-26-67; I(63)-16】

#### CHIEF, COMMON CARRIER BUREAU

##### § 0.291 Authority concerning radio matters.

The Chief of the Common Carrier Bureau is delegated authority to act upon the following applications, requests, and other matters which are not in hearing status, involving the use of radio, insofar as they apply to common carrier services (except marine and aeronautical), where the estimated construction cost is less than \$2,000,000:

(a) From existing licensees for instruments of authorization, for the fixed public or fixed public press radio services, except applications in the international services involving:

(1) New points of communication, not already authorized to a station of the licensee at some other location or not already authorized by an outstanding construction permit or special temporary authorization; unless the application for a new point of communication is for the transmission or control of transmission or reception of addressed program or facsimile material.

(2) Changes in transmitter location other than local in character.

(3) The establishment of a new type of service.

(b) For the domestic public radio services, and for the fixed public services, in the possessions of the United States and in the State of Hawaii.

(c) For developmental stations which render or propose to render a common carrier service.

(d) For special temporary authorizations, including those filed at times outside of the regular office hours of the Commission in emergency cases.

(e) For operation with new or modified equipment pending repair of existing equipment, or pending receipt of and action upon formal applications; operation with licensed, new or modified equipment at a temporary location with a temporary antenna system in case of an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue operating at the licensed location; and, special operations necessary to facilitate equipment and service

tests, or to comply with technical requirements specified in authorizations, orders, rules or releases of the Commission.

(f) For a change in location, type or model, design or number of transmitters; representations of compliance with technical requirements specified in authorizations, orders, rules or releases of the Commission (except formal applications).

(g) For equipment and service tests, or extensions thereof.

(h) To determine whether an application for modification constitutes a major change in facilities, and whether an amendment to an application constitutes a major amendment; and, if so, to so designate such change or amendment.

(i) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(j) To dismiss or deny petitions for rule making which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

(k) To waive the requirement of § 21.23(a) of this chapter that amendments to applications be served by the applicant upon persons who have filed petitions to deny the application or to designate it for hearing, upon a showing by the applicant that the requirement is unreasonably burdensome, and to prescribe such alternative procedures as may be appropriate under the circumstances to protect petitioners' interests and to avoid undue delay in the proceeding. Requests for waiver shall be served on petitioners. Oppositions to the petition may be filed within 5 days after the petition is filed and shall be served on the applicant. Replies to oppositions will not be entertained.

【§ 0.291 amended in I(63)-11; (k) adopted eff. 3-31-67; I(63)-16】

##### § 0.292 Additional authority concerning radio matters.

The Chief of the Common Carrier Bureau is delegated authority to act on the following matters:

(a) To designate for hearing all mutually exclusive applications for radio facilities filed pursuant to Parts 21 and 23 of this chapter.

(b) To determine under § 1.80 of this chapter whether forfeiture liability has been incurred in connection with the operation of any station governed by Parts 21 and 23 of this chapter, and to issue notices of apparent liability as provided in § 1.80.



**§ 0.293 Authority concerning position of officer.**

The Chief of the Common Carrier Bureau is delegated authority to act upon applications under section 212 of the Communications Act for authority to hold the position of officer or director of more than one carrier subject to the Act, and to act upon applications for a finding that a carrier owns more than fifty percent of the stock of another or other carriers, or that a person owns fifty percent or more of the stock of two or more carriers.

**§ 0.294 Authority concerning section 214 of the Act.**

The Chief of the Common Carrier Bureau is delegated authority to act upon the following applications or requests under section 214 of the Communications Act:

(a) For a certificate authorizing the construction, acquisition, operation, or extension of lines, or for an authorization for temporary or emergency service or the supplementing of existing facilities involving an estimated construction or purchase cost of less than \$2,000,000, or an annual rental of less than \$100,000.

(b) For modification of a certificate or authorization under this section of the act where such amendment or modification involves an estimated construction or purchase cost of less than \$2,000,000 or an annual rental of less than \$100,000.

(c) For authority to discontinue, reduce, or impair telephone service where the applications are filed pursuant to the provisions of §§ 63.63, 63.65, and 63.66 of this chapter.

(d) For an authorization for temporary or emergency closure of telegraph offices, for any closure of a telegraph office at a military establishment, for closure of railroad-operated agency offices, for closure of company-operated main offices where substitute service is to be provided by telephone, teleprinter or facsimile-operated agency office in the same community and for any reduction in the hours of telegraph service in a community or part of a community in those cases where applicable Commission policy has been established.

(e) For informal requests for authority to discontinue, reduce or impair telegraph service filed pursuant to the provisions of §§ 63.63, 63.64, and 63.66 through 63.69 of this chapter.

(f) For reconsideration and dismissal of applications to discontinue, reduce or impair service where authority has been granted but will not be used by applicant because of conditions arising subsequent to the filing of the application.

**§ 0.295 Authority concerning section 220 of the Act.**

The Chief of the Common Carrier Bureau is delegated authority to interpret the regulations and to act

upon the administration of such regulations promulgated by the Commission pursuant to section 220 of the Communications Act, relating to accounts, records and memoranda to be kept by carriers subject to the jurisdiction of the Commission.

**§ 0.296 Authority concerning section 221(a) of the Act.**

The Chief of the Common Carrier Bureau is delegated authority:

(a) To determine upon consideration of all relevant factors whether hearings shall be held on applications filed under section 221(a) of the Communications Act where no request therefor has been made by a telephone company, an association of telephone companies, a State Commission or local government authority;

(b) To fix the time and place for hearings he determines shall be held under paragraph (a) of this section or where a request therefor has been made by a telephone company, an association of telephone companies, a State Commission or local government authority; and to give reasonable notice in writing to the Governor of each of the States in which the physical property affected, or any part thereof, is situated, to the State Commission having jurisdiction over telephone companies, and to such other persons as he may deem advisable; and

(c) To act in all other cases upon applications filed under section 221(a) where the proposed expenditure for consolidation, acquisition or control is less than \$500,000.

**§ 0.297 Authority concerning tariff regulations.**

The Chief of the Common Carrier Bureau is delegated authority to act upon all matters arising in connection with the administration of tariff regulations promulgated by the Commission pursuant to section 203 of the Communications Act, and, in connection with the administration of that section insofar as it relates to the modification of requirements thereof or made pursuant thereto, as authorized in particular instances by subsection (b) thereof, and to the rejection of tariffs as authorized by subsection (d) thereof.

**§ 0.298 Authority under Communications Satellite Act.**

(a) The Chief of the Common Carrier Bureau is delegated authority to act upon applications from communications common carriers for authorization to purchase stock in the Communications Satellite Corporation, pursuant to the provisions of section 304(b) of the Communications Satellite Act and of Subpart H of Part 25 of this chapter.

(b) The Chief of the Common Carrier Bureau is delegated authority to act upon notification statements required to be filed under § 25.166 of this chapter by the Communications Satellite Corporation, other communications common carriers, and their respective prime contractors with respect to the procurement of apparatus, equipment, and services required for the establishment and operation of the communications satellite system and satellite terminal stations. This delegation is limited to taking the following actions:

(1) Determination that no action should be taken to prevent the proposed contracts from being awarded at any time subsequent to 10 days after the filing of the statements with the Commission;

(2) Notice that such statements are defective;

(3) Issuance of a public notice announcing a 30-day investigation period to determine whether the rules have been complied with;

(4) Determination that no action should be taken to prevent the proposed contract from being awarded at any time subsequent to 30 days after the date of the public notice.

¶§ 0.298 as amended eff. 4-1-64; I(63)-1¶

#### § 0.302 Authority concerning records and papers.

The Chief of the Common Carrier Bureau is delegated authority to act upon the following matters insofar as they apply to records or papers involving common carriers:

(a) To dismiss petitions and other pleadings relating to matters not in hearing status which have clearly been rendered moot.

(b) Requests for withdrawal of papers in accordance with § 1.8 of this chapter.

¶§ 0.302(a) as adopted eff. 9-24-65; I(63)-9¶

#### § 0.303 Authority concerning extension of time and waivers.

The Chief of the Common Carrier Bureau is delegated authority to act upon the following requests:

(a) For the extension of time in which to file annual, monthly and special reports required by the Commission pursuant to section 219 of the Communications Act.

(b) For the extension of the time prescribed in § 43.51 of this chapter for the filing of documents specified therein.

(c) For the extension of time within which briefs, comments and pleadings may be filed in common carrier rulemaking proceedings.

(d) For extension of time previously ordered by the Commission within which the transfer of control

or assignment of license be effectuated insofar as these apply to fixed public, fixed public press, domestic public or common carrier experimental radio services.

(e) For extension of time within which to comply with technical requirements specified in authorizations, orders, and rules or releases of the Commission insofar as these apply to fixed public, fixed public press, domestic public or common carrier experimental radio services.

(f) For waiver of or exception to any rule, regulation or requirement relating to the services under his jurisdiction and to act upon petitions or requests relating to the assignment of frequencies to common carrier operations but requiring action under § 2.102 of this chapter, when he finds that the operation for which permission is sought (1) is of a non-recurring nature and does not warrant a rule making proceeding with a view to establishing it on regular basis, (2) will not exceed 90 days, and (3) will cause no harmful interference to any service operating in accordance with the Table of Frequency Allocations. This delegation does not apply to requests for renewals of any authority to operate granted hereunder.

(g) For extension of time within which to file pleadings concerning applications filed in the fixed public, fixed public press, domestic public, or common carrier experimental radio services which are not in hearing status.

¶§ 0.303 amended in I(63)-9; (c) amended eff. 10-21-66; I(63)-14¶

#### § 0.304 Authority delegated jointly to Chiefs of Common Carrier and Safety and Special Radio Services Bureaus.

Authority is delegated jointly to the Chief of the Common Carrier Bureau and the Chief of the Safety and Special Radio Services Bureau to act upon applications involving common carrier matters in the maritime mobile service, aeronautical mobile service, and in the fixed service in Alaska. (For record of actions taken under this section, see § 0.337.)

¶§ 0.304 as amended eff. 10-26-64; I(63)-7¶

#### § 0.305 Orders in letter form.

Where appropriate, in acting upon matters referred to in the delegations of authority, the Chief of the Common Carrier Bureau is authorized to make orders in letter form for the signature of the Secretary of the Commission.

#### § 0.307 Record of actions taken.

The application and authorization files in the License Branch and the appropriate central files of the

Common Carrier Bureau are designated as the Commission's official records of actions by the Chief of the Bureau pursuant to the authority delegated to him. In case of joint authority of the Chiefs of Common Carrier Bureau and Safety and Special Radio Services Bureau, § 0.337 applies. The authorizations issued by the Chief, Common Carrier Bureau, in accordance with his assigned functions shall bear the seal of the Commission and the signature of the Secretary of the Commission.

#### FIELD ENGINEERING BUREAU

#### § 0.311 Authority delegated to the Chief and to the Deputy Chief of the Field Engineering Bureau.

(a) The Chief of the Field Engineering Bureau is delegated authority to act upon the following matters which are not in hearing status:

(1) Except as otherwise provided in § 1.61 of this chapter, with respect to the construction, marking, and lighting of antenna towers and supporting structures, to exercise the functions of the Commission as set forth in Part 17 of this chapter: *Provided, however*, That in cases in which the Federal Aviation Agency recommends denial of any application, the Chief of the Field Engineering Bureau advises the bureau concerned in order that it may submit the application to the Commission for appropriate action.

(2) Waiver of rules, regulations and orders of the Commission relating to the proper time for filing of renewals of commercial and amateur radio operator licenses.

(3) Temporary operation by radio station licensees, except licensees of standard and FM broadcast stations, with a licensed operator of lower grade than normally required or for waiver of other technical requirements for operators.

(4) With respect to the operation of industrial, scientific, and medical equipment subject to Part 18 of this chapter, to issue, in accordance with section 312 (c) of the Act, (i) orders to show cause why a cease and desist order pursuant to section 312(b) should not be issued; and (ii) cease and desist orders after waiver of hearing and certification of the proceeding to the Commission pursuant to § 1.92 of this chapter.

☐§ 0.311(a)(4) as amended eff. 9-11-64; I(63)-3☐

(5) To suspend commercial operator licenses and to designate the matter for hearing, as provided for in § 1.85 of this chapter.

(6) To act on requests for a waiver of the English language provisions of §§ 13.22 and 13.23 of this chap-

ter in the case of Spanish-speaking applicants in Puerto Rico and vicinity, and to issue licenses hearing appropriate restrictions to those applicants found qualified.

(7) To dismiss without prejudice applications for new and renewal commercial radio operator licenses in cases where prior to designation of such applications for hearing an applicant has failed to answer official correspondence or a request for additional information from the Commission.

(8) To act on requests for a provisional radio operator certificate.

(9) To act on requests by holders of a pilot certificate issued by the Civil Aeronautics Administration or the Federal Aviation Agency for a waiver of the United States citizenship requirement under section 303(1) of the Communications Act of 1934, as amended.

(10) To act on requests for waiver of the written examination requirements of §§ 13.21 and 13.22 of this chapter and to authorize oral examination in lieu thereof.

(11) To reject certifications of industrial heating equipment as provided in § 18.118(a) of this chapter and to accept certifications of industrial heating equipment as provided in § 18.118(d) of this chapter.

(12) To determine under § 1.80 of this chapter whether forfeiture liability has been incurred by any licensed commercial radio operator (except where the operator is also subject to liability as licensee of the station in question), and to issue notices of apparent liability as provided by § 1.80.

NOTE: Where the operator is also subject to liability as licensee of the station, the question of liability is determined, and the notice of apparent liability is issued, by the Chief of the Bureau or Office which exercises authority over the class of station involved. See §§ 0.243(b), 0.292(b), and 0.332(d).

(13) To act on requests for a waiver of the geographical restriction in § 13.4(c) of this chapter on the validity of operator licenses issued to alien aircraft pilots.

(14) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(15) To dismiss or deny petitions for rule making which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

☐§ 0.311(a)(14) adopted eff. 2-25-66 and par. (a)(15) eff. 3-18-66; I(63)-11☐





(b) The Chief and the Deputy Chief of the Field Engineering Bureau are authorized to declare that a state of general communications emergency exists and to act on behalf of the Commission pursuant to the provision of § 97.107 of this chapter with respect to the operation of amateur stations during a state of general communications emergency.

☐§ 0.311, amended in I(63)-5, as further amended to adopt par. (a) (13) eff. 6-10-65; I(63)-7☐

#### § 0.313 Record of actions taken.

(a) Actions taken by the Chief or Deputy Chief of the Field Engineering Bureau in accordance with the delegations listed in § 0.311 shall be recorded each week in writing and filed in the official minutes of the Commission.

(b) The authorizations issued by the Bureau in accordance with its assigned functions and the delegations of authority transferred hereby shall bear the seal of the Commission and the signature of the Secretary of the Commission.

☐§ 0.313(a) as amended eff. 11-30-64; I(63)-5☐

#### § 0.314 Authority delegated to the Engineers in Charge.

The Engineers in Charge at each headquarters office of the 24 Districts of the Field Engineering Bureau are delegated authority to act upon the following applications, requests, or other matters which are not in hearing status:

(a) For new, modified replacement, duplicate or renewal commercial radio operator license and provisional radio operator certificate.

(b) For temporary permission to operate standard and FM broadcast stations with licensed operators of lesser grade than normally required by the Commission's rules or for waiver of other technical requirements of operators at such stations.

(c) In cases of informal requests from broadcast stations to extend temporary authority for operation without any of the following: modulation monitor, frequency monitor, plate ammeter, plate voltmeter, base current meter, common point meter, and transmission line meter from FM and television stations.

(d) Relating to the time within which an applicant for amateur or commercial radio operator license may take an examination after having failed a previous examination (§§ 13.27 and 97.33 of this chapter).

(e) For periodic survey as required by section 385 of the Communications Act of 1934, as amended, and issuance of Communications Act radiotelephony certificates in accordance with § 83.501(b) of this chapter.

(f) Applications, in any acceptable form, filed at Commission field offices located in Alaska, for special

temporary operator license authorization, in lieu of regular commercial radio operator license, when it is shown that there is a need for such authorization for use in connection with the protection of life or property during an emergency period.

(g) Requests for interim ship station and for interim radar ship station licenses as provided by Part 83 of this chapter governing stations on shipboard in the maritime services.

(h) For special operation necessary to facilitate equipment, program and service tests or to comply with technical requirements specified in authorizations, orders, rules or releases of the Commission.

(i) Operation during daytime for specified periods with the nighttime facilities in order to check measurements and operation.

(j) For ship radio inspection and certification of the ship radio license, pursuant to the requirements of section 362(b) of the Communications Act of 1934, as amended.

(k) For a Safety Radiotelegraphy Certificate or a Safety Radiotelephony Certificate in accordance with the terms of Regulations 11 and 12, Chapter I, of the Safety Convention.

(l) For inspection or periodical survey as required by Article 11 of the Great Lakes Agreement and certification prescribed by Articles 12 and 13 thereof.

(m) Issuance of notices and orders to operators of industrial heating equipment, as provided in §§ 18.120 and 18.121 of this chapter.

(n) Requests for permission to resume operation of industrial heating equipment on a temporary basis, as provided in §§ 18.120 and 18.121 of this chapter, and requests for extensions of time within which to file final reports, as provided by § 18.122(b) of this chapter.

(o) Informal applications filed in accordance with the provisions of § 83.47 of this chapter for temporary waivers of annual inspection of vessels as required by section 362(b) of the Communications Act of 1934, as amended.

#### § 0.315 Authority delegated to Engineers in Charge who serve as FCC representatives to Office of Civil Defense (OCD) Regional Civil Defense Coordinating Boards and Regional Preparedness Committees of the Office of Emergency Planning (OEP).

(a) Engineers in Charge of Field Engineering Bureau district offices at Boston, Massachusetts; Baltimore, Maryland; Atlanta, Georgia; Detroit, Michigan; Dallas, Texas; Denver, Colorado; San Francisco, California; and Seattle, Washington, are designated as the principal FCC representatives to Regional Preparedness Committees. (FCC Field Liaison Officers of the

Office of Emergency Communications are designated as alternates. The authority delegated to FCC representatives to Regional Preparedness Committees is set forth in § 0.385.)

(b) Engineers in Charge of Field Engineering Bureau district offices at Boston, Massachusetts; Baltimore, Maryland; Atlanta, Georgia; Detroit, Michigan; Dallas, Texas; Denver, Colorado; San Francisco, California; and Seattle, Washington, are designated as the alternate FCC representatives to the Regional Civil Defense Coordinating Boards. (FCC Liaison Officers of the Office of Emergency Communications are designated as the principal representatives to the Regional Civil Defense Coordinating Boards. The functions to be performed by the FCC representatives to Regional Civil Defense Coordinating Boards is set forth in § 0.184.)

(c) The Engineers in Charge listed in paragraph (a) of this section are designated as FCC representatives to State Emergency Telecommunications Task Groups established by the OEP in its Organization and Planning Guide of September 1962 (OEP Circular 3300.1).

⌈§ 0.315 as amended eff. 10-26-64; I(63)-4⌋

**§ 0.316 Authority delegated to Marine Supervisors at marine offices, to engineers engaged in ship inspection duties at radio district offices, and to radio engineers at suboffices.**

(a) The Radio Engineer at each suboffice of a district headquarters office of the Field Engineering Bureau is delegated authority to act upon all matters contained in § 0.314, except paragraph (b).

(b) The Marine Supervisor at the marine office of the Field Engineering Bureau at Tampa, Fla., is delegated authority to act upon matters set forth in § 0.314 (a), (d), (e), (g), (j), (k), and (o). The Marine Supervisor at the marine office of the Field Engineering Bureau at San Pedro, Calif., is delegated authority to act upon matters set forth in § 0.314 (e), (g), (j), (k), and (o), and to act upon applications for restricted radiotelephone operator permits and requests for provisional radio operator certificates related thereto.

(c) Engineers engaged in ship inspection duties at radio district offices of the Field Engineering Bureau are delegated authority to act upon matters set forth in § 0.314 (e), (j), and (l).

⌈§ 0.316(b) as amended eff. 12-17-64; I(63)-5⌋

**§ 0.317 Record of actions taken.**

All actions taken under § 0.314 or § 0.316 shall be recorded in the field office where such action has been taken, and except for actions taken under § 0.314 (c), (d), (h), and (i), a report thereof shall be sent to the Washington, D.C., office of the Field Engineering Bureau quarterly.

**§ 0.318 Authority delegated to operator examiner.**

The operator examiner at the examination office in Gettysburg, Pa., is authorized to act on requests for waiver of the waiting time requirement applying to

applicants for amateur radio operator licenses who have failed a previous examination (§ 97.33 of this chapter).

⌈§ 0.318 as adopted eff. 9-1-65; I(63)-7⌋

**CHIEF, SAFETY AND SPECIAL RADIO SERVICES BUREAU**  
**§ 0.331 Authority delegated.**

The Chief of the Safety and Special Radio Services Bureau is delegated authority to act upon the following applications, requests, and other matters which are not in hearing status:

(a) Consistent with and pursuant to the rules governing the Disaster Communications Service and the Maritime, Aviation, Public Safety, Industrial, Amateur, Land Transportation, and Citizens Radio Services, and the Fixed Service in Alaska, on all applications for construction permits, modification of construction permits, extension of construction permits, station licenses, modification of station licenses, transfer of control or assignment of construction permits or station licenses, renewal of station licenses, amateur operator licenses, renewal or modification of amateur operator licenses and special temporary authorizations. With respect to applications involving common carrier matters, this authority shall be exercised jointly with the Chief, Common Carrier Bureau pursuant to §§ 0.304 and 0.333.

(b) On the following matters insofar as they involve the Disaster Communications Service or the Maritime, Aviation, Public Safety, Industrial, Amateur, Land Transportation, or Citizens Radio Services:

(1) Requests for extensions of time for equipment or service tests or within which to comply with technical requirements specified in authorizations, orders and rules or releases of the Commission.

(2) [Reserved]

(3) Requests for withdrawal of papers in accordance with § 1.8 of this chapter.

(4) Requests for extension of time within which briefs, comments and pleadings may be filed in rule-making proceedings.

(5) To make the finding of emergency involving danger to life or property or due to damage to equipment, as provided by section 308(a) of the Communications Act of 1934, as amended.

(6) Cancellation of station licenses, construction permits or other authorizations upon the request of the licensee or permittee or upon abandonment of the station.

(7) Petitions or requests seeking waiver of or exception to any rule, regulation or requirement, and to act upon petitions or requests relating to the assignment of frequencies to the various safety and special radio services but requiring action under § 2.102 of this chapter, when he finds that the operation for which permission is sought (i) is of a nonrecurring nature and does not warrant rule making proceedings with a view to establishing it on a regular basis, (ii) will not exceed 180 days, and (iii) will cause no harmful

interference to any service operating in accordance with the Table of Frequency Allocations. This delegation does not apply to requests for renewals of any authority to operate granted hereunder; *Provided, however,* That none of the foregoing limitations shall apply to petitions or requests for waiver of or exception to any requirement set forth in §§ 97.13, 97.27, 97.51, and 97.95 of this chapter, or to the requirements with regard to types of emission set forth in § 97.61.

(8) To issue, in accordance with section 312(c) of the Communications Act of 1934, as amended, (i) orders to show cause why an order of revocation pursuant to section 312(a) of the Act, or a cease and desist order pursuant to section 312(b) of the Act, should not be issued; and (ii) after waiver of hearing and termination of the hearing proceeding in revocation cases and cease and desist cases as prescribed by § 1.92 of this chapter, to issue orders of revocation and orders to cease and desist, and also orders that a revocation or cease and desist order shall not issue.

(9) To grant the authorizations provided for in § 2.102(c) of this chapter.

(10) To cancel novice, technician, or conditional class amateur licenses as provided in § 97.35 of this chapter.

(11) To act upon all requests (to the extent that they relate to qualifications for the various amateur operator licenses) for waiver of the requirement of Part 97 of this chapter where it is alleged that, by

reason of a protracted or permanent physical disability, the applicant is unable to meet the requirements of such rules.

(12) To issue, in accordance with section 316 of the Act, orders to modify ship radiotelephone stations by deleting therefrom any frequency when the use thereof has resulted in harmonic emissions found to be capable of causing interference to other radio services, and if a hearing thereon is requested, to designate such matters for hearing.

(13) To grant, in the absence of unusual circumstances, a six month waiver of the type acceptance requirement of § 83.139 of this chapter in cases substantially the same as those in which the Commission en banc has taken similar action.

(14) To deny requests for waiver of the type acceptance requirement of § 83.139 of this chapter and dismiss associated applications for ship station licenses in cases substantially the same as those in which the Commission en banc has taken similar action.

(15) To act on requests for waiver of the type acceptance requirement of § 83.139 of this chapter where the applicant is operating a ship radiotelephone transmitter on frequencies between 4 and 27.5 Mc/s and where authority is needed to operate non-type accepted ship radiotelephone equipment pending conversion to single sideband.

(16) To grant waivers of the type acceptance requirements of § 87.77 of this chapter for a period not

to extend beyond January 1, 1970, in cases substantially the same as those in which the Commission en banc has taken similar action.

(17) To grant waivers of the type acceptance requirements of § 89.117 of this chapter for a period not to extend beyond January 1, 1967, in cases substantially the same as those in which the Commission en banc has taken similar action.

(18) To act on requests for waiver of application procedures to allow a licensee to submit a request for the identical modification or assignment of a number of outstanding authorizations without filing a separate application for each station. Action taken under this delegation does not include authority to waive or reduce applicable fee requirements which shall be determined as if separate applications were filed for each station.

(19) To act on requests for waiver of the restrictions of § 1.916 of this chapter subsequent to revocation of a radio station license.

(c) Consistent with the provisions of section 309(f) of the Communications Act of 1934, as amended, to grant or deny requests for temporary authorizations and to issue orders stating the reasons therefor, but only prior to the time a petition to deny the application involved has been filed or the application has been designated for hearing.

ⓘ § 0.331 amended in I(63)-4, I(63)-5, I(63)-7, I(63)-13, I(63)-14 and I(63)-15; (b) (8) amended and (b) (19) adopted eff. 3-10-67; I(63)-16Ⓜ

### § 0.332 Additional authority delegated.

The Chief of the Safety and Special Radio Services Bureau is delegated authority to act upon the following applications, requests and other matters:

(a) Requests for assignment of call signs to new stations in the Citizens and Amateur Radio Services and for changes in the call signs of existing stations in those services.

(b) Applications or requests for exemption, pursuant to the provisions of sections 352(b) and 383 of the Communications Act; Regulation 4, Chapter 1 of the Safety Convention; Regulation 5, Chapter IV of the Safety Convention; Regulation 12(b), Chapter V of the Safety Convention; or Article 6 of the Great Lakes Radio Agreement:

(1) For emergency and renewal exemption of vessels;

(2) For initial exemption of vessels subject to Title III, Part III of the Act;

(3) For initial exemption of vessels of less than 100 gross tons subject to Title III, Part II of the Act or the Safety Convention;

(4) For exemption from Title III, Part II, of the Act of vessels operated in the Gulf of Mexico which participate in oil well drilling operations when the circumstances are substantially the same as those in precedent cases decided by the Commission en banc.

(c) Applications or requests for approval of schedules of transmissions by coast stations of information for the general benefit of mariners to a plurality of mobile stations or to designated fixed locations.

(d) Make determination and notification of incurrance of forfeitures under the provisions of sections 364, 386, 507, and 510 of the Communications Act, with referance to stations governed by the provisions of Parts 81-99 of this chapter.

(e) Applications made pursuant to section 504(b) of the Communications Act of 1934, as amended, for mitigation or remission of forfeitures imposed under sections 364, 386, 507, and 510 of the Act.

(f) Issue orders suspending the licenses of amateur operators in accordance with section 303(m)(1) of the Act and if a hearing thereon is requested, to designate such matters for hearing.

(g) Requests pursuant to the provisions of §§ 81.104(b)(1) and 81.191(c)(1) of this chapter for waiver or exception to the requirements of those sections concerning 2182 kc/s coast station facilities and watch.

(h) To dismiss applications without prejudice in cases where, prior to designation of such application for hearing, an applicant has failed to answer official correspondence or a request for additional information from the Commission.

(i) To grant or deny applications for permits and to modify, suspend, or cancel such permits, pursuant to Subpart G, Part 97 of this chapter.

(j) Requests for extension of time within which to file pleadings concerning applications filed in the Safety and Special Radio Services which are not in hearing status.

(k) To dismiss petitions and other pleadings relating to matters not in hearing status which have clearly been rendered moot.

(l) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(m) To dismiss or deny petitions for rule making which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

【§ 0.332 adopted in I(63)-6 and amended in I(63)-7; pars. (j) & (k) adopted in I(63)-9; par. (l) adopted eff. 2-25-66 and par. (m) eff. 3-18-66; I(63)-11】

**§ 0.333 Authority delegated jointly to the Chiefs of the Common Carrier and Safety and Special Radio Services Bureaus.**

Authority is delegated jointly to the Chief of the Common Carrier Bureau and the Chief of the Safety

and Special Radio Services Bureau to act upon applications involving common carrier matters in the maritime mobile service, aeronautical mobile service, and in the fixed service in Alaska.

【§ 0.333 as amended eff. 10-26-64; I(63)-4】

**§ 0.337 Record of actions taken.**

The history card pertaining to a certain station is designated to be the official record of the action taken by the Chief, Safety and Special Radio Services Bureau, in pursuance of the authority delegated to him in §§ 0.331 and 0.332, or jointly to him and the Chief of the Common Carrier Bureau in § 0.333. In cases where no history card is prepared, the application and authorization file pertaining to the station in question is designated to be the official record of the action taken by the Chief of the Bureau, or by him jointly with the Chief of the Common Carrier Bureau. The authorizations issued by the Chief, Safety and Special Radio Services Bureau, shall bear the seal of the Commission and the signature of the Secretary.

**HEARING EXAMINERS**

**§ 0.341 Authority of hearing examiner.**

(a) After a hearing examiner has been designated to preside at a hearing and until he has issued an initial decision or certified the record to the Commission for decision, or the proceeding has been transferred to another hearing examiner, all motions, petitions and other pleadings shall be acted upon by such hearing examiner, except the following:

(1) Those which are to be acted upon by the Commission. See § 1.291(a)(1) of this chapter.

(2) Those which are to be acted upon by the Review Board under § 0.365 (b) and (d).

(3) Those which are to be acted upon by the Chief Hearing Examiner under § 0.351.

(b) Any question which would be acted upon by the hearing examiner if it were raised by the parties to the proceeding may be raised and acted upon by the hearing examiner on his own motion.

(c) Any question which would be acted upon by the Chief Hearing Examiner, the Review Board or the Commission, if it were raised by the parties, may be certified by the hearing examiner, on his own motion, to the Chief Hearing Examiner, the Review Board or the Commission, as the case may be.

(Sec. 7, 60 Stat. 241, 5 U.S.C. 1006; sec. 409, 48 Stat. 1096, as amended, 47 U.S.C. 409)

【§ 0.341 as amended eff. 6-15-64; I(63)-2】

## § 0.347 Record of actions taken.

Except for actions taken during the course of the hearing and upon the record thereof, actions taken by a hearing examiner pursuant to § 0.341 shall be recorded each week in writing and filed in the official minutes of the Commission.

## CHIEF HEARING EXAMINER

## § 0.351 Authority delegated.

The Chief Hearing Examiner shall act on the following matters in proceedings conducted by hearing examiners:

(a) Initial specifications of the time and place of hearings where not otherwise specified by the Commission and excepting actions under authority delegated by § 0.296.

(b) Designation of the hearing examiner to preside at hearings.

(c) Orders directing the parties or their attorneys to appear at a specified time and place before the hearing examiner for an initial prehearing conference in accordance with § 1.251(a) of this chapter. (The hearing examiner named to preside at the hearing may order an initial prehearing conference although the Chief Hearing Examiner may not have seen fit to do so and may order supplementary prehearing conferences in accordance with § 1.251(b) of this chapter.)

(d) Petitions requesting a change in the place of hearing where the hearing is scheduled to begin in the District of Columbia or where the hearing is scheduled to begin at a field location and all appropriate proceedings at that location have not been completed. (See § 1.253 of this chapter.)

(e) In the absence of the hearing examiner who has been designated to preside in a proceeding, to discharge the hearing examiner's functions.

(f) All pleadings filed, or matters which arise, after a proceeding has been designated for hearing, but before an examiner has been designated, which would otherwise be acted upon by the examiner, including all pleadings filed, or matters which arise, in cease and desist and/or revocation proceedings prior to the designation of a presiding officer.

(g) All pleadings (such as motions for extension of time) which are related to matters to be acted upon by the Chief Hearing Examiner.

¶§ 0.351 as amended eff. 6-15-64; I(63)-2¶

## § 0.357 Record of actions taken.

Actions taken by the Chief Hearing Examiner shall be recorded each week and filed in the official minutes of the Commission.

## REVIEW BOARD

## § 0.361 General authority.

(a) The Review Board is a permanent body with continuing functions. The main function of the Board is to review matters referred to it by the Commission in hearing proceedings. The Board also takes original action on certain interlocutory matters which arise during the course of hearing proceedings. The hearing matters referred to the Board on a regular basis are listed in § 0.365. Other hearing matters may be referred to the Board for review on a case by case basis, either at the time of designation for hearing or upon consideration of exceptions. The Commission may, from time to time, assign the Board additional duties not inconsistent with these functions.

(b) Any matter referred to the Board on a regular basis or otherwise may, on its own motion or upon its consideration of the motion of any party, be certified by the Board to the Commission, with a request that the matter be acted upon by the Commission, if in the Board's judgment the matters at issue are of such a nature as to warrant Commission review of any decision which the Board might otherwise have made. If a majority of the members of the Commission then holding office vote to grant the Board's request, the matter shall be acted upon by the Commission.

¶§ 0.361 (b) as amended eff. 6-15-64; I(63)-2¶

(c) Whenever the Commission determines that a matter pending before the Board involves a novel or important issue of law or policy, it may, on its own motion, by the vote of a majority of the members then holding office, direct that any matter before the Board be certified to the Commission for decision. However, no petition requesting the Commission to take such action will be entertained.

(d) The Review Board shall decide each matter before it by majority vote in accordance with the Communications Act of 1934, as amended, rules and regulations, case precedent, and established policies of the Commission. In reviewing initial decisions referred to it, the Review Board is authorized to perform all of the review functions which would otherwise have been performed by the Commission under §§ 1.273-1.282 of this chapter.

(e) The Review Board is composed of three or more Commission employees. Members of the Board are designated by the Commission, serve indefinitely on a full-time basis, and are responsible only to the Commission. Neither the Commission nor any of its members will discuss the merits of any matter pending before the Board with the Board or any of its members.

(f) A minimum of three members will participate in each case referred to the Board. A majority of the members who participate in a case shall constitute a quorum. Any member assigned to a case who is not present at oral argument may, after reading the transcript of oral argument, participate in the Board's decision. However, so far as practicable, all of the members of the Board assigned to a case shall hear oral argument.

(g) Except in interlocutory matters, each opinion of the Review Board will be signed by one of its members, who shall be responsible for its preparation.

(h) Actions taken by the Review Board shall be recorded in writing and filed in the official minutes of the Commission.

#### § 0.365 Authority delegated to the Review Board on a regular basis.

(a) *Review of initial decisions.* Unless the Commission specifies to the contrary at the time of designation for hearing or otherwise, the Review Board shall review initial decisions of hearing examiners in all adjudicative proceedings (including mixed adjudicative and rule making proceedings), except for proceedings involving the renewal or revocation of a station license in the Broadcast Radio Services or the Common Carrier Radio Services.

(b) *Original action on interlocutory matters.* In adjudicative proceedings conducted by hearing examiners (including mixed adjudicative and rule making proceedings), the Review Board shall take original action on the following interlocutory matters and upon any question with respect to such matters which is certified to it by the presiding examiner (see § 1.291 of this chapter) :

(1) Petitions to amend, modify, enlarge, or delete issues upon which the hearing was ordered.

(2) Joint requests for approval of agreements filed pursuant to § 1.525 of this chapter and, if further hearing is not required on issues other than those arising out of the agreement, to terminate the proceeding and make appropriate disposition of all applications. (In considering such requests, the Review Board may in its discretion, hold informal conferences with counsel for parties to the proceeding.)

(c) *Action on interlocutory appeals from rulings of hearing examiners.* The Review Board shall act on interlocutory appeals from rulings of hearing examiners in adjudicative proceedings (including mixed adjudicative and rule making proceedings). See § 1.301 of this chapter.

(d) *Action on pleadings filed in cases or matters which are before the Board.* The Review Board shall act on all pleadings filed in cases or matters which are before the Board.

[[§ 0.365 as amended eff. 6-15-64; I(63)-2]]

#### CHIEF, OFFICE OF OPINIONS AND REVIEW

##### § 0.371 Authority delegated.

(a) The Chief, Office of Opinions and Review, is delegated authority to act upon the following matters in hearing proceedings which are pending before the Commission en banc:

(1) Uncontested motions or petitions for extension of time.

(2) Pleadings which are moot.

(3) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(b) Actions taken by the Chief, Opinions and Review, pursuant to the provisions of this section shall be recorded each week in writing and filed in the official minutes of the Commission.

[[§ 0.371(a) amended in I(63)-6; par. (a)(3) adopted eff. 2-25-66; I(63)-11]]

#### DEFENSE AND EMERGENCY PREPAREDNESS DELEGATIONS

##### § 0.381 Defense Commissioner.

(a) The authority delegated to the Commission under Executive Order 11092 is redelegated to the Defense Commissioner.

(b) Actions taken by the Defense Commissioner pursuant to paragraph (a) of this section shall be recorded in writing and filed in the official minutes of the Commission.

##### § 0.383 Emergency Relocation Board.

(a) During any period in which the Commission is unable to function because of the circumstances set forth in § 0.186(a), all work, business or functions of the Federal Communications Commission arising under the Communications Act of 1934, as amended, is assigned and referred to the Emergency Relocation Board.

(b) The Board, acting by a majority thereof, shall have the power and authority to hear and determine, order, certify, report or otherwise act as to any of the said work, business or functions so assigned or referred to it, and in respect thereof shall have all the jurisdiction and powers conferred by law upon the Commission, and be subject to the same duties and obligations.

(c) Any order, decision or report made or other action taken by the said Board in respect of any matters so assigned or referred shall have the same effect and force, and may be made, evidenced, and enforced in the same manner, as if made or taken by the Commission.

(d) Actions taken by the Board shall be recorded each week in writing and filed in the official minutes of the Commission.

**§ 0.385 FCC representatives assigned to Regional Preparedness Committees of the Office of Emergency Planning during a wartime emergency period.**

Engineers in Charge of Field Engineering Bureau district offices at Boston, Massachusetts; Baltimore, Maryland; Atlanta, Georgia; Detroit, Michigan; Dallas, Texas; Denver Colorado; San Francisco, California; and Seattle, Washington, are designated as FCC representatives to Regional Preparedness Committees. FCC Field Liaison Officers of the FCC Office of Emergency Communications are designated as alternates. These Committees will be activated in wartime emergency periods or during Civil Defense exercises. These FCC representatives will give advice and assistance to Regional Directors of the Office of Emergency Planning and to other Federal agencies within the respective Office of Emergency Planning region on matters relating to the functions and responsibilities of the FCC. They will also coordinate FCC operations within the region in the event of a regional "cut-off" situation. For the purpose of delegating authority to FCC representatives to act for the Commission, a regional "cut-off" situation shall be considered as existing when either no communication to higher authority within the FCC can be effected, or such communication as exists could not be expected to provide an answer from higher authority within the FCC in time to authorize urgent actions that the FCC representative determines cannot be delayed until such answer is received. The delegations of authority set forth in paragraphs (a), (b), and (c) of this section are made to these Engineers in Charge or to their alternates, to enable them to carry out their responsibilities.

(a) *When communication is available to higher authority within the FCC.* When instructions can be obtained from higher authority within the FCC, delegation of authority to FCC representatives assigned to Regional Preparedness Committees shall comprise that set forth in § 0.314. Action under this delegation must be consistent with any defense rules that supersede rules for normal conditions, wartime plans and emergency orders that may be adopted by the Commission, emergency legislation, Executive Orders, and any pertinent actions of other Government agencies taken pursuant to authority delegated to them under section 606 of the Communications Act of 1934, as amended.

(b) *During a temporary "cut-off" period when communication to higher authority within the FCC is disrupted.* When instructions cannot be obtained from higher authority within the FCC and when immediate action must be taken, delegation of authority to FCC representatives assigned to Regional Preparedness

Committees of the Office of Emergency Planning shall comprise the following in addition to the delegations included in paragraph (a) of this section:

(1) Matters delegated to the Chief and Deputy Chief of the Field Engineering Bureau under § 0.311 (b).

(2) Matters delegated to the Chief, Broadcast Bureau by § 0.281.

(3) Matters delegated to the Chief, Safety and Special Radio Services Bureau by §§ 0.331-0.333, except for the authority to act on requests for waiver of rules governing the availability of frequencies below 25 megacycles in the Aviation and Maritime Services.

(4) Matters delegated to the Chief, Common Carrier Bureau by §§ 0.291, 0.294, 0.303 (d)-(f), 0.304, 0.305, and 0.307.

(5) Matters delegated to the Chief Engineer by §§ 0.241 and 0.243.

(6) Authority to act on requests for temporary authorizations for new or modified radio station operations, subject to the provisions of the Communications Act of 1934, as amended.

(7) Authority to act on requests for temporary authorization for all classes of radio operators, subject to the provisions of the Communications Act of 1934, as amended.

(8) Authority to waive temporarily any provisions of this chapter applicable to radio stations and radio operators, subject to the provisions of the Communications Act of 1934, as amended: *Provided, however,* That such authority shall not include waiver of rules governing the availability of frequencies below 25 megacycles in the Aviation and Maritime Services, nor any of the Emergency Broadcast System Rules.

(c) *General.* (1) All authorizations granted pursuant to authority contained in paragraph (b) of this section shall be reported to higher Commission authority at the earliest opportunity. Such authorizations shall be subject to review and cancellation or revision, without hearing, by the FCC representatives assigned to Regional Preparedness Committees or by higher Commission authority when the need for such action arises.

(i) Written authorizations granted pursuant to authority contained in paragraph (b) of this section shall show plainly on their face that they are temporary authorizations, not to exceed 30 days from the date of issue, and subject to review and cancellation or revision without hearing.

(ii) Where immediate oral authorizations are necessary, the applicant shall be orally informed of the limitations enumerated above in this subparagraph and the oral authorization shall be followed as soon as pos-



sible by a written authorization bearing the same date of issue as the date of oral authorization. If the "cut-off" period exceeds 30 days in duration, such authorizations may be renewed for additional periods of 30 days each.

(2) Actions taken under any delegation of authority must take into full account, and be in conformance with, any defense rules that supersede rules for normal conditions; wartime emergency plans and orders of the Commission; emergency legislation; Executive Orders; and any pertinent actions of other Government agencies taken pursuant to authority delegated to them under section 606 of the Communications Act of 1934, as amended.

(3) No actions shall be taken under any delegation of authority until full consideration is given to the effect of such actions on the continuance of vital radio communications, both Government and non-Government, on a worldwide or nationwide basis and in adjacent regions. If the FCC representative assigned to the Regional Preparedness Committee of the Office of Emergency Planning determines that interference to radio operations outside of a "cut-off" region may result by authorizing new or modified radio facilities (for example, a change of frequency or power of a radio station), he shall withhold such authorization unless directed to grant the temporary authorization by higher authority.

(4) Coordination shall be effected, where possible, with the FCC representatives assigned to Regional Preparedness Committees of the Office of Emergency Planning in adjacent regions before acting to authorize temporary requests for radio operations.

(5) New obligations incurred pursuant to delegation of authority specified in this section for personal service, procurement, contract agreements, and similar items shall not exceed the amount authorized by the Commission's Budget Officer in periodic emergency allotment authorizations.

#### § 0.386 Record of actions taken.

Actions taken under § 0.385(b) by FCC representatives assigned to Regional Preparedness Committees of the Office of Emergency Planning shall be reported in writing to the Chief, Field Engineering Bureau at the earliest opportunity.

#### § 0.387 Other defense and emergency preparedness delegations; cross reference.

(a) For authority of the Chief of the Broadcast Bureau to issue National Defense Emergency Authorizations, see §§ 0.281(h) and 1.502.

(b) For authority of the Chief and Deputy Chief of the Field Engineering Bureau to declare a general communications emergency, see § 0.311(b).

## Subpart C—General Information

### GENERAL

#### § 0.401 Location of Commission offices.

(a) The main offices of the Commission are located in the New Post Office Building, 13th Street and Pennsylvania Avenue NW., Washington, D.C. and in the 521 Building, 521 12th Street NW., Washington, D.C.

(1) Documents submitted by mail to those offices should be addressed to:

Federal Communications Commission, Washington, D.C., 20554

(2) Hand-carried mail containing fees should be delivered to:

Mail and Files Division, Office of Executive Director, New Post Office Building, 13th Street and Pennsylvania Avenue NW., Washington, D.C.

(3) Other hand-carried documents should be delivered to:

Office of the Secretary, New Post Office Building, 13th Street and Pennsylvania Avenue NW., Washington, D.C.

(b) The Commission's laboratory is located north of Laurel, Md. The mailing address is:

Federal Communications Commission Laboratory, Post Office Box 40, Laurel, Md. 20810.

(c) The locations of the field offices of the Field Engineering Bureau are listed in § 0.121.

(d) The locations of the field offices of the Common Carrier Bureau are listed in § 0.94.

(e) The Commission also maintains an office at Gettysburg, Pennsylvania. The mailing address for this office is:

Federal Communications Commission,  
334 York Street,  
Gettysburg, Pennsylvania, 17325

(f) The location of the field offices of the Office of Emergency Communications are listed in § 0.184(c).

ⓘ § 0.401(b) amended eff. 9-8-67; I(63)-18

#### § 0.403 Office hours.

The Offices of the Commission are open from 8:30 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

ⓘ § 0.403 adopted new eff. 7-18-67; I(63)-17

#### § 0.405 Statutory provisions.

The following statutory provisions, among others, will be of interest to persons having business with the Commission:

(a) The Federal Communications Commission was created by the Communications Act of 1934, 48 Stat. 1064, June 19, 1934, as amended, 47 U.S.C. 151-609.

(b) The Commission exercises authority under the Submarine Cable Landing Act, 42 Stat. 8, May 27, 1921, 47 U.S.C. 34-39. See section 5 of Executive Order 10530.



19 F.R. 2709, May 10, 1954, as amended, 3 CFR 1965 ed., p. 463.

(c) The Commission exercises authority under the Communications Satellite Act of 1962, 76 Stat. 419, August 31, 1962, 47 U.S.C. 701-744.

(d) The Commission operates under the Administrative Procedure Act, 60 Stat. 237, June 11, 1946, as amended, originally codified as 5 U.S.C. 1001-1011. Pursuant to P.L. 89-554, September 6, 1966, 80 Stat 378, the provisions of the Administrative Procedure Act now appear as follows in the Code:

<i>Administrative Procedure Act:</i>	<i>5 U.S.C.</i>
Sec. 2-9.....	551-558
Sec. 10.....	701-706
Sec. 11.....	3105, 7521, 5362, 3344, 1305
Sec. 12.....	559

⌈§ 0.405 adopted new eff. 7-18-67; I(63)-17⌋

§ 0.406 The rules and regulations.

Persons having business with the Commission should familiarize themselves with those portions of its rules and regulations pertinent to such business. All of the rules have been published and are readily available. See §§ 0.411(b), 0.412, and 0.415. For the benefit of those who are not familiar with the rules, there is set forth in this section a brief description of their format and contents.

(a) *Format.* The rules are set forth in the Code of Federal Regulations as Chapter I of Title 47. Chapter I is divided into parts numbered from 0-99. Each part, in turn, is divided into numbered sections. To allow for the addition of new parts and sections in logical sequence, without extensive renumbering, parts and sections are not always numbered consecutively. Thus, for example, Part 2 is followed by Part 5, and § 1.8 is followed by § 1.10; in this case, Parts 3 and 4 and § 1.9 have been reserved for future use. In numbering sections, the number before the period is the part number; and the number after the period locates the section within that part. Thus, for example, § 1.1 is the first section of Part 1 and § 5.1 is the first section in Part 5. Except in the case of accounting regulations (Parts 31-35), the period should not be read as a decimal point; thus, § 1.511 is not located between § 1.51 and § 1.52 but at a much later point in the rules. In citing the Code of Federal Regulations, the citation, 47 CFR 5.1, for example, is to § 5.1 (in Part 5) of Chapter I of Title 47 of the Code, and permits the exact location of that rule. No citation to other rule units (e.g., subpart or chapter) is needed.

(b) *Contents.* Parts 0-19 of the rules have been reserved for provisions of a general nature. Parts 20-69 have been reserved for provisions pertaining to common carriers. Parts 70-79 have been reserved for provisions pertaining to broadcasting. Parts 80-99 have been reserved for provisions pertaining to the Safety and Special Radio Services. In the rules pertaining to common carriers, Parts 21, 23, and 25 pertain to the use of radio; Parts 31-66 pertain primarily to tele-

phone and telegraph companies. In the rules pertaining to broadcasting, Part 74, Experimental, Auxiliary and Special Broadcast Services, also contains provisions for regulation of community antenna television (CATV) systems and community antenna relay (CAR) stations. Persons having business with the Commission will find it useful to consult one or more of the following parts containing provisions of a general nature in addition to the rules of the radio or wire communication service in which they are interested:

(1) *Part 0, Commission organization.* Part 0 describes the structure and functions of the Commission, lists delegations of authority to the staff, and sets forth information designed to assist those desiring to obtain information from, or to do business with, the Commission. This Part is designed, among other things, to meet certain of the requirements of the Administrative Procedure Act, as amended.

(2) *Part 1, practice and procedure.* Subpart A of Part 1 contains the general rules of practice and procedure. Except as expressly provided to the contrary, these rules are applicable in all Commission proceedings and should be of interest to all persons having business with the Commission. The subpart also contains certain other miscellaneous provisions. Subpart B contains the procedures applicable in formal hearing proceedings (see § 1.201). Subpart C contains the procedures followed in making or revising the rules and regulations. Subpart D contains rules applicable to applications for licenses in the Broadcast Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Subpart E contains general rules and procedures applicable to common carriers. Additional procedures applicable to certain common carriers by radio are set forth in Part 21. Subpart F contains rules applicable to applications for licenses in the Safety and Special Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Subpart G contains rules pertaining to application filing fees. Subpart H, concerning ex parte presentations, sets forth standards governing communication with Commission personnel in hearing proceedings and contested application proceedings. Subparts G and H will be of interest to all applicants, and Subpart H will, in addition, be of interest to all persons involved in hearing proceedings.

(3) *Part 2, frequency allocations and radio treaty matters; general rules and regulations.* Part 2 will be of interest to all persons interested in the use of radio. It contains definitions of technical terms used in the rules and regulations; provisions governing the allocation of radio frequencies among the numerous uses made of radio (e.g., broadcasting, land mobile) and radio services (e.g., television, public safety), including the Table of Frequency Allocations (§ 2.106); technical provisions dealing with emissions; provisions dealing with call signs and emergency communications; provi-

sions governing type acceptance and type approval of radio equipment; and a list of treaties and other international agreements pertaining to the use of radio.

(4) *Part 5, experimental radio services (other than broadcast)*. Part 5 deals with the temporary use of radio frequencies for research in the radio art, for communication involving other research projects, and for the development of equipment, data, or techniques.

(5) *Part 13, commercial radio operators*. Part 13 describes the procedures to be followed in applying for a commercial operator license, including the forms to be used and the examinations given, and sets forth rules governing licensed operators. It will be of interest to applicants for such licenses, licensed operators, and the licensees of radio stations which may be operated only by persons holding a commercial radio operator license.

(6) *Part 15, radio frequency devices*. Part 15 contains regulations designed to prevent harmful interference to radio communication from radio receivers and other devices which radiate radio frequency energy, and provides for the certification of radio receivers. It also provides for the certification of low power transmitters and for the operation of certificated transmitters without a license.

(7) *Part 17, construction, marking, and lighting of antenna structures*. Part 17 contains criteria for determining whether applications for radio towers require notification of proposed construction to the Federal Aviation Administration, and specifications for obstruction marking and lighting of antenna structures.

(8) *Part 18, industrial, scientific and medical equipment*. Part 18 contains regulations designed to prevent harmful interference to radio communication from ultrasonic equipment, industrial heating equipment, medical diathermy equipment, radio frequency stabilized arc welders, and other equipment which uses radio energy for purposes other than communication.

(9) *Part 19, employee responsibilities and conduct*. Part 19 prescribes standards of conduct for the members and staff of the Commission.

☐ § 0.406 adopted new eff. 7-18-67; 1(63)-17 ☐

#### PRINTED PUBLICATIONS

##### § 0.411 General reference materials.

The following reference materials are available in many libraries and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402:

(a) *Statutory materials*. Laws pertaining to communications are contained in Title 47 of the United States Code. Laws enacted since the printing of the last supplement to the Code are printed individually as slip laws, and these are compiled chronologically in the United States Statutes at Large. The Acts of Congress from 1910-62 pertaining to radio have been compiled in a single volume, *Radio Laws of the United States* (1962 ed.). See §§ 0.405 and 0.414.

(b) *Regulatory materials*—(1) *The Code of Federal*

*Regulations*. The rules and regulations of the Commission are contained in Chapter I of Title 47 of the Code of Federal Regulations. Chapter I is divided into the following 4 subchapters, which may be purchased separately: Subchapter A—General; Subchapter B—Common Carrier Services; Subchapter C—Broadcast Radio Services; and Subchapter D—Safety and Special Radio Services. Most persons will find that they need Subchapter A, containing the general rules, and one of the other volumes, depending upon their area of interest. These four volumes are revised annually to reflect changes in the rules. See §§ 0.406, 0.412, and 0.415. The Code of Federal Regulations is fully indexed and contains numerous finding aids. See 1 CFR Appendix C.

(2) *The Federal Register*. As rules are adopted, amended, or repealed, the changes are published in the FEDERAL REGISTER, which is published daily except on days following legal holidays. Notices of proposed rule making, other rule making documents, statements of general policy, interpretations of general applicability, and other Commission documents having general applicability and legal effect are also published in the FEDERAL REGISTER. The FEDERAL REGISTER is fully indexed and contains numerous finding aids. See 1 CFR Appendix C.

☐ § 0.411 adopted new eff. 7-18-67; 1(63)-17 ☐

##### § 0.412 Nongovernment publications.

(a) *Pike and Fischer Radio Regulation*. This multi-volume service contains the text of statutes, treaties and regulations pertaining to radio; Commission and court decisions; and other materials, including a digest. Information concerning this service may be obtained from Pike and Fischer, Inc., 1726 M Street NW., Washington, D.C. 20036.

(b) *Rules Service Company service*. This service contains Parts 0, 1, 17, 73, 74, and 87 of the rules and regulations and other materials. Information concerning this service may be obtained from the Rules Service Company, 1001 15th Street NW., Washington, D.C. 20005.

NOTE: Other published research materials pertaining to communications will be listed in this section upon request of the publisher.

☐ § 0.412 adopted new eff. 7-18-67; 1(63)-17 ☐

##### § 0.413 The Commission's printed publications.

The Commission's printed publications are described in §§ 0.414-0.420. These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Commission does not furnish copies of these publications but will furnish a price list (Administration Bulletin No. 1) upon request. Requests for copies of that list should be directed to the Office Services Division, Office of Executive Director, Federal Communications Commission, Washington, D.C. 20554.

☐ § 0.413 adopted new eff. 7-18-67; 1(63)-17 ☐

#### § 0.414 The Communications Act and other statutory materials.

This publication, with packets of revised pages, contains the Communications Act of 1934, with amendments through 1964; the Administrative Procedure Act, with amendments through 1964; the Judicial Review Act; the Communications Satellite Act of 1962; and selected sections of the Criminal Code pertaining to communications. It also contains indexes to the Communications Act and the Administrative Procedure Act. Persons who do not have ready access to the United States Code, or who refer frequently to these materials, may find this volume to be useful.

【§ 0.414 adopted new eff. 7-18-67; I(63)-17】

#### § 0.415 The rules and regulations (loose-leaf service).

In this service, the rules and regulations are divided into 10 volumes, each containing several related parts. Each volume may be purchased separately from the Superintendent of Documents. The purchase price for a volume includes a subscription to replacement pages reflecting changes in the rules contained therein until such time as the volume is revised. Each volume is revised periodically, depending primarily on the frequency with which the rules it contains have been amended. When a volume is revised, the revised volume and replacement pages therefor will be furnished to those who renew their subscriptions.

【§ 0.415 adopted new eff. 7-18-67; I(63)-17】

#### § 0.416 The Federal Communications Commission Reports.

All documents currently adopted by the Commission having precedential or historical significance are published in the FCC Reports. The FCC Reports are published weekly in pamphlet form. The pamphlets are available on a subscription basis, and are subsequently compiled and published in bound volumes. Earlier volumes contain Commission decisions and reports but are less comprehensive than those currently being published. Supplements (to those earlier volumes) containing additional documents having precedential or historical significance will be issued from time to time. Current bound volumes contain indexes, tables of cases and other finding aids.

【§ 0.416 adopted new eff. 7-18-67; I(63)-17】

#### § 0.417 The Annual Reports.

At the end of each fiscal year, the Commission publishes an Annual Report containing general information concerning the Commission and the history of regulation, a summary of developments during the year, and selected industry statistics.

【§ 0.417 adopted new eff. 7-18-67; I(63)-17】

#### § 0.420 Other Commission publications.

The following additional Commission publications may be purchased from the Superintendent of Documents:

(a) Statistics of Communications Common Carriers (for the year 1965).

(b) Study Guide and Reference Material for Commercial Radio Operator Examinations (May 1965).

(c) Figure M-3, Estimated AM Ground Conductivity of the United States (set of two maps).

(d) Television Network Program Procurement Report, 2d Interim Report, Part 2, by the Office of Network Study.

【§ 0.420 adopted new eff. 7-18-67; I(63)-17】

#### FORMS AND DOCUMENTS AVAILABLE UPON REQUEST

#### § 0.421 Application forms.

All forms for use in submitting applications for radio authorizations, together with instructions and information as to filing such forms, may be obtained at the Washington offices of the Commission or at any of the engineering field offices listed in § 0.121. For information concerning the forms to be used and filing requirements, see Subparts D, E, F, and G of Part 1 of this chapter and the appropriate substantive rules.

【§ 0.421 adopted new eff. 7-18-67; I(63)-17】

#### § 0.422 Current action documents and public notices.

A limited number of copies of the text of documents adopted by the Commission, public notices of Commission actions, and other public releases is made available at the Office of Reports and Information when they are issued. Back issues of public releases are available for inspection in this office.

【§ 0.422 adopted new eff. 7-18-67; I(63)-17】

#### § 0.423 Information bulletins.

The bulletins listed in this section have been prepared with the specific purpose of providing information to the public concerning communications and the Federal Communications Commission. Copies of these bulletins are available upon request. Many of the bulletins contain references to additional materials and the manner in which they may be obtained, including some which are available from the Commission without charge upon request.

(a) Copies of the following information bulletins issued by the Commission are available in the Office of Information and will be furnished upon request.

(1) An A-B-C of the FCC (No. 3-G).

(2) Radio Stations and Other Lists (No. 4-G).

(3) Publications and Services (No. 6-G).

(4) A Short History of Electrical Communication (No. 7-G).

(5) Radio Station Call Signs (No. 13-G).



(6) Regulation of Wire and Radio Communication (No. 14-G).

(7) Frequency Allocation (No. 15-G).

(8) Memo to All Young People Interested in Radio (No. 17-G).

(9) Letter to a Schoolboy (No. 18-G).

(10) Policing the Airwaves and Other FCC Field Services (No. 19-G).

(11) Broadcast Application and Hearing Procedures (No. 1B).

(12) Broadcast Primer (No. 2-B).

(13) Educational Television (No. 16-B).

(14) Subscription TV and the FCC (No. 20-B).

(15) Educational Radio (No. 21-B).

(16) Common Carrier Primer (No. 12-C).

(17) Safety and Special Radio Services Primer (No. 11-S).

(b) Copies of the following information bulletins issued by the Office of Chief Engineer are available in that office and will be furnished upon request:

(1) Type Approved Miscellaneous Equipment (OCE Bull. No. 5).

(2) Type Approved Medical Diathermy Equipment (OCE Bull. No. 7).

(3) Industrial Radio Frequency Heaters Require Periodic Inspection (OCE Bulletin No. 8).

(4) Attachments to Type Approved Equipment Illegal (OCE Bulletin No. 10).

(5) Does My Transmitter Need a License (OCE Bulletin No. 11).

(6) Operation in the Broadcast Band Without a License (OCE Bulletin No. 12).

(7) Type Approved Wireless Microphones and Telemetering Transmitters (OCE Bulletin No. 13).

(8) Editorial Revision of FCC Rules, Parts 15 and 18 (OCE Bulletin No. 14).

(9) Type Acceptance Program (OCE Bulletin No. 15).

(c) Copies of the following information bulletins issued by the Safety and Special Radio Services Bureau are available from the Office Services Division, Office of Executive Director, upon request:

(1) Citizens Radio Service (SS Bulletin No. 1001).

(2) Use of Citizens Radio by Telephone Answering Services and Similar Organizations (SS Bull. No. 1001d).

(3) Citizens Radio Service—Selecting Class C and Class D Station Equipment (SS Bulletin No. 1001g).

(4) Aircraft Radio Station (SS Bulletin No. 1002).

(5) Aeronautical Advisory Stations (SS Bulletin No. 1002a).

(6) Aeronautical Public Service Stations (SS Bulletin No. 1002e).

(7) Amateur Radio Service (SS Bulletin No. 1003).

(8) Amateur Radio Operation Away from the Licensed Location (SS Bulletin No. 1003b).

(9) International Amateur Radiocommunication (SS Bulletin No. 1103c).

(10) Assignment of Amateur Radio Station Call Signs (SS Bulletin No. 1003d).

(11) Renewal of Amateur Radio Licenses (SS Bulletin No. 1003e).

(12) Reciprocal Amateur Operation (SS Bulletin No. 1003f).

(13) Land Transportation Radio Services (SS Bulletin No. 1004).

(14) Industrial Radio Services (SS Bulletin No. 1005).

(15) Use of the Same Transmitting Equipment by More than One Station Licensee in the Public Safety, Industrial and Land Transportation Radio Services (SS Bulletin No. 1006a).

(16) Ship Radiotelephone and Radar (SS Bulletin No. 1007).

(17) Public Safety Radio Services (SS Bulletin No. 1009).

(18) Study Questions for Amateur Novice Class Examination (SS Bulletin No. 1035).

(19) Mutual Recognition of Certain Mobile and Amateur Radio Licenses Issued by the United States or Canada (SS Bulletin No. 1065).

(20) Notice to Licensees and Operators of Land Mobile Radio Stations (SS Bulletin No. 1097).

【§ 0.423 (a) amended eff. 9-15-67; I (63)-18】

LISTS CONTAINING INFORMATION  
COMPILED BY THE COMMISSION

§ 0.431 The FCC Service Frequency Lists.

Lists of frequency assignments to radio stations authorized by the Commission are recapitulated periodically by means of a machine record system. All stations licensed by the Commission are included, except the following: Aircraft, Amateur, Citizens (except Class A), Civil Air Patrol, and Disaster. The resulting documents, the FCC Service Frequency Lists, consist of several volumes arranged by nature of service, in frequency order, including station locations, call signs and other technical particulars of each assignment. These documents are available for public inspection at each of the Commission's Field Engineering Bureau field offices (see § 0.121) and, in Washington, D.C., at the Commission's Broadcast and Docket Reference Room and in the offices of the Chief Engineer. They may be purchased from Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006.

【§ 0.431 adopted new eff. 7-18-67; I (63)-17】

§ 0.432 The NARBA List.

Pursuant to the North American Regional Broadcast Agreement and the United States/Mexican Agreement, appropriate countries are notified of standard broadcast station assignments as they are made. The information thus supplied by notice includes frequency, station location, call letters, power and other technical particulars. Every 6 months, a recapitulative list containing this information for all existing standard

broadcast stations, arranged in frequency order, is prepared by the Commission. This is the so-called NARBA List. These lists are available for public examination at each of the Commission's Field Engineering Bureau field offices (see § 0.121) and, in Washington, D.C., at the Commission's Broadcast and Docket Reference Room. They may be purchased from Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006.

☐ § 0.432 adopted new eff. 7-18-67; 1(63)-17 ☐

#### § 0.433 The Radio Equipment Lists.

Lists of type approved and type accepted equipment (the Radio Equipment Lists) are prepared periodically by the Commission. These documents are available for public inspection at each of the Commission's Field Engineering Bureau field offices (see § 0.121) and in Washington, D.C., in the offices of the Chief Engineer. They may be purchased from Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006.

☐ § 0.433 adopted new eff. 7-18-67; 1(63)-17 ☐

#### § 0.434 Lists of authorized broadcast stations and pending broadcast applications.

Periodically the Commission prepares lists containing information about authorized broadcast stations and pending applications for such stations. These lists, which are prepared by an addressing machine, contain frequency, station locations, and other particulars. They are available for public examination at the Commission's Broadcast and Docket Reference Room, Washington, D.C., and may be purchased from Cooper-Trent, Inc., 1130 19th Street N.W., Washington, D.C. 20006.

(a) For standard broadcast stations the lists are arranged as follows:

(1) Authorized stations arranged in frequency order, alphabetically by State and city, and by call letters.

(2) Pending applications for new stations and major changes in existing facilities arranged in frequency order and alphabetically by State and city.

(b) For FM broadcast stations the lists are arranged as follows:

(1) Authorized stations arranged by call letters and alphabetically by State and city.

(2) Pending applications for new stations and major changes in existing facilities arranged alphabetically by State and city.

(c) For television broadcast stations only one list is prepared. This list contains authorized stations and pending applications for new stations and major changes in existing facilities, and is arranged alphabetically by State and city.

(d) For television broadcast translator stations only one list is prepared. This list contains authorized stations and pending applications for new stations and major changes in existing facilities and is arranged alphabetically by State and city.

☐ § 0.434 adopted new eff. 7-18-67; 1(63)-17 ☐

### PUBLIC INFORMATION AND INSPECTION OF RECORDS

#### § 0.441 General.

Any person desiring to obtain information may do so by writing or coming in person to any of the Commission's offices. A broader range of information and more comprehensive information facilities are available at the Commission's main office in Washington, D.C., however, and inquiries of a general nature should ordinarily be submitted to that office.

☐ § 0.441 adopted new eff. 7-18-67; 1(63)-17 ☐

#### § 0.443 General information office.

The Office of Information is located in the New Post Office Building. Here the public may obtain copies of public notices of Commission actions, formal documents adopted by the Commission and other public releases as they are issued. Back issues of public releases are available for inspection in this Office. Copies of fact sheets which answer recurring questions about the Commission's functions may be obtained from this Office.

☐ § 0.443 amended eff. 9-15-67; 1(63)-18 ☐

#### § 0.445 Publication, availability and use of opinions, orders, policy statements, interpretations, administrative manuals, and staff instructions.

(a) All opinions and orders of the Commission (including concurring and dissenting opinions) are mailed to the parties and, as part of the record, are available for inspection in accordance with §§ 0.453 and 0.455.

(b) All final decisions and other documents currently adopted by the Commission having precedential or historical significance are published in the FCC Reports. Older materials of this nature are either published in the FCC Reports or are in the process of being published. In the event that such other materials are not yet published in the FCC Reports, reference should be made to Pike and Fischer Radio Regulations. See §§ 0.412(a) and 0.416.

(c) All rule making documents are published in the Federal Register. See § 0.411(b)(2).

(d) Formal policy statements and interpretations designed to have general applicability and legal effect are published in the Federal Register and the FCC Reports. See §§ 0.411(b)(2) and 0.416. Commission decisions and other Commission documents not entitled formal policy statements or interpretations may contain substantive interpretations and statements regarding policy, and these are published as part of the document in the FCC Reports. General statements regarding policy and interpretations furnished to individuals in correspondence or otherwise, are not ordinarily published. A series of individual interpretations may be collected and published in the Federal Register and the FCC Reports.

(e) If the documents described in paragraphs (a)-



(d) of this section are published in the Federal Register, the FCC Reports, or Pike and Fischer Radio Regulations, they may be relied upon, used or cited as precedent by the Commission or private parties in any matter. If they are not so published, they may not be relied upon, used or cited as precedent, except against persons who have actual notice of the document in question or by such persons against the Commission. No person is expected to comply with any requirement or policy of the Commission unless he has actual notice of that requirement or policy or unless a document stating it has been published as provided in this paragraph. Nothing in this paragraph, however, shall be construed as precluding a reference to the rationale set forth in a recent document which is pending publication if the requirement or policy to which the rationale relates is contained in a published document or if actual notice of that requirement or policy has been given.

(f) The Federal Register, the FCC Reports, and Pike and Fischer Radio Regulations are indexed. If the documents described in paragraphs (a)-(d) of this section are not published, they are neither indexed nor relied upon, except as provided in paragraph (e) of this section.

(g) There are two Commission staff manuals, the FCC Administrative Manual and the FEB Manual. They have not been published. The FCC Administrative Manual (excepting Part IX, concerning Civil Defense, which contains materials classified under E.O. 10501) is available for inspection in the Office of the Executive Director. Portions of the FEB Manual which pertain to administrative matters are available for inspection in the Field Engineering Bureau. Portions of the FEB Manual which pertain to enforcement matters are not available for inspection. (See Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, June 1967, at pages 16-17.) The manuals are not indexed but are organized by subject, with tables of contents, and the materials contained therein can be located without difficulty.

(h) Subparts A and B of this part describe the functions of the staff and list the matters on which authority has been delegated to the staff. Except as provided in paragraph (g) of this section, all general instructions to the staff and limitations upon its authority are set forth in those subparts. As part of the Commission's rules and regulations, the provisions of these subparts are indexed in the Federal Register and the Code of Federal Regulations. Instructions to the staff in particular matters or cases are privileged and are not published or made available for public inspection.

(i) To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Commission may delete identifying details when it makes available or publishes any document described in this sec-

tion. The justification for any such deletion will be fully explained in a preamble to the document.

【§ 0.445 adopted new eff. 7-18-67; I(63)-17】

#### § 0.451 Inspection of records.

(a) *Records which are routinely available for public inspection.* Sections 0.453 and 0.455 list examples of the Commission's records which are routinely available for public inspection, and the places at which those records may be inspected. Subject to the following limitations, and to the provisions of § 0.466, those records will be made available for inspection to any person upon request:

(1) The person desiring to inspect those records must appear at the location specified during the office hours of the Commission and must inspect the records at that location.

(2) The request must be reasonable in scope, and the records in question must be so identified as to permit their location by staff personnel without undue disruption of their regular duties. The information needed to locate the records will vary, depending upon the records requested. Advice concerning the kind of information needed to locate particular records will be furnished in advance upon request. Members of the public will not be given access to the area in which the records are kept and will not be permitted to search the files.

(3) Current records may be in use by the staff when the request is made. Older records may have been forwarded to another location for storage. In these and similar circumstances, there may be a delay in furnishing the records requested. To avoid inconvenience in such circumstances, arrangements may be made in advance, by telephone or correspondence, to make the records available for inspection on a specified date.

(b) *Records not routinely available for public inspection.* (1) Section 0.457 lists records which are not routinely available for public inspection. In some cases, the Commission is prohibited from permitting the inspection of records. In other cases, the records are the property of another agency, and the Commission has no authority to permit their inspection. In still other cases, the Commission is authorized, for reasons of policy, to withhold records from public inspection, but is not required to do so. The statutory basis for withholding records from public inspection and the underlying policy considerations are outlined briefly in § 0.457, with the intent of assisting those who may wish to file requests for inspection under § 0.461. See subparagraph (3) of this paragraph.

(2) Section 0.459 governs requests from members of the public that materials they submit to the Commission not be made available for public inspection.

(3) Except where the disclosure of records by the Commission is prohibited or where the records are the property of another agency, the Commission will consider requests that records withheld from public inspection be made available for inspection, and reach

a judgment whether such requests should be granted in the public interest, taking into account the policies of Public Law 89-487, 5 U.S.C. 552. If the records are the property of another agency, the request will be referred to that agency. Procedures governing requests for inspection are set forth in §§ 0.461 and 0.466. Procedures governing demands by competent authority for inspection of records are set forth in § 0.463.

(4) Except as provided in §§ 0.461 and 0.463, no officer or employee of the Commission shall permit the inspection of records which are not routinely available for inspection under § 0.453 or § 0.455, or disclose information contained therein.

(c) *Records not listed in § 0.453 or § 0.455.* To be as helpful as possible to the public, numerous examples of records which are routinely available for inspection are listed in §§ 0.453 and 0.455. Though the examples cover the bulk of the Commission's records and should cover most requests for inspection, the listing is inevitably not complete. If such example listing proves helpful, it may be supplemented from time to time.

(d) *Copies.* Section 0.465 applies to requests for copies of Commission records which are routinely available for public inspection under §§ 0.453 and 0.455 and those which are made available for inspection under § 0.461. Section 0.467 applies to certified copies of Commission records.

☐ § 0.451 adopted new eff. 7-18-67; I (63)-17 ☐

#### § 0.453 Public reference rooms.

The Commission maintains the following public reference rooms at its offices in Washington, D.C.:

(a) *The Broadcast and Dockets Reference Room.* The following documents, files and records are available for inspection at this location:

(1) Files containing the record of all docketed cases. A file is maintained for each hearing case and for each docketed rule making proceeding. Cards summarizing the history of such cases are available for inspection in the Dockets Division.

(2) Broadcast applications and related files.

(3) Files containing petitions for rule making and related papers.

(4) Rulings under the fairness doctrine and section 315 of the Communications Act, and related materials.

(b) *The Amateur License Reference Room.* Information concerning amateur radio operators is available for inspection at this location.

(c) *The Library.* Various legal and technical publications, and legislative history compilations, related to communications are available for inspection in the Library.

☐ § 0.453 adopted new eff. 7-18-67; I (63)-17 ☐

#### § 0.455 Other locations at which records may be inspected.

Except as provided in §§ 0.453, 0.457, and 0.459, records are routinely available for inspection in the offices of the Bureau or Office which exercises responsibility

over the matters to which those records pertain (see § 0.5), or will be made available for inspection at those offices upon request. Upon inquiry to the appropriate Bureau or Office, persons desiring to inspect such records will be directed to the specific location at which the particular records may be inspected. A list of Bureaus and Offices and examples of the records available at each is set out below.

(a) *Office of Chief Engineer.* (1) Experimental application and license files.

(2) The Master Frequency Records (Standard Form 128).

(b) *Broadcast Bureau.* (1) Applications for broadcast authorizations and related files are available for public inspection in the Broadcast and Dockets Reference Room. See § 0.453(a)(2). Certain broadcast applications, reports and records are also available for inspection in the community in which the main studio of the station in question is located or proposed to be located. See § 1.526 of this chapter.

(2) Ownership reports filed by licensees of broadcast stations pursuant to § 1.615 of this chapter.

(c) *Common Carrier Bureau.* (1) Annual reports filed by carriers and certain affiliates under § 43.21 of this chapter.

(2) Monthly reports filed by carriers under § 43.31 of this chapter.

(3) Reports on pensions and benefits filed by carriers under § 43.42 of this chapter.

(4) Reports of proposed changes in depreciation rates filed by carriers under § 43.43 of this chapter.

(5) Reports regarding division of international telegraph communication charges filed under § 43.53 of this chapter.

(6) Reports regarding services performed by telegraph carriers filed under § 43.54 of this chapter.

(7) Reports of public coast station operators filed under § 43.71 of this chapter.

(8) Valuation reports filed under section 213 of the Communications Act, including exhibits filed in connection therewith, unless otherwise ordered by the Commission, with reasons therefor, pursuant to section 213(f) of the Communications Act. See § 0.457(c)(2).

(9) A list of other reports filed by common carriers.

(10) Contracts and other arrangements filed under § 43.51 and reports of negotiations regarding foreign communication matters filed under § 43.52 of this chapter, except for those kept confidential by the Commission pursuant to section 412 of the Communications Act. See § 0.457(c)(3).

(11) Tariff schedules for all charges for interstate and foreign wire or radio communications filed pursuant to section 203 of the Communications Act, all documents filed in connection therewith, and all communications related thereto.

(12) All applications for common carrier authorizations, both radio and non-radio, and files relating thereto.

(13) All formal and informal complaints against common carriers filed under §§ 1.711-1.735 of this chapter, all documents filed in connection therewith, and all communications related thereto.

(14) Files relating to submarine cable landing licenses, except for maps showing the exact location of submarine cables, which are withheld from inspection under section 4(j) of the Communications Act. See § 0.457(c)(1)(i).

(d) *Safety and Special Radio Services Bureau.* (1) All applications for authorizations in the Safety and Special Radio Services and files relating thereto. These materials are available at the offices of the Divisions of the Bureau which process the applications in question. See § 1.951 of this chapter. Information concerning amateur radio operators is available for inspection at the Amateur License Reference Room (see § 0.453(b)).

(e) *Field Engineering Bureau.* (1) Commercial radio operator application files. See, however, § 0.457(f)(3).

(2) Files pertaining to the certification of plants or equipment under Part 18 of this chapter.

(f) *Office of the Secretary.* (1) All minutes of Commission actions, containing a record of all final votes, except for minutes of actions on classified matters and internal management matters as provided in § 0.457(b)(1) and (c)(1)(ii). These minutes are available for inspection in the Minute and Rules Division.

(2) Files containing information concerning the history of the Commission's rules. These files are available for inspection in the Minute and Rules Division.

(g) *Office of Information.* See § 0.443.

(h) *The Commission's offices in Gettysburg, Pennsylvania.* (1) Amateur and Citizens Radio Service application files.

(2) Commercial radio operator application files. See, however, § 0.457(f)(3).

(i) *CATV Task Force.* CATV petitions, requests and related files.

☐ § 0.455(g) amended eff. 9-15-67; I(63)-18 ☐

#### § 0.456 General correspondence files.

Due to the general nature of the Commission's correspondence files, the contents of those files will be made available for inspection under procedures set forth in § 0.461. Before correspondence is made available for inspection under the provisions of that section, it will be reviewed by the Commission's staff to determine whether it should be withheld from inspection under § 0.457. In view of the burden which could be imposed by requests lacking in specificity, persons desiring to inspect materials contained therein will be required to identify those materials with particularity. Requests of a general nature will not be granted. Details of a personal nature, including the name and address of the correspondent, may be deleted from correspondence which is made available for inspection, if their deletion is warranted under § 0.457(f) or (g).

☐ § 0.456 adopted new eff. 7-18-67; I(63)-17 ☐

#### § 0.457 Records not routinely available for public inspection.

The records listed in this section are not routinely available for public inspection. The records are listed in this section by category, according to the statutory basis for withholding those records from inspection; and under each category, if appropriate, the underlying policy considerations affecting the withholding and disclosure of records in that category are briefly outlined. Except where the records are not the property of the Commission or where the disclosure of those records is prohibited by law, the Commission will entertain requests from members of the public under § 0.461 for permission to inspect particular records withheld from inspection under the provisions of this section, and will weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in the light of the facts of the particular case. In making such requests, it is important to appreciate that there may be more than one basis for withholding particular records from inspection. The listing of records by category is not intended to imply the contrary but is solely for the information and assistance of persons making such requests.

(a) *Materials that are specifically required by executive order to be kept secret in the interest of the national defense or foreign policy.* 5 U.S.C. 552(b)(1).

(1) E.O. 10450, "Security Requirements for Government Employees," 18 F.R. 2489, April 27, 1953, 3 CFR, 1949-1953 Comp., p. 936. Pursuant to the provisions of E.O. 10450, reports and other material and information developed in security investigations are the property of the investigative agency. If they are retained by the Commission, it is required that they be maintained in confidence and that no access be given to them without the consent of the investigative agency. Such materials and information will not be made available for public inspection. See also paragraphs (f) and (g) of this section.

(2) E.O. 10501, "Safeguarding Official Information in the Interests of the Defense of the United States," 18 F.R. 7049, November 10, 1953, as amended, 3 CFR, 1965 ed., p. 450. E.O. 10501, as amended, provides for the classification of official information which requires protection in the interests of national defense, and prohibits the disclosure of classified information except as provided therein. Classified materials and information will not be made available for public inspection. See also, E.O. 10033, February 8, 1949, 14 F.R. 561, 3 CFR, 1949-1953 Comp., p. 226, and 47 U.S.C. 154(j).

(b) *Materials that are related solely to the internal personnel rules and practices of the Commission.* 5 U.S.C. 552(b)(2). (1) Materials related solely to internal management matters, including minutes of Commission actions on such matters. Such materials may be made available for inspection under § 0.461, however, unless their disclosure would interfere with or prejudice the performance of the internal management

functions to which they relate, or unless their disclosure would constitute a clearly unwarranted invasion of personal privacy (see paragraph (f) of this section).

(2) Materials relating to the negotiation of contracts.

(c) *Materials that are specifically exempted from disclosure by statute, 5 U.S.C. 552(b)(3)*. The Commission is authorized under the following statutory provisions to withhold materials from public inspection:

(1) Section 4(j) of the Communications Act, 47 U.S.C. 154(j), provides, in part, that, "The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense." Pursuant to that provision, it has been determined that the following materials should be withheld from public inspection (see also paragraph (a) of this section):

(i) Maps showing the exact location of submarine cables.

(ii) Minutes of Commission actions on classified matters.

(iii) Maps of nation-wide point-to-point microwave networks.

(2) Under section 213(f) of the Communications Act, 47 U.S.C. 213(f), the Commission is authorized to order, with the reasons therefor, that records and data pertaining to the valuation of the property of common carriers and furnished to the Commission by the carriers pursuant to the provisions of that section, shall not be available for public inspection. If such an order has been issued, the data and records will be withheld from public inspection, except under the provisions of § 0.461. Normally, however, such data and information is available for inspection. See § 0.455(c)(8).

(3) Under section 412 of the Communications Act, 47 U.S.C. 412, the Commission may withhold from public inspection certain contracts, agreements and arrangements between common carriers relating to foreign wire or radio communication. Reports of negotiations regarding such foreign communication matters, filed by carriers under § 43.52 of this chapter, may also be withheld from public inspection under section 412. Any person may file a petition requesting that such materials be withheld from public inspection. To support such action, the petition must show that the contract, agreement or arrangement relates to foreign wire or radio communications; that its publication would place American communication companies at a disadvantage in meeting the competition of foreign communication companies; and that the public interest would be served by keeping its terms confidential. If the Commission orders that such materials be kept confidential, they will be made available for inspection only under the provisions of § 0.461.

(4) Section 605 of the Communications Act, 47 U.S.C. 605, provides, in part, that, "no person not being authorized by the sender shall intercept any communication [by wire or radio] and divulge or publish the

existence, contents, substance, purport, effect, or meaning of such intercepted communications to any person." In executing its responsibilities, the Commission regularly monitors radio transmissions (see § 0.116). Except as required for the enforcement of the communications laws, treaties and the provisions of this chapter, or as authorized in section 605, the Commission is prohibited from divulging information obtained in the course of these monitoring activities; and such information, and materials relating thereto, will not be made available for public inspection.

(5) Section 1905 of the Criminal Code, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information. See paragraph (d) of this section.

(d) *Trade secrets and commercial or financial information obtained from any person and privileged or confidential, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905*. Section 552(b)(4) is specifically applicable to trade secrets and commercial or financial information but is not limited to such matters. Under this provision, the Commission is authorized to withhold from public inspection materials which would be privileged as a matter of law if retained by the person who submitted them and materials which would not customarily be released to the public by that person, whether or not such materials are protected from disclosure by a privilege. See, Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, June 1967, at pages 32-34.

(1) Materials submitted to the Commission which contain trade secrets, or which contain commercial, financial or technical data which would customarily be guarded from competitors by the person submitting it, will not ordinarily be made available for inspection. A persuasive showing as to the reasons for inspection of such materials, and as to the Commission's authority to make disclosure in view of 18 U.S.C. 1905, will be required in requests for inspection submitted under § 0.461. This category includes the following materials:

(i) Financial reports submitted by licensees of broadcast stations pursuant to § 1.611 of this chapter or by radio and television networks.

(ii) Technical data submitted in connection with type acceptance, type approval or certification of equipment, except as set out in the Radio Equipment Lists. See § 0.433.

(2) Prior to July 4, 1967, the rules and regulations provided that certain materials submitted to the Commission would not be made available for public inspection or provided assurance, in varying degrees, that requests for non-disclosure of certain materials would be honored. See, e.g., 47 CFR (1966 ed.) 2.557, 5.204, 5.255, 15.70, 21.406, 81.506, 83.436, 87.153, 89.215, 91.208, 91.605 and 93.208. Materials submitted under these provisions are not routinely available for public inspection. If a request for inspection is submitted under § 0.461, the Commission will then determine whether it is ap-

appropriate to withhold the materials in question from public inspection. To the extent that such materials were accepted on a confidential basis under the then existing rules, no disclosure of such materials will be made, absent a most compelling showing. See § 0.461 for provision for comments on a request for disclosure. The rules referred to above are superseded by the provisions of this subpart.

(3) Requests that materials submitted to the Commission on or after July 4, 1967, be withheld from public inspection are governed by § 0.459.

NOTE: Section 1905 of the Criminal Code, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information by employees of the United States. That section reads as follows:

Section 1905. *Disclosure of confidential information generally.*

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment (June 25, 1948, ch. 645, 62 Stat. 791).

(c) *Interagency and intraagency memorandums or letters*, 5 U.S.C. 552(b)(5). Interagency and intraagency memorandums or letters and the work papers of members of the Commission or its staff will not be made available for public inspection, except in accordance with the procedures set forth in § 0.461. Only if it is shown in a request under § 0.461 that such a communication would be routinely available to a private party through the discovery process in litigation with the Commission will the communication be made available for public inspection. Normally such papers are privileged and not available to private parties through the discovery process, since their disclosure would tend to restrain the commitment of ideas to writing, would tend to inhibit communication among Government personnel, and would, in some cases, involve premature disclosure of their contents.

(f) *Personnel, medical and other files whose disclosure would constitute a clearly unwarranted invasion of personal privacy*, 5 U.S.C. 552(b)(6). (1) Under Executive Order 10561, 19 F.R. 5963, September 13, 1954, 3 CFR 1954-1958 Comp., page 205, the Commission maintains an Official Personnel Folder for each of its employees. Such folders are under the jurisdiction and control, and are a part of the records, of the U.S. Civil Service Commission. Except as provided in the rules of the Civil Service Commission (5 CFR 294.701-294.703), such folders will not be made avail-

able for public inspection by the Commission. In addition, other records of the Commission containing private, personal or financial information concerning particular employees will be withheld from public inspection.

(2) [Reserved]

(3) Information submitted to the Commission by applications for commercial radio operator licenses concerning the character and mental or physical health of the applicant is available for inspection only under procedures set forth in § 0.461. Except in this respect, or where other aspects of a similar private nature warrant nondisclosure, commercial radio operator application files are available for inspection.

(g) *Investigatory files compiled for law enforcement purposes except to the extent available by law to a private party*, 5 U.S.C. 552(b)(7). Papers relating to the institution or conduct of an investigation are placed in an investigatory file. Except as provided in this paragraph, such files are not available for public inspection.

(1) *Complaints*. Except with respect to complaints filed under Section 208 of the Communications Act (see § 0.455(c)), when a complaint is received by the Commission, an initial determination is made as to whether the matters related in the complaint warrant (or may warrant) an investigation. If it is determined that such matters warrant (or may warrant) an investigation, the complaint is placed in an investigatory file. A complaint which is placed in an investigatory file may be made available for inspection upon request if it appears that its disclosure will not prejudice the conduct of the investigation (e.g., if information concerning the complaint has otherwise been disclosed). Except as provided in subdivisions (i) and (ii) of this subparagraph, the complaint will be made available for inspection, upon request, when it has been determined that no investigation should be conducted or when the investigation has been completed.

(i) If the complainant has requested that his identity not be disclosed, or if there is reason to believe that disclosure of complainant's identity could embarrass him or subject him to harassment, the complaint will not be made available for inspection without his consent. If no investigation is conducted or if the investigation has been completed, however, such complaints will be made available for inspection upon request if, and to the extent that, it is possible to do so without disclosing the complainant's identity.

(ii) Complaints or portions of complaints containing scurrilous or defamatory statements will not be made available for inspection, except upon a compelling showing that the public interest so requires.

(2) *Work papers and memoranda*. Personal work papers, memoranda, or reports prepared by Commission personnel relating to the institution, conduct, or outcome of an investigation are placed in an investigatory file and are retained in that file. They are not available for public inspection. Requests for inspection of such

materials will be considered under § 0.461. Materials of this nature received from other Government agencies are placed and retained in an investigatory file; requests for inspection of such materials will be referred to the agency from which they were received.

(3) *Statements and documents.* Statements and documents obtained by Commission investigators in the course of an investigation are handled in the same manner as records referred to in subparagraph (2) of this paragraph.

【§ 0.457 adopted new eff. 7-18-67 and (g) amended eff. 8-2-67; I(63)-17】

**§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.**

(a) Any person submitting information or materials to the Commission may submit therewith a request that such information not be made available for public inspection. A copy of the request shall be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies shall be physically separated from the materials to which the request does not apply; if this is not feasible, the portion of the materials to which the request applies shall be identified.

(b) Each such request shall contain a statement of the reasons for withholding the materials from public inspection (see § 0.457) and of the facts upon which those reasons are based. If the request is that the materials be withheld from public inspection for a limited period of time, that period shall be specified.

(c) If the materials are submitted voluntarily (i.e., absent any request or direction by the Commission), the person submitting them may request the Commission to return the materials without consideration rather than make them available for public inspection. If the request for confidentiality should be denied, the materials will ordinarily be returned (e.g., an application will be returned if it cannot be treated on a confidential basis); only in the unusual instance where the public interest so requires will the material be made public, and then only after an appropriate period for comment by the person affected and judicial review. If the submission of the materials is requested or required by the Commission, and the request for confidentiality is denied, the materials will be made available for public inspection. (As to maintenance of confidentiality of complainants, see § 0.457(g).)

(d) If no request for confidentiality is filed, the Commission assumes no obligation to consider the need for nondisclosure but, in the unusual instance, may determine, on its own motion, that the materials should be withheld from public inspection under § 0.457.

(e) Upon a determination by the appropriate Bureau or Office Chief that a request for confidentiality is well founded, the materials will not routinely be

made available for public inspection. Such person will, however, prepare a brief memorandum generally identifying the materials and specifically stating the reasons for nondisclosure. This memorandum will be placed in the public file in lieu of the materials withheld from inspection.

(f) If the Bureau or Office Chief is unable to make a determination on a request for confidentiality, the request will be referred to the Executive Director for action.

(g) If a request for confidentiality is denied, the materials will not be returned or made available for public inspection until the person who filed the request has been notified of the action and has been afforded an opportunity to file an application for review by the Commission and to petition for judicial review of the Commission's action.

(h) Any person desiring to inspect materials withheld from public inspection under the provisions of this section may submit a request for inspection under § 0.461.

【§ 0.459 adopted new eff. 7-18-67; I(63)-17】

**§ 0.461 Requests for inspection of materials not routinely available for public inspection.**

(a) Any person desiring to inspect documents not open to routine inspection under § 0.456, § 0.457, or § 0.459 may file a request for inspection. An original and one copy shall be submitted. Each such request shall identify, with particularity, the materials to be inspected and shall set forth the reasons for permitting inspection and the facts in support thereof.

(b) In the case of materials not open to routine inspection under § 0.457(d) or § 0.459, or if, in the judgment of the Executive Director, the person who submitted the materials should be afforded an opportunity to file a response, the duplicate copy of the request for inspection will be mailed to the person who submitted the materials, and he will be afforded a reasonable period (normally 15 days) in which to comment on the request and to indicate any objections thereto. If a response is submitted, the respondent shall serve a copy on the person who filed the request for inspection. Except as specifically authorized or directed by the Executive Director, additional pleadings may not be filed.

(c) Requests for inspection will be acted upon by the Executive Director as follows:

(1) If the Commission is prohibited from disclosing the materials in question, the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2) If the materials are the property of another agency, the request will be referred to that agency and the person who submitted that request will be so advised, with the reasons therefor.

(3) If it is determined that the Commission does not have authority to withhold the materials from public inspection, the request will be granted.

(4) If it is determined that the Commission does have authority to withhold the materials from public inspection, the considerations favoring disclosure and nondisclosure will be weighed in the light of the facts presented, and the request will be granted, either conditionally or unconditionally, or denied.

(d) (1) If the request is granted conditionally or denied and disclosure has not been opposed under paragraph (b) of this section, the person who filed the request may file an application for review by the Commission under § 1.115 of this chapter. Responsive pleadings provided for in § 1.115 of this chapter may not be filed.

(2) If disclosure has been opposed under paragraph (b) of this section, the person who submitted the materials or the person who filed the request for inspection may file an application for review by the Commission within 15 days after the order acting on the request for inspection is released. Responsive pleadings may be filed in accordance with § 1.115(d) of this chapter. No order granting the request for inspection shall be implemented until the opportunities for review by the Commission and judicial review have been afforded, unless the Commission finds, for reasons set forth in the order, that the public interest requires earlier inspection. In the latter event, the order will not be implemented until the opportunity to obtain a judicial stay of the Commission's Order has been afforded.

ⓘ § 0.461 adopted new eff. 7-18-67; I(63)-17

**§ 0.463 Demand by competent authority for the production of documents or testimony concerning information contained therein.**

(a) In the event that a demand (subpoena, order or other demand) is made by a court or other competent authority outside the Commission, upon any officer or employee of the Commission for the production of records or files or for testimony concerning information contained therein, he shall promptly advise the Executive Director of such demand, the nature of the papers or information sought, and all other relevant facts and circumstances. The Commission will thereupon issue such instructions as it may deem advisable.

(b) Unless specifically authorized to produce such records or files or to testify with respect thereto, any officer or employee of the Commission who is served with a demand for the production of records or files or his testimony concerning the same, shall appear in response to the demand and respectfully decline to produce such records or files or to testify concerning them, basing his refusal upon this rule.

ⓘ § 0.463 adopted new eff. 7-18-67; I(63)-17

**§ 0.465 Request for copies of materials which are available, or made available, for public inspection.**

(a) The Commission annually awards a contract to one or more commercial firms to make copies of Com-

mission records and offer them for sale to the public. The contract is awarded on the basis of the lowest cost to the public. Currently, the contractor is Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006. Except as provided in paragraphs (b) and (c) of this section and in § 0.467, requests for copies of the records listed in §§ 0.453 and 0.455, and those made available for inspection under § 0.461, should be directed to the contractor. The contractor maintains master files of the following materials specifically for reproduction and sale to the public:

(1) Horizontal directional antenna patterns filed with the Commission since February 1948.

(2) FCC Form 402 microwave applications filed with the Commission since July 1961.

(3) FCC Form 401 applications for common carrier microwave relay stations serving community antenna television (CATV) systems.

(4) Grade A and Grade B contour maps on television broadcast stations filed with the Commission since July 1966.

(b) The Commission annually awards a contract to a commercial firm to transcribe Commission proceedings in which a verbatim record is kept and to offer copies of the transcript for sale to the public. The contract is awarded on the basis of the lowest cost to the public and to the Commission. Except as authorized by the Commission, the firm is required to retain the capacity to furnish copies of the transcript for a period of 5 years, and may retain that capacity for a longer period, even though another firm is currently transcribing Commission proceedings. Requests for copies of the transcript of current proceedings should be directed to the current contractor, C.S.A. Reporting Corp., 300 Seventh Street SW., Washington, D.C., 20004. Requests for transcripts of older proceedings will be forwarded by the Commission to the firm which made the transcript in question; and the names of contracting firms for past years will be furnished upon request. If a transcript cannot be obtained from the reporting firm, it can be obtained from the general duplicating contractor, as provided in paragraph (a) of this section.

(c) (1) This section has no application to printed publications, which may be purchased from the Superintendent of Documents or private firms (see §§ 0.411-420). Nor does it apply to application forms or information bulletins, which are prepared for the use and information of the public and are available upon request (see §§ 0.421 and 0.423).

(2) Contractual arrangements which have been entered into with commercial firms, as described in this section, do not in any way limit the right of the public to inspect Commission records or to extract therefrom whatever information may be desired. Any person may, in addition, make photocopies of Commission records with his own equipment at locations where those records may be inspected. Coin-operated photocopy machines are available for use by the public in the Broadcast and Dockets Reference Room and the Com-

mon Carrier Bureau for the duplication of records available for inspection at those locations.

(3) The Commission has reserved the right to make copies of its records for its own use or for the use of other agencies of the U.S. Government. When it serves the regulatory or financial interests of the U.S. Government, the Commission will make and furnish copies of its records free of charge. In other circumstances, however, if it should be necessary for the Commission to make and furnish copies of its records for the use of others, the fee for this service shall be the same as that charged by the general duplicating contractor for copies of those records under contractual arrangements described in paragraph (a) of this section.

(4) Requests for copies by representatives of foreign governments or persons residing in foreign countries shall be submitted to the Commission and will be reviewed by the Commission under criteria established by the Department of Commerce for controlling the export of technical data.

☐ § 0.465 adopted new eff. 7-18-67; I(63)-17

§ 0.466 Fees.

NOTE: Provisions relating to private charges for furnishing copies of documents are set forth in §§ 0.465(c)(3) and 0.467. Provisions relating to fees for the location and production of records for inspection are under consideration and will be dealt with at a subsequent time.

☐ § 0.466 adopted new eff. 7-18-67; I(63)-17

§ 0.467 Certified copies.

Copies of documents which are available, or made available, for inspection under §§ 0.451-0.465 will be prepared and certified by the Secretary, under seal, on written request specifying the exact documents, the number of copies desired, and the date on which they will be required. The request shall allow a reasonable time for the preparation and certification of copies. The fee for preparing copies shall be the same as that charged by the general duplicating contractor for the same work under contractual arrangements described in § 0.465(a). The fee for certification shall be \$1 for each document.

☐ § 0.467 adopted new eff. 7-18-67; I(63)-17

PLACES FOR MAKING SUBMITTALS OR REQUESTS, FOR FILING APPLICATIONS, AND FOR TAKING EXAMINATIONS

§ 0.471 Miscellaneous submittals or requests.

Persons desiring to make submittals or requests of a general nature should communicate with the Office of the Secretary of the Commission.

☐ § 0.471 adopted new eff. 7-18-67; I(63)-17

§ 0.473 Reports of violations.

Reports of violations of the Communications Act or of the Commission's rules and regulations may be sub-

mitted to the Commission in Washington or to any field office.

☐ § 0.473 adopted new eff. 7-18-67; I(63)-17

§ 0.475 Applications for employment.

Persons who wish to apply for employment should communicate with the Chief, Personnel Division.

☐ § 0.475 adopted new eff. 7-18-67; I(63)-17

§ 0.481 Place of filing of applications for radio authorizations.

Class of station	Method of filing	Number of copies
(a) Alaskan fixed public and Alaskan public coastal.	VIA Engineer In Charge Radio District No. 14 Seattle, Wash. 98104.	2.
(b) Amateur.....	See §§ 0.483 and 0.485.....	As specified in form.
(c) Interim ship station license.	See § 0.487.....	Do.
(d) Citizens.....	To Federal Communications Commission, Gettysburg, Pa. 17325.	Do.
(e) Ship (FCC Forms 502 & 405-B).	Do.	Do.
(f) Aircraft (FCC Forms 404 & 405-B).	Do.	Do.
(g) All others.....	Directly to the main Washington, D.C., office of the Commission. See § 0.401.	Do.

☐ § 0.481 derived from § 0.441 and (b) and (c) amended eff. 7-18-67; I(63)-17

§ 0.483 Applications for amateur station and operator license and/or commercial operator license.

(a) Application for a new amateur operator license, or for a combination of new amateur operator and station license, which will require examination supervised by Commission personnel, shall be filed in the appropriate engineering field office listed in § 0.121. All other applications for amateur radio licenses shall be submitted to the Federal Communications Commission, Gettysburg, Pennsylvania, 17325. Only one copy of the application is required.

(b) Application for commercial operator license of a class for which examination is required, for a verification card (FCC Form 758-F) or for a verification of operator license (FCC Form 759) shall be filed with an engineering field office listed in § 0.121 (a) or (b) at which the applicant desires his application to be considered and acted upon, except that application for replacement or duplicate license of such class shall be filed with the office of issue.

(c) Application for commercial operator license for which examination is not required (Restricted Radiotelephone Operator Permit) shall be submitted to the Federal Communications Commission, Gettysburg, Pa. 17325, with the following exceptions:

(1) When the applicant is located in Alaska, Hawaii, Puerto Rico, or the Virgin Islands of the United States, the application may be submitted by mail or in person to the nearest engineering field office.



(2) When the applicant is at any other location and the application is accompanied by a written showing by the applicant of immediate need for a permit for safety purposes and presented in person by the applicant or his agent, the application may be submitted to the nearest engineering field office.

(3) When application is from an alien aircraft pilot (see § 13.4(c) of this chapter), it shall be submitted to the Federal Communications Commission, Washington, D.C. 20554.

【§ 0.483 derived from § 0.443 eff. 7-18-67; I(63)-17】

**§ 0.485 Amateur and commercial operator examination points.**

(a) Examinations for amateur and commercial radio operator licenses are conducted at each of the Field Engineering Bureau district offices listed in § 0.121 on the days designated by the Engineer in Charge of the district office. Examination schedules may be obtained from the Engineer in Charge.

(b) Examinations for amateur radio operator licenses are given frequently, by appointment, at the Commission's offices in Gettysburg, Pa. Examinations for all classes of radio operator licenses are given frequently, by appointment, at the Commission's offices in the following cities:

Moble, Ala.	Tampa, Fla.
Anchorage, Alaska	Savannah, Ga.
San Diego, Calif.	Beaumont, Tex.

(c) Examinations are also given at greater intervals in the cities listed below, which are visited for that purpose by Commission examiners from the field offices for such locations. For current schedules, exact time, place, and other details, inquiry should be addressed to the office conducting examinations at the chosen point.

**QUARTERLY POINTS**

Birmingham, Ala.	Cleveland, Ohio
Phoenix, Ariz.	Columbus, Ohio
Little Rock, Ark.	Oklahoma City, Okla.
Fresno, Calif.	Tulsa, Okla.
Fort Wayne, Ind.	Pittsburgh, Pa.
Indianapolis, Ind.	Williamsport, Pa.
Davenport, Iowa	Sloux Falls, S. Dak.
Des Moines, Iowa	Knoxville, Tenn.
Louisville, Ky.	Memphis, Tenn.
Grand Rapids, Mich.	Nashville, Tenn.
St. Louis, Mo.	Corpus Christi, Tex.
Omaha, Nebr.	San Antonio, Tex.
Schenectady, N.Y.	Salt Lake City, Utah
Syracuse, N.Y.	Charleston, W. Va.
Winston-Salem, N.C.	Milwaukee, Wis.
Cincinnati, Ohio	

**SEMIANNUAL**

Fairbanks, Alaska	Jackson, Miss.
Tucson, Ariz.	Las Vegas, Nev.
Hartford, Conn.	Albuquerque, N. Mex.
Jacksonville, Fla.	Wilmington, N.C.
Boise, Idaho	El Paso, Tex.
Wichita, Kans	Lubbock, Tex.
Portland, Maine	Salem, Va.
	Spokane, Wash.

**ANNUAL**

Bakersfield, Calif.	Marquette, Mich.
Butte, Mont.	Billings, Mont.
Hilo, Hawaii	Great Falls, Mont.
Lihue, Hawaii	Jamestown, N. Dak.
Wailuku, Hawaii	Klamath Falls, Oreg.
Bangor, Maine	Rapid City, S. Dak.

(d) Arrangements have also been made, with the cooperation of other Federal agencies, for Extra Class and General Class examinations in outlying areas, as follows:

Alaska: Stations of the Alaska Communications System.  
Guam: District Communications Officer, United States naval station.

Hawaii: At not exceeding one point on any island, by the Engineer in Charge (Honolulu).

【§ 0.485 derived from § 0.445 eff. 7-18-67; I(63)-17】

**§ 0.487 Applications for interim ship station licenses.**

Formal applications for ship station licenses for use of radiotelephone or radar transmitting apparatus or both and applications for modification of such licenses shall, when accompanied by requests for interim ship station licenses, be filed in accordance with § 83.35 of this chapter and presented in person by applicants or their agents at the nearest field office of the Commission as shown in § 0.121 (a) and (b) or at the Commission's main office in Washington, D.C.: *Provided*, That, as an alternative procedure, an applicant, in Alaska, for such a ship station license may submit an application by mail to the Commission's Field Engineering Office at Anchorage, Alaska, when accompanied by a written request for an interim ship station license. Applications for renewal of ship station licenses are not subject to the provisions of this section.

【§ 0.487 derived from § 0.447 eff. 7-18-67; I(63)-17】

**§ 0.489 Applications for ship radio inspection and periodical survey.**

Applications for ship radio inspection or for periodical survey shall be forwarded to the radio district office nearest the desired port of inspection or place of survey.

【§ 0.489 derived from § 0.449 eff. 7-18-67; I(63)-17】

**§ 0.491 Applications for exemption from compulsory ship radio requirements.**

Applications for exemption filed under the provisions of section 352(b) or 383 of the Communications Act; Regulation 4, Chapter I of the Safety Convention; Regulation 5 or 6, Chapter IV of the Safety Convention; Regulation 12(b), Chapter V of the Safety Convention; or Article 6 of the Great Lakes Agreement, shall be filed at the Commission's offices in Washington, D.C.

【§ 0.491 derived from § 0.451 eff. 7-18-67; I(63)-17】

**§ 0.493 Non-radio common carrier applications.**

All such applications shall be filed at the Commission's offices in Washington, D.C.

【§ 0.493 derived from § 0.453 eff. 7-18-67; I(63)-17】



# RULES AND REGULATIONS

## Part I | *Practice and Procedure*

NOVEMBER 1963

FEDERAL COMMUNICATIONS COMMISSION





## CROSS REFERENCE TABLES

By Order adopted October 31, 1963, published in the Federal Register November 22, 1963, Part 1 was edited and rearranged, effective November 23, 1963, as set forth in the following cross reference tables:

### Redesignation of former sections

Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.
1.10	1.1	1.105	1.225	1.202	1.401	1.361(a)	1.587	1.479	1.793
1.11	1.41	1.106	1.227	1.203	1.403	1.361(b-d)	1.591	1.480	1.794
1.12	1.44	1.111	1.251	1.204	1.405	1.362(a)	1.593	1.483	1.801
1.13	1.45	1.112	1.253	1.205	1.407	(b-h)	1.594	1.484	1.802
1.14	1.8	1.113	1.46, 1.205	1.211	1.412	(i-j)	1.592	1.485	1.803
1.15	1.3	1.121	1.311	1.212	1.413	1.363	1.605	1.486	1.804
1.16	1.108	1.122	1.312	1.213	1.415	1.364	1.603	1.487	1.805
1.17	1.2	1.123	1.313	1.214	1.417	1.365	1.597	1.490	1.811
1.18	1.4	1.124	1.314	1.215	1.419	1.370	1.621	1.491	1.812
1.19	1.43	1.125	1.315	1.216	1.421	1.401	1.701	1.492	1.813
1.21	1.21	1.126	1.316	1.217	1.423	1.402	1.703	1.493	1.814
1.22	1.22	1.127	1.317	1.218	1.425	1.411	1.711	1.500	1.901
1.23	1.23	1.128	1.318	1.219	1.427	1.412	1.713	1.501	1.911
1.24	1.24	1.129	1.319	1.300	1.501	1.416	1.716	1.502	1.912
1.25	1.25	1.131	1.331	1.301	1.511	1.417	1.717	1.503	1.913
1.26	1.26	1.132	1.333-	1.302	1.512	1.418	1.718	1.504	1.914
1.41	1.291		1.335	1.303	1.513	1.421	1.721	1.505	1.918
1.42	1.292	1.132 (note)	1.333 and	1.304	1.514	1.422	1.722	1.506	1.961
1.43	1.294		1.338	1.305	1.516	1.423	1.723	1.507	1.956
1.44	1.296	1.133	1.336(b) and	1.306	1.564	1.424	1.724	1.521	1.921
1.45	1.297		1.339	1.307	1.566	1.425	1.725	1.522	1.922
1.46	1.298	1.134(a)	1.336	1.308	1.518	1.426	1.726	1.523	1.923
1.47	1.301	(b)	1.336(b) and	1.309	1.519	1.427	1.727	1.524	1.924
1.48	1.303		1.337	1.310	1.520	1.428	1.728	1.525	1.925
1.50	1.42	1.135	1.340	1.311	1.522	1.429	1.729	1.526	1.926
1.51	1.48	1.140 (a, c-e)	1.221	1.312	1.568	1.430	1.730	1.527	1.927
1.52	1.49	(b)	1.254	1.313	1.599	1.431	1.731	1.528	1.929
1.53	1.50	1.141	1.229	1.314	1.598	1.432	1.732	1.529	1.928
1.54	1.51	1.142	1.255	1.315	1.601	1.433	1.733	1.530	1.934
1.55	1.52	1.143	1.241 and	1.316	1.525	1.434	1.734	1.531	1.931
1.56	1.47		1.245	1.321	1.531	1.435	1.735	1.532	1.932
1.57	1.5	1.144	1.243	1.322	1.533	1.440	1.741	1.533	1.933
1.63	1.87	1.146	1.258	1.323	1.534	1.441	1.742	1.534	1.930
1.64	1.110	1.147	1.260	1.324	1.548	1.442	1.743	1.541	1.951
1.65	1.62	1.148	1.261	1.325	1.536	1.443	1.744	1.542	1.952
1.66	1.68	1.149	1.263	1.326	1.537	1.444	1.745	1.543	1.955
1.67	1.61	1.150	1.264	1.327	1.538	1.445	1.746	1.544	1.915
1.68	1.502	1.151 (a, e-f)	1.267	1.328	1.539	1.446	1.747	1.545	1.958
1.70	1.83	(b-d)	1.274	1.329	1.540	1.447	1.748	1.546	1.953
1.71	1.84	1.152(a)	1.271	1.330	1.541	1.448	1.749	1.547	1.962
1.72	1.85	(b)	1.273	1.331	1.542	1.449	1.761	1.548	1.971
1.73	1.77(g)	1.153	1.276	1.332	1.543	1.450	1.762	1.549	1.973
1.74	1.77(d)	1.154	1.277	1.333	1.544	1.451	1.763	1.550	1.959
1.75	1.77(f)	1.155	1.279	1.334	1.545	1.452	1.764	1.551	1.916
1.76	1.89	1.156	1.294	1.335	1.546	1.453	1.765	1.561	1.981
1.77	1.91	1.157	1.282	1.336	1.547	1.454	1.766	1.581	1.991
1.78	1.92	1.158	1.293	1.337	1.549	1.455	1.767	1.600	1.1101
1.79	1.6	1.171	1.351	1.341	1.611	1.461	1.771	1.601	1.1103
1.80	1.80	1.172	1.352	1.342	1.613	1.462	1.772	1.602	1.1105
1.81	1.101	1.173	1.353	1.343	1.615	1.463	1.773	1.620	1.1111
1.82	1.102	1.174	1.354	1.351	1.569	1.468	1.781	1.621	1.1113
1.83	1.104	1.175	1.355	1.352	1.570	1.469	1.783	1.622	1.1115
1.84	1.106	1.176	1.356	1.353	1.561	1.471	1.785	1.623	1.1117
1.85	1.115	1.177	1.357	1.354	1.571	1.472	1.786	1.624	1.1119
1.86	1.117	1.178	1.358	1.355	1.572	1.473	1.787	App	App
1.87	1.113	1.179	1.359	1.356	1.573	1.474	1.788		
1.101	1.201	1.180	1.360	1.357	1.574	1.475	1.789		
1.102	1.202	1.181	1.361	1.358	1.578	1.476	1.790		
1.103	1.219 (a-b)	1.192	1.111	1.359	1.580	1.477	1.791		
1.104	1.223	1.193	1.120	1.360	1.562	1.478	1.792		

### Source of redesignated sections

New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.	New No.	Former No.
1.1	1.10	1.221	1.103; 1.140	1.359	1.179	1.591	1.361(b-d)	1.789	1.475
1.2	1.17		(a, c-e)	1.360	1.180	1.592	1.361(i-j)	1.790	1.476
1.3	1.15	1.223	1.104	1.361	1.181	1.593	1.362(a)	1.791	1.477
1.4	1.18	1.225	1.105	1.401	1.202	1.594	1.362(b-h)	1.792	1.478
1.5	1.57	1.227	1.106	1.403	1.203	1.597	1.365	1.793	1.479
1.6	1.79	1.229	1.141	1.405	1.204	1.598	1.314	1.794	1.480
1.8	1.14	1.241	1.143	1.407	1.205	1.599	1.313	1.801	1.483
1.21	1.21	1.243	1.144	1.411	New, but see	1.601	1.315	1.802	1.484
1.22	1.22	1.245	1.143(b)		1.211	1.603	1.364	1.803	1.485
1.23	1.23	1.251	1.111	1.412	1.211	1.605	1.363	1.804	1.486
1.24	1.24	1.253	1.112	1.413	1.212	1.611	1.341	1.805	1.487
1.25	1.25	1.254	1.140(b)	1.415	1.213	1.613	1.342	1.811	1.490
1.26	1.26	1.255	1.142	1.417	1.214	1.615	1.343	1.812	1.491
1.41	1.11	1.258	1.146	1.419	1.215	1.621	1.370	1.813	1.492
1.42	1.60	1.260	1.147	1.421	1.216	1.701	1.401	1.814	1.493
1.43	1.19	1.261	1.148	1.423	1.217	1.703	1.402	1.901	1.500
1.44	1.12	1.263	1.149	1.425	1.218	1.711	1.411	1.911	1.501
1.45	1.13	1.264	1.150	1.427	1.219	1.713	1.412	1.912	1.502
1.46	1.113	1.267	1.151 (a, c-f)	1.501	1.300	1.716	1.416	1.913	1.503
1.47	1.56	1.271	1.152(a)	1.502	1.68	1.717	1.417	1.914	1.504
1.48	1.51	1.273	1.152(b)	1.511	1.301	1.718	1.418	1.915	1.544
1.49	1.52	1.274	1.151(b-d)	1.512	1.302	1.721	1.421	1.916	1.551
1.50	1.53	1.276	1.153	1.513	1.303	1.722	1.422	1.918	1.505
1.51	1.54	1.277	1.154	1.514	1.304	1.723	1.423	1.921	1.521
1.52	1.55	1.279	1.155	1.516	1.305	1.724	1.424	1.922	1.522
1.61	1.67	1.282	1.157	1.518	1.308	1.725	1.425	1.923	1.523
1.62	1.65	1.291	1.41	1.519	1.309	1.726	1.426	1.924	1.524
1.68	1.66	1.292	1.42	1.520	1.310	1.727	1.427	1.925	1.525
1.77		1.294	1.43	1.522	1.311	1.728	1.428	1.926	1.526
(a-c)	New	1.296	1.44	1.525	1.316	1.729	1.429	1.927	1.527
(d)	1.74	1.297	1.45	1.531	1.321	1.730	1.430	1.928	1.629
(e)	New	1.298	1.46	1.533	1.322	1.731	1.431	1.929	1.628
(f)	1.75	1.301	1.47	1.534	1.323	1.732	1.432	1.930	1.534
(g)	1.73	1.303	1.48	1.536	1.325	1.733	1.433	1.931	1.531
(h)	New	1.311	1.121	1.537	1.326	1.734	1.434	1.932	1.532
1.80	1.80	1.312	1.122	1.538	1.327	1.735	1.435	1.933	1.533
1.81	New	1.313	1.123	1.539	1.328	1.741	1.440	1.934	1.530
1.83	1.70	1.314	1.124	1.540	1.329	1.742	1.441	1.951	1.541
1.84	1.71	1.315	1.125	1.541	1.330	1.743	1.442	1.952	1.542
1.85	1.72	1.316	1.126	1.542	1.331	1.744	1.443	1.953	1.546
1.87	1.63	1.317	1.127	1.543	1.332	1.745	1.444	1.955	1.543
1.89	1.76	1.318	1.128	1.544	1.333	1.746	1.445	1.956	1.607
1.91	1.77	1.319	1.129	1.546	1.334	1.747	1.446	1.958	1.545
1.92	1.78	1.331	1.131	1.546	1.335	1.748	1.447	1.959	1.550
1.101	1.81	1.333	1.132	1.547	1.336	1.749	1.448	1.961	1.506
1.102	1.82	1.334	1.132	1.548	1.324	1.761	1.449	1.962	1.547
1.104	1.83	1.335	1.132	1.549	1.337	1.762	1.450	1.971	1.548
1.106	1.84	1.336	1.134	1.561	1.353	1.763	1.451	1.973	1.549
1.108	1.16	1.337	1.134(b)	1.562	1.360	1.764	1.452	1.981	1.561
1.110	1.64	1.338	1.132 note; 1.134(b)	1.564	1.306	1.765	1.453	1.991	1.581
1.111	1.192			1.566	1.307	1.766	1.454	1.1101	1.600
1.113	1.87	1.339	1.133	1.568	1.312	1.767	1.455	1.1103	1.601
1.115	1.85	1.340	1.135	1.569	1.351	1.771	1.461	1.1105	1.602
1.117	1.86	1.351	1.171	1.570	1.352	1.772	1.462	1.1111	1.620
1.120	1.193	1.352	1.172	1.571	1.354	1.773	1.463	1.1113	1.621
1.201	1.101	1.353	1.173	1.572	1.355	1.781	1.468	1.1115	1.622
1.202	1.102	1.354	1.174	1.573	1.356	1.783	1.469	1.1117	1.623
1.203	1.158	1.355	1.175	1.574	1.357	1.785	1.471	1.1119	1.624
1.204	1.156	1.356	1.176	1.578	1.358	1.786	1.472	App.	App.
1.205	1.113	1.357	1.177	1.580	1.359	1.787	1.473		
1.207	New	1.358	1.178	1.587	1.361(a)	1.788	1.474		

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## APPENDIX B—INTERPRETATION OF FEE RULES AND PROCEDURES

AUTHORITY: §§ 1.1–1.1251 issued under secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Implement sec. 3(a)(2), 60 Stat. 238, 5 U.S.C. 1002(a)(2). Additional authority is cited in parentheses following the sections affected.

NOTE: For policy statement concerning the height of radio and television antenna towers, see FCC 65-455, 30 F.R. 7419, June 5, 1965, reading in part as follows: "Applications for antenna towers higher than 2,000 feet above ground will be presumed to be inconsistent with the public interest, and the applicant will have a burden of overcoming that strong presumption. The applicant must accompany its application with a detailed showing directed to meeting this burden. Only in the exceptional case, where the Commission concludes that a clear and compelling showing has been made that there are public interest reasons requiring a tower higher than 2,000 feet above ground, and after the parties have complied with applicable FAA procedures, and full Commission coordination with FAA on the question of menace to air navigation, will a grant be made. Applicants and parties in interest will, of course, be afforded their statutory hearing rights."

## SUBPART A—GENERAL RULES OF PRACTICE AND PROCEDURE

### GENERAL

#### § 1.1 Proceedings before the Commission.

The Commission may on its own motion or petition of any interested party hold such proceedings as it may deem necessary from time to time in connection with the investigation of any matter which it has power to investigate under the law, or for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties or the formulation or amendment of its rules and regulations. For such purposes it may subpoena witnesses and require the production of evidence. Procedures to be followed by the Commission shall, unless specifically prescribed in this part, be such as in the opinion of the Commission will best serve the purposes of such proceeding.

(Sec. 403, 48 Stat. 1094; 47 U.S.C. 403)

#### § 1.2 Declaratory rulings.

The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.

(Sec. 5(d), 60 Stat. 239; 5 U.S.C. 1004(d))

#### § 1.3 Suspension, amendment, or waiver of rules.

The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.

CROSS REFERENCE: See Subpart C of this part for practice and procedure involving rule making.

#### § 1.4 Computation of time.

(a) It is frequently necessary under Commission procedures to compute the terminal date of a period of time where the period begins with the occurrence of an act, event, or default and terminates a specified

number of days thereafter. Unless otherwise provided by statute, the first day to be counted in computing the terminal date is the day after the day on which the act, event, or default occurs. The last day of such period of time is included in the computation and any action required must be taken on or before that day.

(b) When a Commission Decision, Order, or Memorandum is involved, the first day to be counted is the day after the day on which the complete text of the document is released by the Commission. When any other Commission action is involved, the first day to be counted is the day after the day on which the "Public Notice" of the action is released by the Commission.

(c) All petitions, pleadings, tariffs, or other documents filed with the Commission must be tendered for filing in complete form before 5:00 p.m. Any such document lodged with the Commission in complete form after 5:00 p.m. shall be deemed to be tendered for filing as of the next succeeding business day.

(d) For purposes of this section, the term "holiday" shall include Saturdays, Sundays, legal holidays or half holidays in the District of Columbia, and any other day on which the Commission's offices are closed prior to 5:00 p.m. The term "business day" shall include all other days.

(e) For purposes of this section, the term "filing period" means the number of days allowed or prescribed by statute, rule, order, notice, or other Commission action for filing any document with the Commission; the term does not include any additional days allowed for filing any document under paragraph (f), (g), or (i) of this section. The term "filing date" means the date upon which the document must be filed after all computations authorized by this section have been made.

(f) If the filing period is less than 7 days, intermediate holidays shall be excluded in determining the filing date.

(g) Where service of a document is required by statute or by the provisions of this chapter, where the document is in fact served by mail (see § 1.47(f)), and where the filing period for a response thereto is 10 days or less, an additional 3 days, excluding holidays, will be allowed for filing the response. This paragraph shall not apply to documents which are filed pursuant to the provisions of § 1.89 or § 1.120(d).

(h) If both paragraphs (f) and (g) of this section are applicable, make the computations called for by paragraph (f) before making those called for by paragraph (g).

(i) If the filing date falls on a holiday, the document shall be filed on the next business day.

#### § 1.5 Mailing address furnished by licensee.

(a) Each licensee shall furnish the Commission with an address to be used by the Commission in serving documents or directing correspondence to that

licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for this purpose.

(b) The licensee is responsible for making any arrangements which may be necessary in his particular circumstances to assure that Commission documents or correspondence delivered to this address will promptly reach him or some person authorized by him to act in his behalf.

#### § 1.6 Availability of station logs and records for Commission inspection.

(a) Station records and logs shall be made available for inspection or duplication at the request of the Commission or its representative. Such logs or records may be removed from the licensee's possession by a Commission representative or, upon request, shall be mailed by the licensee to the Commission by either registered mail, return receipt requested, or certified mail, return receipt requested. The return receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. A receipt shall be furnished when the logs or records are removed from the licensee's possession by a Commission representative and this receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. When the Commission has no further need for such records or logs, they shall be returned to the licensee. The provisions of this rule shall apply solely to those station logs and records which are required to be maintained by the provisions of this chapter.

(b) Where records or logs are maintained as the official records of a recognized law enforcement agency and the removal of the records from the possession of the law enforcement agency will hinder its law enforcement activities, such records will not be removed pursuant to this section if the chief of the law enforcement agency promptly certifies in writing to the Federal Communications Commission that removal of the logs or records will hinder law enforcement activities of the agency, stating insofar as feasible the basis for his decision and the date when it can reasonably be expected that such records will be released to the Federal Communications Commission.

#### § 1.8 Withdrawal of papers.

The granting of a request to dismiss or withdraw an application or a pleading does not authorize the removal of such application or pleading from the Commission's records.

#### § 1.10 Transcript of testimony; copies of documents submitted.

In any matter pending before the Commission, any person submitting data or evidence, whether acting

under compulsion or voluntarily, shall have the right to retain a copy thereof, or to procure a copy of any document submitted by him, or of any transcript made of his testimony, upon payment of the charges therefor to the person furnishing the same, which person may be designated by the Commission. The Commission itself shall not be responsible for furnishing the copies.

☐§ 1.10 as adopted eff. 10-22-64; I(63)-4☐

#### § 1.12 Notice to attorneys of Commission documents.

In any matter pending before the Commission in which an attorney has appeared for, submitted a document on behalf of or been otherwise designated by a person, any notice or other written communication pertaining to that matter issued by the Commission and which is required or permitted to be furnished to the person will be communicated to the attorney, or to one of such attorneys if more than one is designated. If direct communication with the party is appropriate, a copy of such communication will be mailed to the attorney.

☐§ 1.12 as adopted eff. 10-22-64; I(63)-4☐

#### PARTIES, PRACTITIONERS, AND WITNESSES

#### § 1.21 Parties.

(a) Any party may appear before the Commission and be heard in person or by attorney.

(b) The appropriate Bureau Chief(s) of the Commission shall be deemed to be a party to every adjudicatory proceeding (as defined in the Administrative Procedure Act) without the necessity of being so named in the order designating the proceeding for hearing.

(c) When, in any proceeding, a pleading is filed on behalf of either the General Counsel or the Chief Engineer, he shall thereafter be deemed a party to the proceeding.

#### § 1.22 Authority for representation.

Any person, in a representative capacity, transacting business with the Commission, may be required to show his authority to act in such capacity.

#### § 1.23 Persons who may be admitted to practice.

(a) Any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any state, territory, or of the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law, may represent others before the Commission.

(b) When such member of the bar acting in a representative capacity appears in person or signs a paper in practice before the Commission, his personal appearance or signature shall constitute a representation to the Commission that, under the provisions of

this chapter and the law, he is authorized and qualified to represent the particular party in whose behalf he acts. Further proof of authority to act in a representative capacity may be required.

**§ 1.24 Censure, suspension, or disbarment of attorneys.**

(a) The Commission may censure, suspend, or disbar any person who has practiced, is practicing or holding himself out as entitled to practice before it if it finds that such person:

(1) Does not possess the qualifications required by § 1.23;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the bar of any court of which he is a member;

(3) Is lacking in character or professional integrity; and/or

(4) Displays toward the Commission or any of its hearing officers conduct which, if displayed toward any court of the United States or any of its Territories or the District of Columbia, would be cause for censure, suspension, or disbarment.

(b) Before any member of the bar of the Commission shall be censured, suspended, or disbarred, charges shall be preferred by the Commission against such practitioner and he shall be afforded an opportunity to be heard thereon.

**§ 1.25 Former Commissioners and employees.**

(a) No Commissioner shall, for a period of one year following the termination of his services as a Commissioner, represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any former Commissioner who has served the full term for which he was appointed. See 47 U.S.C. 154(b).

(b) No member, officer, or employee of the Commission (1) whose active service with the Commission has terminated but who is receiving pay while on annual leave not taken prior to separation from such active service, or (2) who is in any other leave status, shall appear as attorney or participate in the preparation or handling of any matter before, or to be submitted to, the Commission.

(c) No former member, officer, or employee of the Commission shall act as agent or attorney for any one other than the United States in connection with any particular Commission matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as a member, officer, or employee of the Commission, through decision, approval, disapproval, recommendation, the rendering of service, investigation, or otherwise. See 18 U.S.C. 207(a).

(d) No former member, officer, or employee of the Commission shall, within one year after his employment has ceased, appear personally before the Commission as agent or attorney for any one other than the United States in connection with any particular Commission matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and which was under his official responsibility as an officer or employee of the Commission at any time within a period of one year prior to termination of his employment. See 18 U.S.C. 207(b).

(e) Notwithstanding the provisions of paragraphs (c) and (d) of this section, a former member, officer, or employee of the Commission who possesses outstanding scientific or technological qualifications may act as attorney or agent or appear personally in connection with a particular matter in his scientific or technological field, upon certification by the Commission, published in the Federal Register, that the national interest would be served by such action or appearance. See 18 U.S.C. 207(b). This exception does not apply to persons barred from representing others before the Commission under paragraphs (a) or (b) of this section.

☐§ 1.25 as amended eff. 12-18-63; I(63)-1☐

**§ 1.26 Appearances.**

Rules relating to appearances are set forth in §§ 1.87, 1.91, 1.221, and 1.703.

**§ 1.27 Witnesses; right to counsel.**

Any individual compelled to appear in person in any Commission proceeding may be accompanied, represented, and advised by counsel as provided in this section. (Regulations as to persons seeking voluntarily to appear and give evidence are set forth in § 1.225.)

(a) Counsel may advise his client in confidence, either upon his own initiative or that of the witness, before, during and after the conclusion of the proceeding.

(b) Counsel for the witness will be permitted to make objections on the record, and to state briefly the basis for such objections, in connection with any examination of his client.

(c) At the conclusion of the examination of his client, counsel may ask clarifying questions if in the judgment of the presiding officer such questioning is necessary or desirable in order to avoid ambiguity or incompleteness in the responses previously given.

(d) Except as provided by paragraph (c) of this section, counsel for the witness may not examine or cross-examine any witness, or offer documentary evidence, unless authorized by the Commission to do so. (Sec. 6(a), 60 Stat. 240; 5 U.S.C. 1005(a).)

☐§ 1.27 as adopted eff. 9-11-64; I(63)-3☐





## PLEADINGS, BRIEFS, AND OTHER PAPERS

## § 1.41 Informal requests for Commission action.

Except where formal procedures are required under the provisions of this chapter, requests for action may be submitted informally. Requests should set forth clearly and concisely the facts relied upon, the relief sought, the statutory and/or regulatory provisions (if any) pursuant to which the request is filed and under which relief is sought, and the interest of the person submitting the request.

## § 1.42 Applications, reports, complaints; cross-reference.

(a) Rules governing applications and reports are contained in Subparts D, E, and F of this part.

(b) Special rules governing complaints against common carriers arising under the Communications Act are set forth in Subpart E of this part.

## § 1.43 Requests for stay; cross-reference.

General rules relating to requests for stay of any order or decision are set forth in §§ 1.41, 1.44(e), 1.45(d) and (e), and 1.298(a). See also §§ 1.102, 1.106(n), and 1.115(h).

## § 1.44 Separate pleadings for different requests.

(a) Requests requiring action by the Commission shall not be combined in a pleading with requests for action by a hearing examiner or by any person or persons acting pursuant to delegated authority.

(b) Requests requiring action by a hearing examiner shall not be combined in a pleading with requests for action by the Commission or by any person or persons acting pursuant to delegated authority.

(c) Requests requiring action by any person or persons pursuant to delegated authority shall not be combined in a pleading with requests for action by any other person or persons acting pursuant to delegated authority.

(d) Pleadings which combine requests in a manner prohibited by paragraph (a), (b), or (c) of this section may be returned without consideration to the person who filed the pleading.

(e) Any request to stay the effectiveness of any decision or order of the Commission shall be filed as a separate pleading. Any such request which is not filed as a separate pleading will not be considered by the Commission.

NOTE: Matters which are acted on pursuant to delegated authority are set forth in Subpart B of Part 0 of this chapter. Matters acted on by the hearing examiner are set forth in § 0.341.

## § 1.45 Pleadings; filing periods.

Except as otherwise provided in this chapter, pleadings in Commission proceedings shall be filed in accordance with the provisions of this section.

(a) *Oppositions.* Oppositions to any motion, petition, or request may be filed within 10 days after the original pleading is filed.

(b) *Replies.* The person who filed the original pleading may reply to oppositions within 5 days after the time for filing oppositions has expired. The reply shall be limited to matters raised in the oppositions, and the response to all such matters shall be set forth in a single pleading; separate replies to individual oppositions shall not be filed.

(c) *Additional pleadings.* Additional pleadings may be filed only if specifically requested or authorized by the Commission.

(d) *Requests for temporary relief; shorter filing periods.* Oppositions to a request for stay of any order or decision or to a request for other temporary relief shall be filed within 5 days after the request is filed. Replies shall be filed within 3 days after the time for filing oppositions has expired.

(e) *Ex parte disposition of certain pleadings.* As a matter of discretion, the Commission may rule ex parte upon requests for continuances and extensions of time, requests for permission to file pleadings in excess of the length prescribed in this chapter, and requests for temporary relief, without waiting for the filing of oppositions or replies.

NOTE: Where specific provisions conflict with the provisions of this section, the specific provisions are controlling. See, in particular, §§ 1.294(c) and 1.298(a).

## § 1.46 Motions for extension of time.

Extensions of time for filing any pleading, brief, or other paper may be granted upon motion for good cause shown, unless the time for filing is limited by statute.

## § 1.47 Service of documents and proof of service.

(a) Where the Commission or any person is required by statute or by the provisions of this chapter to serve any document upon any person, service shall (in the absence of specific provisions in this chapter to the contrary) be made in accordance with the provisions of this section.

(b) Where any person is required to serve any document filed with the Commission, service shall be made by that person or by his representative on or before the day on which the document is filed: *Provided, however,* That formal complaints, including supplemental, cross, and amended complaints, filed under section 208 of the Communications Act will be served by the Commission.

(c) Commission counsel who formally participate in any proceeding shall be served in the same manner as other persons who participate in that proceeding. The filing of a document with the Commission does not constitute service upon Commission counsel.

(d) Documents may be served upon a party, his attorney, or other duly constituted agent by delivering a copy or by mailing a copy to the last known address. When a party is represented by an attorney of record in a formal proceeding, service shall be made upon such attorney.

(e) Delivery of a copy pursuant to this section means handing it to the party, his attorney, or other

duly constituted agent; or leaving it with the clerk or other person in charge of the office of the person being served; or, if there is no one in charge of such office, leaving it in a conspicuous place therein; or, if such office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

(f) Service by mail is complete upon mailing. If the person upon whom service by mail is being made resides 500 miles or more from the person effecting service, such mailing must be by airmail.

(g) Proof of service, as provided in this section, shall be filed before action is taken. The proof of service shall show the time and manner of service, and may be by written acknowledgment of service, by certificate of the person effecting the service, or by other proof satisfactory to the Commission. Failure to make proof of service will not affect the validity of the service. The Commission may allow the proof to be amended or supplied at any time, unless to do so would result in material prejudice to a party.

#### § 1.48 Length of pleadings.

(a) Affidavits, statements, and other materials which are submitted with and factually support a pleading are not counted in determining the length of the pleading. Other materials submitted with the pleading will be disregarded.

(b) Timely requests by a party for permission to file pleadings in excess of the length prescribed by the provisions of this chapter may be granted upon good cause shown. Where the filing period is 10 days or less, the request shall be made within 2 business days after the period begins to run. Where the filing period is more than 10 days, the request shall be filed at least 10 days before the filing date. (See § 1.4.) If a timely request is made, the pleading need not be filed earlier than two business days after the Commission acts upon the request.

#### § 1.49 Specifications as to pleadings and documents.

All pleadings and documents (except printed briefs) filed in any proceeding shall, unless otherwise specifically provided, be on paper either 8 by 10½ or 14 inches or 8½ by 11, 13 or 14 inches, with left-hand margin not less than 1½ inches wide. This requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits or to specially prepared exhibits. The impression shall be on one side of the paper only and shall be double spaced, except that long quotations shall be single spaced and indented. All papers, except charts and maps, shall be typewritten or prepared by mechanical processing methods, other than letterpress or printing. The foregoing shall not apply to official publications. All copies must be clearly legible.

#### § 1.50 Specifications as to briefs.

Briefs may be printed, typewritten, mimeographed, multigraphed, or multilithed. Printed briefs shall be

in 10- or 12-point type, on good unglazed paper, 5¾ inches wide by 9 inches long, with inside margin not less than 1½ inches wide, and with double spaced text and single spaced quotations. Typewritten, mimeographed, multigraphed, or multilithed briefs shall conform to the specifications for pleadings and documents set forth in § 1.49.

#### § 1.51 Number of copies of pleadings, briefs, and other documents.

(a) Except in rule making proceedings (§ 1.419), or with regard to interlocutory matters acted on by the Review Board, the Chief Hearing Examiner, or the Presiding Officer (§ 1.292), or as otherwise specifically provided in this chapter, an original and 19 copies of all pleadings, briefs, and other documents required or permitted to be filed shall be furnished the Commission.

(b) When service of any document is made by the Commission, an additional copy of that document shall be filed for each party to the proceeding.

#### § 1.52 Subscription and verification.

The original of all petitions, motions, pleadings, briefs, and other documents filed by any party represented by counsel, shall be signed by at least one attorney of record in his individual name, whose address shall be stated. Copies should be conformed. A party who is not represented by an attorney shall sign and verify the document and state his address. Except when otherwise specifically provided by rule or statute, documents signed by the attorney for a party need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If the original of a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false, and the matter may proceed as though the document had not been filed. An attorney may be subjected to appropriate disciplinary action, pursuant to § 1.24, for a willful violation of this rule or if scandalous or indecent matter is inserted.

### GENERAL APPLICATION PROCEDURES

#### § 1.61 Procedures for handling applications requiring special aeronautical study.

(a) All antenna surveys are conducted by the Antenna Survey Branch of the Engineering and Facilities Division, Field Engineering Bureau.

(b) Each operating bureau or office examines the applications for which it is responsible to ascertain whether or not antenna consideration is required. If such consideration is required, the antenna data is furnished to the Antenna Survey Branch.

(c) The Antenna Survey Branch then ascertains whether applicant is required to submit a "Notice of Proposed Construction or Alteration" (form FAA-117) to the Federal Aviation Agency.

(d) If form FAA-117 is not required, the application and appropriate antenna painting and lighting specifications are returned to the originating bureau or office for such further action as is necessary.

(e) If form FAA-117 is required, the originating bureau or office will be so advised. Unless the application includes a statement that form FAA-117 has been submitted to the Federal Aviation Agency, the originating bureau or office will notify the applicant to do so.

(f) Upon receipt of a report from the Federal Aviation Agency approving a proposed antenna, the Antenna Survey Branch prescribes antenna tower painting and lighting specifications or other conditions in accordance with the provisions of Part 17 of this chapter and forwards this information to the originating bureau or office. If the proposed tower is disapproved, a report of the disapproval is forwarded to the originating bureau or office.

(g) Where one or more antenna farm areas have been designated for a community or communities (see § 17.9 of this chapter), an application for a construction permit proposing the erection of an antenna structure over 1,000 feet in height above ground to serve such community or communities will not be accepted for filing unless:

(1) It is proposed to locate the antenna structure in a designated antenna farm area, or

(2) It is accompanied by a statement from the Federal Aviation Administration that the proposed structure will not constitute a menace to air navigation, or

(3) It is accompanied by a request for waiver setting forth reasons sufficient, if true, to justify such a waiver. [§ 1.61(g) adopted eff. 7-24-67; I(63)-17]

#### § 1.62 Operation pending action on renewal application.

(a) (1) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal of license with respect to any activity of a continuing nature, in accordance with the provisions of section 9(b) of the Administrative Procedure Act, such license shall continue in effect without further action by the Commission until such time as the Commission shall make a final determination with respect to the renewal application. No operation by any licensee under this section shall be construed as a finding by the Commission that the operation will serve the public interest, convenience, or necessity, nor shall such operation in any way affect or limit the action of the Commission with respect to any pending application or proceeding.

(2) A licensee operating by virtue of this paragraph shall, after the date of expiration specified in the license, post, in addition to the original license, any

acknowledgment received from the Commission that the renewal application has been accepted for filing or a signed copy of the application for renewal of license which has been submitted by the licensee, or in services other than broadcast and common carrier, a statement certifying that the licensee has mailed or filed a renewal application, specifying the date of mailing or filing.

(b) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal or extension of the term of a license with respect to any activity not of a continuing nature, the Commission may in its discretion grant a temporary extension of such license pending determination of such application. No such temporary extension shall be construed as a finding by the Commission that the operation of any radio station thereunder will serve the public interest, convenience, or necessity beyond the express terms of such temporary extension of license, nor shall such temporary extension in any way affect or limit the action of the Commission with respect to any pending application or proceeding.

(c) Except where an instrument of authorization clearly states on its face that it relates to an activity not of a continuing nature, or where the non-continuing nature is otherwise clearly apparent upon the face of the authorization, all licenses issued by the Commission shall be deemed to be related to an activity of a continuing nature.

(Sec. 9(b), 60 Stat. 242; 5 U.S.C. 1008(b)).

#### § 1.65 Substantial and significant changes in information furnished by applicants to the Commission.

Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application. Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of his application so as to furnish such additional or corrected information as may be appropriate. Whenever there has been a substantial change as to any other matter which may be of decisional significance in a Commission proceeding involving the pending application, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, submit a statement furnishing such additional or corrected information as may be appropriate, which shall be served upon parties of record in accordance with § 1.47. Where the matter is before any court for review, statements and requests to amend shall in addition be served upon the

Commission's General Counsel. For the purposes of this section, an application is "pending" before the Commission from the time it is accepted for filing by the Commission until a Commission grant or denial of the application is no longer subject to reconsideration by the Commission or to review by any court.

**§ 1.68 Action on application for license to cover construction permit.**

(a) An application for license by the lawful holder of a construction permit will be granted without hearing where the Commission, upon examination of such application, finds that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest.

(b) In the event the Commission is unable to make the findings in paragraph (a) of this section, the Commission will designate the application for hearing upon specified issues.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

**§ 1.70 Procedures for handling applications involving the use of certain lands and reservations under the jurisdiction of the U.S. Government.**

(a) Any application proposing new or modified transmitting facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management shall include a statement that the facilities will be so located. The applicant shall certify that a proper application for a land use permit has been filed with the agency involved on the form prescribed by that agency. Except for applications filed pursuant to Part 73 of this chapter, the applicant shall certify on his application with the Commission that notification has been received from the land agency indicating that, subject to the Commission's determination concerning electromagnetic compatibility, the site in question is available. With respect to applications filed pursuant to Part 73 of this chapter, final consideration of the application will be withheld pending receipt of a certification from the applicant concerning availability of the proposed site. All certifications concerning site availability shall include the date of the notification from the land agency and shall identify the land office from which the notification was sent.

(b) Following notification to the applicant that, subject to the Commission's determination concerning electromagnetic compatibility, the proposed antenna site is available, the appropriate Government agency will, consistent with agreement between the Commission and the Director of Telecommunications Management, proceed as follows:

(1) If there are no existing radio users of, or applicants for, the site, notify the Commission to this effect;

(2) If there are existing user(s) or applicant(s), send a notice containing the relevant technical parameters of the proposed new or modified transmitting facilities to all existing users of and applicants for the site in question and simultaneously furnish the Commission with a list of all such users and applicants together with a copy of the aforementioned notice.

(c) Any existing user of the site, or applicant therefor, may, within 30 days after the date of the notice sent by the appropriate land use agency, file comments concerning the proposed new or modified installation with the Commission, with copies to the applicant and to the land use agency. These comments shall include relevant technical data and an engineering analysis establishing and evaluating the proximity interference expected in either or both directions, together with an explanation of any technical measures that may be taken to eliminate or minimize the expected interference.

(d) Within 30 days from the last day for filing comments the applicant shall furnish to the Commission a competent engineering analysis of, and comments on, each objection received, together with a clear indication of the measures that the applicant is prepared to take to eliminate or minimize the expected interference.

(e) If no objections based on electromagnetic compatibility problems are received within 30 days after the notice has been sent by the appropriate land use agency, the application will be processed by the Commission in the normal manner. Should data be received indicating technical objections to the proposed installation or modification, the Commission will determine, through appropriate procedures, the validity of such objections. These procedures may include issuance of a special temporary authorization for a relatively short period of time to test the technical feasibility of the proposed operation. The Commission will then determine whether the application should be granted, and, if so, what operating conditions should be imposed. In general, the responsibility for correcting proximity interference will be upon the applicant. Any user affected, however, will be expected to extend all reasonable cooperation in reaching a satisfactory solution. In some cases, this may involve adjustments on the part of existing users.

(f) Upon issuance of a station authorization, which may be restricted to reflect conditions imposed by the Commission, the applicant may then obtain a final site permit from the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior.

**§1.77 Detailed application procedures; cross references.**

The application procedures set forth in §§ 1.61–1.68 are general in nature. More detailed procedures are set forth in this chapter as follows:

(a) Rules governing applications for authorizations in the Broadcast Radio Services are set forth in Subpart D of this part.

(b) Rules governing applications for authorizations in the Common Carrier Radio Services are set forth in Subpart E of this part.

(c) Rules governing applications for authorizations in the Safety and Special Radio Services are set forth in Subpart F of this part.

(d) Rules governing applications for authorizations in the Experimental Radio Services (other than broadcast) are set forth in Part 5 of this chapter.

(e) Rules governing applications for authorizations in the Domestic Public Radio Services are set forth in Part 21 of this chapter.

(f) Rules governing applications for authorizations in the Industrial, Scientific, and Medical Service are set forth in Part 18 of this chapter.

(g) Rules governing applications for type approval and type acceptance of equipment are set forth in Part 2, Subpart F, of this chapter.

(h) Rules governing applications for operator licenses and permits are set forth in §§ 1.83 and 1.84 of this chapter.

MISCELLANEOUS PROCEEDINGS

**§1.80 Forfeiture proceedings (excluding those pertaining to broadcast licensees and permittees or ships and ship masters).**

(a) *Basis.* This section is based on section 510 of the Communications Act of 1934, as amended, which provides for the payment of monetary forfeitures to the United States by certain persons who are shown to have willfully or repeatedly committed certain offenses listed therein.

(b) *Applicability.* These forfeiture provisions shall apply to the licensee of any radio station (and, in certain indicated categories, the person operating such station) other than broadcast stations licensed under part 73 or part 74 of this chapter and stations governed by the provisions of Part II or Part III of Title III, or section 507, of the Communications Act of 1934, as

amended. For purposes of this section, the term “radio operator” means any person who transmits over a radio station whether or not such person holds a radio operator license issued by the Commission.

(c) *Categories of offenses creating liability.* The categories of offenses for which forfeitures shall attach hereunder are set forth as follows (categories (2), (3), (5), and (6) apply both to the station licensee and the radio operator; the remaining categories apply only to the station licensee):

(1) Operation of a radio station by any person not holding a valid radio operator license or permit of the class prescribed by the provisions in this chapter for the operation of such station.

(2) Operation of a radio station without identifying such station at the times and in the manner prescribed by the provisions in this chapter for such station.

(3) Transmission of a false call sign or of a false distress call or message in violation of the provisions in this chapter.

(4) Operation of a radio station on a frequency not authorized by the Commission for use by such station, including operation with a frequency deviation beyond frequency tolerances authorized by the provisions in this chapter.

(5) Transmission of unauthorized communications on any frequency designated by the provisions in this chapter as a distress frequency or a calling frequency.

(6) Operation of a radio station so as to interfere, in violation of the provisions in this chapter, with any distress call or distress communication.

(7) Failure to attenuate spurious emissions of a radio station to the extent required by the provisions in this chapter applicable to such station.

(8) Operation of a radio station with power in excess of that authorized by the Commission for the particular station.

(9) Use of a radio station to render a communication service, including the transmission of communications not permitted by the provisions in this chapter, which is not authorized by the Commission for the particular station.

(10) Operation of a radio station with a type of emission not authorized by the Commission for the particular station.

(11) Operation of a radio station with transmitting equipment not authorized by the Commission for the particular station.

(12) Failure to respond to a written official communication from the Commission.

(d) *Time limitation on forfeiture liability.* A station licensee or radio operator is not subject to forfeiture liability for any offense which occurred more than 90 days prior to the day on which a notice of apparent liability (see paragraph (f) of this section) describing that offense is mailed. Such prior offenses may, however, be cited in a notice of apparent liability for the purposes of establishing the willfulness or the repetitiveness of offenses committed within such 90 day period.

(e) *Forfeiture amounts and limitations.* For each separate offense hereunder, the licensee of the radio station involved shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed \$100. For each separate offense coming within the provisions of subparagraphs (2), (3), (5), or (6) of paragraph (c) of this section, the radio operator, if he be a different person from the station licensee, shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed \$100. However, in the event of multiple offenses within 90 days prior to the date of notice of apparent liability, the following limitations on total monetary liability shall govern. For all offenses, regardless of the total number, coming within any one category of offense listed in paragraph (c) of this section, the maximum forfeiture liability shall be \$100. Furthermore, for all offenses, regardless of the total number, coming within more than one of the categories of offenses listed in paragraph (c) of this section, the maximum forfeiture liability for a radio station licensee shall be \$500, and the maximum forfeiture liability for a radio operator shall be \$400.

(f) *Notice of apparent liability.* Whenever it appears that a station licensee and/or a radio operator willfully or repeatedly has committed an offense or offenses within those categories listed in paragraph (c) of this section, a written notice of apparent liability

will be sent to him by certified mail to his last known address. See § 1.5 of this chapter. This notice will set forth the facts which indicate apparent liability; will identify the offenses listed in paragraph (c) of this section which are involved and the provisions of the Commission's rules and of the license which appear to have been violated; will state the amount of the forfeiture imposed; and will summarize the courses of action available to the person involved under the provisions of paragraphs (g) and (h) of this section.

(g) *Response to a notice of apparent liability.* The station licensee or radio operator involved shall respond to a notice of apparent liability within 30 days after the notice is mailed, or within such longer period of time as may be specified in the notice. Any of the following actions by the station licensee or radio operator shall constitute a response meeting the requirements of this paragraph:

(1) Payment of the forfeiture in the amount specified in the notice of apparent liability. The forfeiture should be paid by check or money order drawn to the order of the Treasurer of the United States and should be mailed to the Federal Communications Commission, Washington, D.C. 20554. The Commission does not accept responsibility for cash payments sent through the mails.

(2) Submission of a written statement denying liability for the forfeiture in whole or in part and/or requesting (even if liability is admitted) that the forfeiture be cancelled or reduced because of extenuating circumstances connected with the offense. Allegations or requests made in any such statement must be supported by detailed factual data and reasons. The statement should be mailed to the Federal Communications Commission, Washington, D.C. 20554.

(3) Submission of a written request for a personal interview with an official of the Commission. The request should be submitted to the Federal Communications Commission, Washington, D.C. 20554. Submission of such a request does not preclude submission of the statement described in subparagraph (2) of this paragraph; either or both may be submitted.

(h) *Personal interview.* (1) If a personal interview is requested, it will be held at the field office or

monitoring station of the Commission nearest to the place of residence of the station licensee or radio operator involved. See § 0.121 of this chapter.

(2) The interview will be held within 30 days after the request is filed with the Commission, and may be scheduled by the Commission for any mutually convenient time within that 30 day period.

(3) In the personal interview, the station licensee or radio operator will be afforded an opportunity to state his position with regard to forfeiture liability and the amount of the forfeiture imposed, and to request that the forfeiture be cancelled or reduced.

(4) A summary of the interview will be prepared by the interviewing official and transmitted by him to the Washington offices of the Commission. The interviewing official is not authorized to impose, cancel, or reduce any forfeiture.

(5) The failure of the station licensee or operator to appear at the time and place appointed for the interview shall constitute a waiver of his right to such an interview.

(i) *Commission action after written statement or interview.* After the submission of a written statement and/or after a personal interview, as prescribed in paragraphs (g) and (h) of this section, the Commission will consider all relevant information available to it. Based on such considerations, the Commission will (1) cancel the forfeiture, or (2) offer to reduce the amount of the forfeiture, or (3) require the forfeiture to be paid in full. A notice of such Commission action, stating the amount of the forfeiture (if any), and the date by which it must be paid, will thereupon be mailed to the station licensee or radio operator involved. The forfeiture in the amount stated shall be paid by check or money order drawn to the order of the Treasurer of the United States and shall be mailed to the Federal Communications Commission, Washington, D.C., 20554. The Commission does not accept responsibility for cash payments sent through the mails.

☐ § 1.80 (i) as amended eff. 8-6-65; I(63)-S☐

(j) *Judicial enforcement of forfeitures imposed by the Commission.* If a station licensee or radio operator fails to respond to the notice of apparent liability as required by paragraph (g) of this section, or if he fails to pay the forfeiture imposed by the Commission under paragraph (i) of this section, the case will, without further notice, be referred by the Commission to the Department of Justice for prosecution in the appropriate Federal District Court to recover the amount of the forfeiture initially imposed.

(Sec. 1, 76 Stat. 68; 47 U.S.C. 510)

### § 1.81 Other forfeiture procedures; cross references.

(a) Rules governing the forfeiture liability of broadcast station licensees and permittees are set forth in § 1.621.

(b) Rules governing the forfeiture liability of ships and ship masters are set forth in § 1.991.

### § 1.83 Application for radio operator license.

(a) *Commercial radio operator license.* Applications for commercial radio operator licenses shall be filed as follows:

(1) *Restricted radiotelephone operator permit.* Application for a restricted radiotelephone operator permit shall be filed on FCC Form 753-1, entitled "Application for Restricted Radiotelephone Operator Permit by Declaration".

(2) *All others.* Application for a new, renewed, replacement, or duplicate commercial radio operator license, for a verification card, or for a verification of operator license FCC Form 759 (for additional posting) shall be filed on FCC Form 756, entitled "Application for Radio Operator License".

(3) *Waiver of nationality requirement.* Applicants desiring waiver of the nationality requirement pursuant to section 303(1) of the Communications Act shall submit a request for waiver with the application form required by this paragraph. The request for waiver shall be filed on FCC Form 755, entitled "Supplemental Application for Commercial Radio Operator License".

(b) *Amateur radio operator license.* Application for amateur radio operator license is included with the application for station license. See § 1.934.

### § 1.84 Procedure with respect to commercial radio operator license applications.

(a) Upon acceptance of an application for a license submitted in accordance with Part 13 of this chapter, an examination, if required, is conducted. If applicant is found qualified in all respects, the license will be issued. When doubts as to nationality, character, or physical condition arise, the application is referred to the Commission's Field Offices Division, Field Engineering Bureau, Washington, D.C., 20555, for consideration. If it appears that further information is required to determine the applicant's qualifications or that a grant of the application will not serve the public interest, the applicant will be notified in writing and given an opportunity to furnish such written showings as the Commission may request and as the applicant may desire to submit. If, from the information furnished, it does not appear that the applicant is qualified or that the

public interest would be served by a grant of the application, the applicant will be advised thereof in writing and given the opportunity to request, within the period of time to be specified in such writing, that the application be set for hearing. In the case of failure timely to request such hearing, the application will be denied.

(b) Where an examination is not required, the application will be handled with respect to other matters in accordance with the procedure in paragraph (a) of this section.

(c) Applications for renewal of license are handled in accordance with the procedure contained in paragraph (a) of this section, except that no examination is required unless the circumstances as set forth in § 13.28 of this chapter exist, in which case a renewal examination will be required.

(d) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice where an application has not yet been designated for hearing; such dismissal may be made with prejudice after an application has been designated for hearing.

(Sec. 303(1), 48 Stat. 1082, as amended; 47 U.S.C. 303(1))

[§ 1.84 as amended *eff.* 1-1-65; I(63)-5]

#### § 1.85 Suspension of operator licenses.

Whenever grounds exist for suspension of an operator license, as provided in section 303(m) of the Communications Act, the Chief of the Safety and Special Radio Services Bureau, with respect to amateur operator licenses, or the Chief of the Field Engineering Bureau, with respect to commercial operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Safety and Special Radio Services Bureau, or

the Chief, Field Engineering Bureau, as the case may be, and said order of suspension shall be held in abeyance until the conclusion of the hearing. Upon the conclusion of said hearing, the Commission may affirm, modify, or revoke said order of suspension. If the license is ordered suspended, the operator shall send his operator license to the office of the Commission in Washington, D.C., on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

(Sec. 303(m), 48 Stat. 1082, as amended; 47 U.S.C. 303(m))

#### § 1.87 Modification of license or construction permit on motion of the Commission.

(a) Whenever it appears that a station license or construction permit should be modified, the Commission will notify the licensee or permittee in writing of the proposed action and the grounds and reasons therefor and direct him to show cause why an order modifying the license or construction permit in the manner proposed by the Commission should not be issued.

(b) Any order to show cause issued in accordance with paragraph (a) of this section will notify the licensee or permittee that he may request, within a period of time to be stated in the order to show cause, that a hearing be held on the proposed modification. In case of timely request, a hearing will be held on the proposed modification, in no event less than 30 days after the receipt of the order to show cause, unless the Commission finds that safety of life or property require the fixing of a shorter period.

(c) In order to avail himself of the right to request a hearing and of the opportunity to appear and give evidence upon the matters specified in the order to show cause, the licensee or permittee, in person or by his attorney, shall, within such period of time as may be specified in the order to show cause, file with the Commission a written statement stating that he requests a hearing and will appear at the hearing and present evidence on the matter specified in the order to show cause. Such written statement must contain a detailed response to the matter specified in the order to show cause, and the permittee or licensee shall be limited in the hearing to matters fairly encompassed within the issues raised by the response.

(d) The right to request a hearing shall, unless good cause is shown in a petition to be filed not later than 5 days before the lapse of the time specified in paragraph (c) of this section, be deemed waived:

(1) In case of failure to timely file a written statement as required by paragraph (c) of this section:



(2) In case of filing the written statement provided for in paragraph (c) of this section but failure to appear at the hearing, either in person or by counsel.

(e) Where the right to request a hearing is waived and no written statement has been filed within the period of time specified in the order to show cause, the licensee or permittee will be deemed to consent to the modification as proposed in the order to show cause and a final decision will be issued by the Commission accordingly.

(f) Where the right to request a hearing has been waived, a written statement may be filed within the period of time to be specified in the order to show cause, showing with particularity why the license or construction permit should not be modified or not so modified as proposed in the order to show cause. In this case, the Commission may, depending upon the facts alleged and proof offered, either call upon the submitting party to furnish additional information under oath, designate the proceeding for hearing, or issue without further proceedings an order modifying the construction permit or license as proposed in the order to show cause or in said written statement. The order to show cause will advise the person against whom it is directed of procedure set forth in this paragraph.

(g) Any order of modification issued pursuant to this section shall include a statement of the findings and the grounds and reasons therefor, shall specify the effective date of the order, and shall be served on the licensee or permittee.

(Sec. 12, 66 Stat. 717; 47 U.S.C. 316)

#### § 1.89 Notice of violations.

(a) Except in cases of wilfulness or those in which public health, interest, or safety requires otherwise, any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter will, before revocation, suspension, or cease and desist proceedings are instituted, be served with a written notice calling these facts to his attention and

requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the official notice. If an answer cannot be sent nor an acknowledgment made within such 10-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of action taken to correct the condition or omission complained of and to preclude its recurrence. In addition:

(1) If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus and any new apparatus is to be installed, the answer shall state the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application.

(2) If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge shall be given.

#### § 1.91 Revocation and/or cease and desist proceedings; hearings.

(a) If it appears that a station license or construction permit should be revoked and/or that a cease and desist order should be issued, the Commission will issue an order directing the person to show cause why an order of revocation and/or a cease and desist order, as the facts may warrant, should not be issued.

(b) An order to show cause why an order of revocation and/or a cease and desist order should not be issued will contain a statement of the matters with respect to which the Commission is inquiring and will call upon the person to whom it is directed (the respondent) to appear before the Commission at a hearing, at a time and place stated in the order, but not less than thirty days after the receipt of such order, and give evidence upon the matters specified in the order to show cause. However, if safety of life or property is involved, the order to show cause may specify a hearing date less than thirty days from the receipt of such order.

(c) To avail himself of such opportunity for hearing, the respondent, personally or by his attorney, shall file with the Commission, within thirty days of the service of the order or such shorter period as may be specified therein, a written appearance stating that he will appear at the hearing and present evidence on the matters specified in the order. The Commission in its discretion may accept a late appearance. However, an appearance tendered after the specified time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petition for acceptance of late appearance will be granted only if the Commission determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(d) Hearings on the matters specified in such orders to show cause shall accord with the practice and procedure prescribed in this subpart and Subpart B of this part, with the following exceptions: (1) In all such revocation and/or cease and desist hearings, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; and (2) the Commission may specify in a show cause order, when the circumstances of the proceeding require expedition, a time less than that prescribed in §§ 1.276 and 1.277 within which the initial decision in the proceeding shall become effective, exceptions to such

initial decision must be filed, parties must file requests for oral argument, and parties must file notice of intention to participate in oral argument.

(e) Correction of or promise to correct the conditions or matters complained of in a show cause order shall not preclude the issuance of a cease and desist order. Corrections or promises to correct the conditions or matters complained of, and the past record of the licensee, may, however, be considered in determining whether a revocation and/or a cease and desist order should be issued.

(f) Any order of revocation and/or cease and desist order issued after hearing pursuant to this section shall include a statement of findings and the grounds therefor, shall specify the effective date of the order, and shall be served on the person to whom such order is directed.

(Sec. 312, 48 Stat. 1086, as amended; 47 U.S.C. 312)

#### **§ 1.92 Revocation and/or cease and desist proceedings; after waiver of hearing.**

(a) After the issuance of an order to show cause, pursuant to § 1.91, calling upon a person to appear at a hearing before the Commission, the occurrence of any one of the following events or circumstances will constitute a waiver of such hearing and the proceeding thereafter will be conducted in accordance with the provisions of this section.

(1) The respondent fails to file a timely written appearance as prescribed in § 1.91(c) indicating that he will appear at a hearing and present evidence on the matters specified in the order.

(2) The respondent, having filed a timely written appearance as prescribed in § 1.91(c), fails in fact to appear in person or by his attorney at the time and place of the duly scheduled hearing.

(3) The respondent files with the Commission, within the time specified for a written appearance in § 1.91(c), a written statement expressly waiving his rights to a hearing.

(b) When a hearing is waived under the provisions of paragraph (a) (1) or (3) of this section, a written statement signed by the respondent denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause may be submitted within the time specified in § 1.91(c). The Commission in its discretion may accept a late statement. However, a statement tendered after the specified time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petitions for acceptance of a late statement will be granted only if the Commission determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(c) Whenever a hearing is waived by the occurrence of any of the events or circumstances listed in paragraph (a) of this section, the Chief Hearing Examiner (or the presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. Such order shall be served upon the respondent.

ⓘ § 1.92(c) as amended eff. 6-15-64; I(63)-2

(d) After a hearing proceeding has been terminated pursuant to paragraph (c) of this section, the Commission will act upon the matters specified in the order to show cause in the regular course of business. The Commission will determine on the basis of all the information available to it from any source, including such further proceedings as may be warranted, if a revocation order and/or a cease and desist order should issue, and if so, will issue such order. Otherwise, the Commission will issue an order dismissing the proceeding. All orders specified in this paragraph will include a statement of the findings of the Commission and the grounds and reasons therefor, will specify the effective date thereof, and will be served upon the respondent.

(e) Corrections or promise to correct the conditions or matters complained of in a show cause order shall not preclude the issuance of a cease and desist order. Corrections or promises to correct the conditions or matters complained of, and the past record of the licensee, may, however, be considered in determining whether a revocation and/or a cease and desist order should be issued.

(Sec. 312, 48 Stat. 1086, as amended; 47 U.S.C. 312)

RECONSIDERATION AND REVIEW OF ACTIONS TAKEN PURSUANT TO DELEGATED AUTHORITY; RECONSIDERATION OF ACTIONS TAKEN BY THE COMMISSION

§ 1.101 General provisions.

Under section 5(d) of the Communications Act of 1934, as amended, the Commission is authorized, by rule or order, to delegate certain of its functions to a panel of commissioners, an individual commissioner, an employee board, or an individual employee. Section 0.201(a) of this chapter describes in general terms the basic categories of delegations which are made by the Commission. Subpart B of Part 0 of this chapter sets forth all delegations which have been made by rule. Sections 1.102-1.120 set forth procedural rules governing reconsideration and review of actions taken pursuant to authority delegated under section 5(d) of the Communications Act, and reconsideration of actions taken by the Commission. As used in §§ 1.102-1.117, the term "designated authority" means any person, panel, or board which has been authorized by rule or order to exercise authority under section 5(d) of the Communications Act.

§ 1.102 Effective dates of actions taken pursuant to delegated authority.

(a) *Final actions following review of an initial decision.* (1) Final decisions of the Review Board, a commissioner, or panel of commissioners following review of an initial decision shall be effective 40 days



after public release of the full text of such final decision.

(2) If a petition for reconsideration of such final decision is filed, the effect of the decision is stayed until 40 days after release of the final order disposing of the petition.

(3) If an application for review of such final decision is filed, or if the Commission on its own motion orders the record of the proceeding before it for review, the effect of the decision is stayed until the Commission's review of the proceeding has been completed.

(b) *Non-hearing and interlocutory actions.* (1) Non-hearing or interlocutory actions taken pursuant to delegated authority shall, unless otherwise ordered by the designated authority, be effective upon release of the document containing the full text of such action, or in the event such a document is not released, upon release of a public notice announcing the action in question.

(2) If a petition for reconsideration of a non-hearing action is filed, the designated authority may in its discretion stay the effect of its action pending disposition of the petition for reconsideration. Petitions for reconsideration of interlocutory actions will not be entertained.

(3) If an application for review of a non-hearing or interlocutory action is filed, or if the Commission reviews the action on its own motion, the Commission may in its discretion stay the effect of any such action until its review of the matters at issue has been completed.

**§ 1.104 Preserving the right of review; deferred consideration of application for review.**

(a) The provisions of this section apply to all final actions taken pursuant to delegated authority, including final decisions of the Review Board following review of an initial decision and final actions taken by members of the Commission's staff on non-hearing matters. They do not apply to interlocutory actions of the Review Board or the Chief Hearing Examiner in hearing proceedings. (See §§ 1.106(a) and 1.115(e).)

(b) Any person desiring Commission consideration of a final action taken pursuant to delegated author-

ity shall file either a petition for reconsideration or an application for review (but not both) within 30 days from the date of release of the document containing the full text of such action, or in case such document is not released, after release of a public notice announcing the action in question. The petition for reconsideration will in all cases be acted upon by the designated authority. The application for review will in all cases be acted upon by the Commission.

(c) If in any matter one party files a petition for reconsideration and a second party files an application for review, the Commission will withhold action on the application for review until final action has been taken on the petition for reconsideration.

(d) Any person who has filed a petition for reconsideration may file an application for review within 30 days after final action on his petition. If a petition for reconsideration has been filed, any person who has filed an application for review may, within 30 days after final action on the petition for reconsideration, amend or withdraw his application for review or substitute an amended application therefor.

**§ 1.106 Petitions for reconsideration of final action taken by the Commission en banc or by a designated authority pursuant to a delegation.**

(a) Petitions requesting reconsideration of a final action taken pursuant to delegated authority will be acted on by the designated authority. Petitions requesting reconsideration of a final Commission action will be acted on by the Commission. Petitions requesting reconsideration of an interlocutory ruling made by the Commission, the Review Board or the Chief Hearing Examiner will not be entertained. See § 1.115(e) (2). For purposes of reconsideration, an order disposing of a petition to deny is not an interlocutory ruling. For provisions pertaining to reconsideration of an order designating a case for hearing, see § 1.111.

⌈§ 1.106(a) as amended *eff.* 7-16-65; I(63)-7⌋

(b) Except where the Commission has denied an application for review without specifying reasons therefor, any party to the proceeding, or any other person aggrieved or whose interests are adversely affected by any action taken by the Commission or by the designated authority, may file a petition requesting re-

consideration of the action taken. If the petition is filed by a person who is not a party to the proceeding, it shall state with particularity the manner in which he is aggrieved or his interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding.

(c) A petition for reconsideration which relies on facts which have not previously been presented to the Commission or to the designated authority, as the case may be, will be granted only under the following circumstances:

(1) The facts relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters;

(2) The facts relied on were unknown to petitioner until after his last opportunity to present such matters, and he could not through the exercise of ordinary diligence have learned of the facts in question prior to such opportunity; or

(3) The Commission or the designated authority determines that consideration of the facts relied on is required in the public interest.

(d) (1) The petition for reconsideration shall, where appropriate, cite the findings of fact and/or conclusions of law which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and conclusions should be changed. The petition may request that additional findings of fact and conclusions of law be made.

(2) The petition shall state with particularity the respects in which petitioner believes the action taken by the designated authority should be changed.

(3) The petition shall state specifically the form of relief sought and, subject to this requirement, may contain alternative requests.

(e) Where a petition for reconsideration is based upon a claim of electrical interference, under appropriate rules in this chapter, to an existing station or a station for which a construction permit is outstanding, such petition, in addition to meeting the other requirements of this section, must be accompanied by an affidavit of a qualified radio engineer. Such affidavit shall show, either by following the procedures set forth in this chapter for determining interference in the absence of measurements, or by actual measure-

ments made in accordance with the methods prescribed in this chapter, that electrical interference will be caused to the station within its normally protected contour.

(f) The petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of release of the document containing the full text of the action taken or, in case such document is not released, after release of a public notice announcing the action in question, and shall be served upon parties to the proceeding. The petition for reconsideration shall not exceed 25 double spaced typewritten pages. No supplement or addition to a petition for reconsideration which has not been acted upon by the Commission or by the designated authority, filed after expiration of the 30 day period, will be considered except upon leave granted upon a separate pleading for leave to file, which shall state the grounds therefor.

(g) Oppositions to a petition for reconsideration shall be filed within 10 days after the petition is filed, and shall be served upon petitioner and parties to the proceeding. Oppositions shall not exceed 25 double spaced typewritten pages.

(h) Petitioner may reply to oppositions within 7 days after the last day for filing oppositions, and any such reply shall be served upon parties to the proceeding. Replies shall not exceed 10 double spaced typewritten pages, and shall be limited to matters raised in the opposition.

(i) Petitions for reconsideration, oppositions, and replies shall conform to the requirements of §§ 1.49, 1.51, and 1.52 and shall be submitted to the Secretary, Federal Communications Commission, Washington, D.C., 20554.

(j) The Commission or designated authority may grant the petition for reconsideration in whole or in part or may deny the petition. Its order will contain a concise statement of the reasons for the action taken. Where the petition for reconsideration relates to an instrument of authorization granted without hearing, the Commission or designated authority will take such action within 90 days after the petition is filed.

(k) (1) If the Commission or designated authority grants the petition for reconsideration in whole or in

part, it may, in its order, rule on the merits of the petition.

(2) In the alternative, the Commission or designated authority may, in its order granting the petition, order such further procedure as may be useful to it in reaching a decision on the merits of the petition. In that event, its ruling on the merits will be deferred pending completion of such procedure.

(3) In ruling on the merits of the petition, the Commission or designated authority may affirm, reverse, modify or set aside its original action, or may remand the proceeding for such further action, including rehearing, as may be appropriate. Any order disposing of a petition for reconsideration which reverses, changes or modifies the original order is subject to the same provisions with respect to reconsideration as the original order. A petition for reconsideration of an order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order may be dismissed by the staff as repetitious. **¶§ 1.106 (k) (3) as amended eff. 2-25-66; I(63)-11¶**

(l) No evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission or the designated authority believes should have been taken in the original proceeding shall be taken on any rehearing ordered pursuant to the provisions of this section.

(m) The filing of a petition for reconsideration is not a condition precedent to judicial review of any action taken by the Commission or by the designated authority, except where the person seeking such re-

view was not a party to the proceeding resulting in the action, or relies on questions of fact or law upon which the Commission or designated authority has been afforded no opportunity to pass. (See § 1.115(c).) Persons in those categories who meet the requirements of this section may qualify to seek judicial review by filing a petition for reconsideration.

(n) Without special order of the Commission, the filing of a petition for reconsideration shall not excuse any person from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof. However, upon good cause shown, the Commission will stay the effectiveness of its order or requirement pending a decision on the petition for reconsideration. (This paragraph applies only to actions of the Commission en banc. For provisions applicable to actions under delegated authority, see § 1.102.)

**NOTE:** Petitions for reconsideration of Commission action in rule making proceedings conducted under section 4 of the Administrative Procedure Act need not be served on participants in the proceeding. When such petitions are filed in proper form, public notice of their filing will be given. Oppositions to such petitions may be filed within 10 days after such public notice is given and need be served only on the person who filed the petition. Replies to such oppositions need be served only on the person who filed the opposition.

(Sec. 405, 48 Stat. 1095, as amended; 47 U.S.C. 405)

**¶§ 1.106 Note as amended eff. 4-9-65; I(63)-6¶**

#### **§ 1.108 Reconsideration on Commission's own motion.**

The Commission may, on its own motion, set aside any action made or taken by it within 30 days after release of the document containing the full text of such





action or, in case such a document is not released, after release of a "Public Notice" announcing the action in question.

**§ 1.110 Partial grants; rejection and designation for hearing.**

Where the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to a station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing.

**§ 1.111 Petitions for reconsideration of an order designating a case for hearing.**

(a) A petition for reconsideration of an order designating a case for hearing will be entertained only in the following circumstances:

(1) Where the petition relates to an adverse ruling with respect to the petitioner's participation in the proceeding.

(2) Where the petition is filed by an applicant and asserts that his application should have been granted without hearing.

(b) A petition for reconsideration under paragraph (a) of this section will be acted upon by the Commission. All questions raised in the petition and relating to the designation order will be considered.

ⓘ § 1.111 as amended eff. 7-16-65; I(63)-7

**§ 1.113 Action modified or set aside by person, panel, or board.**

(a) Within 30 days after public notice has been given of any action taken pursuant to delegated authority, the person, panel, or board taking the action may modify or set it aside on its own motion.

(b) Within 60 days after notice of any sanction imposed under delegated authority has been served on

the person affected, the person, panel, or board which imposed the sanction may modify or set it aside on its own motion.

(c) Petitions for reconsideration and applications for review shall be directed to the actions as thus modified, and the time for filing such pleadings shall be computed from the date upon which public notice of the modified action is given or notice of the modified sanction is served on the person affected.

**§ 1.115 Application for review of action taken pursuant to delegated authority.**

(a) Any person aggrieved by any action taken pursuant to delegated authority may file an application requesting review of that action by the Commission. Any person filing an application for review who has not previously participated in the proceeding shall include with his application a statement describing with particularity the manner in which he is aggrieved by the action taken and showing good reason why it was not possible for him to participate in the earlier stages of the proceeding. Any application for review which fails to make an adequate showing in this respect will be dismissed.

(b) (1) The application for review shall concisely and plainly state the questions presented for review with reference, where appropriate, to the findings of fact or conclusions of law.

(2) The application for review shall specify with particularity, from among the following, the factor(s) which warrant Commission consideration of the questions presented:

(i) The action taken pursuant to delegated authority is in conflict with statute, regulation, case precedent, or established Commission policy.

(ii) The action involves a question of law or policy which has not previously been resolved by the Commission.

(iii) The action involves application of a precedent or policy which should be overturned or revised.

(iv) An erroneous finding as to an important or material question of fact.

(v) Prejudicial procedural error.

(3) The application for review shall state with particularity the respects in which the action taken by the designated authority should be changed.

(4) The application for review shall state the form of relief sought and, subject to this requirement, may contain alternative requests.

NOTE: If the Commission grants an application for review of a final decision of the Review Board, it will, as the usual practice, permit the parties to file briefs and present oral argument. The Commission will rarely dispose of the merits of a case upon the basis of the application for review and related pleadings. Thus, except where the matter is interlocutory in nature, the application for review should be prepared with the understanding that its purpose is not to obtain a Commission decision on the merits of the issues but rather to convince the Commission to review those issues.

(c) No application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass.

NOTE: Subject to the requirements of § 1.106, new questions of fact or law may be presented to the designated authority in a petition for reconsideration.

(d) Except as provided in paragraph (e) of this section, the application for review and any supplement thereto shall be filed within 30 days from the date of release of the document containing the full text of such action, or in case such a document is not released, after release of a public notice announcing the action in question. Oppositions to the application shall be filed within 15 days after the application is filed. Replies to oppositions shall be filed within 10 days after the opposition is filed and shall be limited to matters raised in the opposition.

(e)(1) Applications for review of interlocutory rulings made by the Review Board or the Chief Hearing Examiner shall be filed within 5 days after the order is released or the ruling is made. Oppositions to such applications shall be filed within 5 days after the application is filed. Replies to such oppositions shall be filed within 5 days after the opposition is filed and shall be limited to matters raised in the opposition.

(2) The failure to file an application for review of an interlocutory ruling, or the denial of such application by the Commission, shall not preclude any party entitled to file exceptions to the initial decision from requesting review of the ruling at the time when exceptions are filed. Such requests will be considered in the same manner as exceptions are considered.

NOTE: Unless the ruling complained of is fundamental and affects the conduct of the entire proceeding, requests for

review should be deferred until the time when exceptions are filed.

(f) Applications for review and oppositions shall conform to the requirements of §§ 1.49, 1.51, and 1.52, and shall be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554. The application for review shall be served upon the parties to the proceeding. Oppositions to the application for review shall be served on the person seeking review and parties to the proceeding. Applications for review and oppositions shall not exceed 25 double spaced typewritten pages and, in the case of interlocutory matters, shall not exceed 10 double spaced typewritten pages. Replies to oppositions shall not exceed 10 double spaced typewritten pages.

(g) The Commission may grant the application for review in whole or in part, or may deny the application, without specifying reasons for the action taken. No petition requesting reconsideration of an order which denies an application for review without specifying reasons therefor will be entertained.

(h) If the Commission grants the application for review, it may order such further procedure, including briefs and oral argument, as it may deem useful, or may stay the effect of the action taken pursuant to delegated authority pending its further consideration of the matters at issue. (See § 1.102.)

(i) With or without any such additional procedure, the Commission may either affirm, reverse, modify, or set aside the action taken, or remand the proceeding to the designated authority for reconsideration in accordance with its instructions. If an evidentiary hearing has been held, the Commission may remand the proceeding to the person(s) who conducted the hearing for rehearing on such issues and in accordance with such instructions as may be appropriate. An order of the Commission which reverses or modifies the action taken pursuant to delegated authority, or remands the matter for further proceedings, is subject to the same provisions with respect to reconsideration as an original action of the Commission.

(j) No evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission believes should have been taken in the original proceeding shall be taken on any rehearing ordered pursuant to the provisions of this section.

(k) The filing of an application for review shall be a condition precedent to judicial review of any action taken pursuant to delegated authority.

(Sec. 5, 48 Stat. 106S, as amended; 47 U.S.C. 155)

#### § 1.117 Review on motion of the Commission.

(a) Within 40 days after public notice is given of any action taken pursuant to delegated authority, the Commission may on its own motion order the record of the proceeding before it for review.

(b) If the Commission reviews the proceeding on its own motion, it may order such further procedure as may be useful to it in its review of the action taken pursuant to delegated authority.

(c) With or without such further procedure, the Commission may either affirm, reverse, modify, or set aside the action taken, or remand the proceeding to the designated authority for reconsideration in accordance with its instructions. If an evidentiary hearing has been held, the Commission may remand the proceeding to the person(s) who conducted the hearing for rehearing on such issues and in accordance with such instructions as may be appropriate. An order of the Commission which reverses or modifies the action taken pursuant to delegated authority, or remands the matter for further proceedings, is subject to the same provisions with respect to reconsideration as an original action of the Commission.

#### § 1.120 Protests of grants without hearing.

(a) The provisions of this section shall not be applicable to any application: (1) Filed on or after December 12, 1960; (2) filed before December 12, 1960, but substantially amended (as defined in the applicable provisions of this chapter) on or after that date; or (3) filed before December 12, 1960, and not thereafter substantially amended, but with respect to which the rules in this chapter provide an opportunity for petitions to deny to be filed under section 309 of the Communications Act, as amended. See §§ 1.580 and 1.962.

ⓘ § 1.120(a) as amended eff. 1-6-64; I(63)-1Ⓜ

(b) Where any instrument of authorization for a radio station, other than a license pursuant to a construction permit, has been granted without a hearing, any party in interest may file a protest directed to such grant and request a hearing on the application granted. Such protest shall be signed by the protestant and subscribed to under oath. Such protest must be filed with the Commission within 30 days after release of the document containing the full text of such action, or in case such a document is not released, after release of a "Public Notice" announcing the action in question and must separately set forth:

(1) Such allegations of fact as will show the protestant to be a party in interest, i.e., a person aggrieved or whose interests are adversely affected by the Commission's authorization, protest of which is sought. Each such allegation of fact shall be separately stated.

(2) Facts indicating the reasons why the grant was improperly made or would otherwise not be in the public interest. Each such reason shall be separately stated, and facts in support thereof shall be specified in detail and shall not include general non-specific conclusory arguments and allegations.

(3) The specific issues upon which protestant wishes a hearing to be held, which issues must relate directly to a matter specified with particularity as part of subparagraph (2) of this paragraph.

(c) Arguments and citations of authority may be set forth in a brief accompanying the protest but must be excluded from the protest itself.

(d) Oppositions to protest and briefs in support thereof shall contain all material, including that pertinent to the determination referred to in paragraph (i) of this section, deemed appropriate to the Commission's resolution of the protest. Such oppositions and supporting briefs must be filed within 10 days after the filing of such protest, and any replies to such oppositions must be filed within 5 days after the filing of the oppositions.

(e) Protests, oppositions, and replies shall be filed with the Commission in original and 14 copies and shall be accompanied by proof of service upon the grantee or the protestant, as the case may be, and/or their respective attorneys.

(f) The Commission may upon consideration of a protest direct either the protestant or grantee or both to submit further statements of fact under oath relating to the matters raised in the protest.

(g) Within 30 days from the date of the filing of the protest, the Commission will enter findings as to whether such protest meets the requirements set forth in paragraphs (b) (1) and (2) of this section. If the Commission finds that one of these requirements is not met, it will dismiss the protest. If the Commission finds that these requirements are met, it will designate the application in question for hearing. As to issues which the Commission believes present no grounds for setting aside the grant, even if the facts alleged were to be proven, the Commission may designate such issues for oral argument only. The other issues will be designated for evidentiary hearing except that the Commission may redraft the issues in accordance with the facts or substantive matters alleged in the protest and may also specify such additional issues as it deems desirable. In any evidentiary hearing subsequently held upon issues specified by the Commission, upon its



own initiative or adopted by it, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the grantee. With respect to issues resulting from facts set forth in the protest and not adopted or specified by the Commission on its own motion, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the protestant.

(h) The procedure in such protest hearing shall be governed by the provisions of Subpart B of this part, except as otherwise provided in this section.

(i) Pending hearing and decision, the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service or unless the Commission affirmatively finds that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

(Sec. 7, 66 Stat. 715, as amended. See, in particular, sec. 4 (a) and (d), 74 Stat. 889, 892; 47 U.S.C. 309)

**SUBPART B—HEARING PROCEEDINGS**

**GENERAL**

**§ 1.201 Scope.**

This subpart shall be applicable to the following cases which have been designated for hearing:

- (a) Adjudication (as defined by the Administrative Procedure Act); and
- (b) Rule making proceedings which are required by law to be made on the record after opportunity for a Commission hearing.

NOTE: For special provisions relating to consideration of standard broadcast applications in the light of the 1950 NARBA and the U.S./Mexican Agreement, see § 1.570.

**§ 1.202 Official reporter; transcript.**

The Commission will designate from time to time an official reporter for the recording and transcribing of hearing proceedings. No transcript of the testimony taken, or argument had, at any hearing will be furnished by the Commission, but will be open to inspection under § 0.417 of this chapter. Copies of such transcript, if desired, may be obtained from the official reporter upon payment of the charges therefor.

(Sec. 7(d), 60 Stat. 241; 5 U.S.C. 1006(d))

**§ 1.203 The record.**

The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Where any decision rests on official notice of a material

fact not appearing in the record, any party shall on timely request be afforded an opportunity to show the contrary.

(Sec. 7(d), 60 Stat. 241; 5 U.S.C. 1006(d))

**§ 1.204 Pleadings; definition.**

As used in this subpart, the term "pleading" means any written notice, motion, petition, request, opposition, reply, brief, proposed findings, exceptions, memorandum of law, or other paper filed with the Commission in a hearing proceeding. It does not include exhibits or documents offered in evidence. See § 1.356.

ⓘ § 1.204 as revised eff. 7-6-64; I(63)-2Ⓜ

**§ 1.205 Continuances and extensions.**

Continuances of any proceeding or hearing and extensions of time for making any filing or performing any act required or allowed to be done within a specified time may be granted by the Commission or the presiding officer upon motion for good cause shown, unless the time for performance or filing is limited by statute.

**§ 1.207 Interlocutory matters, reconsideration and review; cross references.**

(a) Rules governing interlocutory pleadings in hearing proceedings are set forth in §§ 1.291-1.298.

(b) Rules governing appeal from, and reconsideration of, interlocutory rulings made by the presiding officer are set forth as §§ 1.301 and 1.303.

(c) Rules governing the reconsideration and review of actions taken pursuant to delegated authority, and the reconsideration of actions taken by the Commission, are set forth in §§ 1.101-1.120.

ⓘ § 1.207 (a) as amended eff. 6-15-64; I(63)-2Ⓜ

**§ 1.209 Identification of responsible officer in caption to pleading.**

Each pleading filed in a hearing proceeding shall indicate in its caption whether it is to be acted upon by the Commission, the Review Board, the Chief Hearing Examiner, or the presiding officer. If it is to be acted upon by the presiding officer, he shall be identified by name.

ⓘ § 1.209 as adopted eff. 7-6-64; I(63)-2Ⓜ

**§ 1.211 Service.**

Except as otherwise expressly provided in this chapter, all pleadings filed in a hearing proceeding shall be served upon all other counsel in the proceeding or, if a party is not represented by counsel, then upon such party. All such papers shall be accompanied by proof of service. For provisions governing the manner of service, see § 1.47.

ⓘ § 1.211 as adopted eff. 7-6-64; I(63)-2Ⓜ

## PRELIMINARY PROCEDURES

## § 1.221 Notice of hearing; appearances.

(a) Upon designation of an application for hearing, the Commission issues an order containing the following:

(1) A statement as to the reasons for the Commission's action.

(2) A statement as to the matters of fact and law involved, and the issues upon which the application will be heard.

(3) A statement as to the time, place, and nature of the hearing. (If the time and place are not specified, the order will indicate that the time and place will be specified at a later date.)

(4) A statement as to the legal authority and jurisdiction under which the hearing is to be held.

(b) The order designating an application for hearing is mailed to the applicant by the Secretary of the Commission and is published in the Federal Register. Reasonable notice of hearing will be given to the parties in all proceedings; and, whenever possible, the Commission will give at least 60 days notice of comparative hearings.

(c) In order to avail himself of the opportunity to be heard, the applicant, in person or by his attorney, shall, within 20 days of the mailing of the notice of designation for hearing by the Secretary, file with the Commission, in triplicate, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the issues specified in the order. Where an applicant fails to file such a written appearance within the time specified, or has not filed prior to the expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the application will be dismissed with prejudice for failure to prosecute.

(d) The Commission will on its own motion name as parties to the hearing any person found to be a party in interest.

(e) In order to avail himself of the opportunity to be heard, any person named as a party pursuant to paragraph (d) of this section shall, within 20 days of the mailing of the notice of his designation as a party, file with the Commission, in person or by attorney, a written appearance in triplicate, stating that he will appear at the hearing. Any person so named who fails to file this written statement within the time specified, shall, unless good cause for such failure is shown, forfeit his hearing rights.

(Sec. 5(a), 60 Stat. 239; 5 U.S.C. 1004(n). Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

## § 1.223 Petitions to intervene.

(a) Where, in cases involving applications for construction permits and station licenses, or modifications or renewals thereof, the Commission has failed to

notify and name as a party to the hearing any person who qualifies as a party in interest, such person may acquire the status of a party by filing, under oath and not more than 30 days after the publication in the Federal Register of the hearing issues or any substantial amendment thereto, a petition for intervention showing the basis of its interest. Where such person's interest is based upon a claim that a grant of the application would cause objectionable interference under applicable provisions of this chapter to such person as a licensee or permittee of an existing or authorized station, the petition to intervene must be accompanied by an affidavit of a qualified radio engineer which shall show, either by following the procedures prescribed in this chapter for determining interference in the absence of measurements or by actual measurements made in accordance with the methods prescribed in this chapter, the extent of such interference. Where the person's status as a party in interest is established, the petition to intervene will be granted.

(b) Any other person desiring to participate as a party in any hearing may file a petition for leave to intervene not later than 30 days after the publication in the Federal Register of the hearing issues or any substantial amendment thereto. The petition must set forth the interest of petitioner in the proceedings, must show how such petitioner's participation will assist the Commission in the determination of the issues in question, and must be accompanied by the affidavit of a person with knowledge as to the facts set forth in the petition. The presiding officer, in his discretion, may grant or deny such petition or may permit intervention by such persons limited to particular issues or to a particular stage of the proceeding.

(c) The granting of any petition to intervene shall not have the effect of changing or enlarging the issues specified in the Commission's notice of hearing unless the Commission shall on motion amend the same.

(d) Any person desiring to file a petition for leave to intervene later than 30 days after the publication in the Federal Register of the hearing issues or any substantial amendment thereto shall set forth the interest of petitioner in the proceedings, show how such petitioner's participation will assist the Commission in the determination of the issues in question, and set forth reasons why it was not possible to file a petition within the time prescribed by paragraphs (a) and (b) of this section. Such petition shall be accompanied by the affidavit of a person with knowledge of the facts set forth in the petition, and where petitioner claims that a grant of the application would cause objectionable interference under applicable provisions of this chapter, the petition for leave to intervene must be accompanied by the affidavit of a qualified radio engineer showing the extent of such alleged interference according to the methods prescribed in paragraph (a) of this section. If, in the opinion of the presiding officer, good cause is shown for the delay in filing, he may

in his discretion grant such petition or may permit intervention limited to particular issues or to a particular stage of the proceeding.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

¶§ 1.223 (a), (b), and (d) as amended eff. 6-18-64; 1(63)-2¶

#### § 1.225 Participation by non-parties; consideration of communications.

(a) Any person who wishes to appear and give evidence on any matter, and who so advises the Secretary, will be notified by the Secretary if that matter is designated for hearing. In the case of requests bearing more than one signature, notice of hearing will be given to the person first signing unless the request indicates that such notice should be sent to someone other than such person.

(b) No person shall be precluded from giving any relevant, material, and competent testimony at a hearing because he lacks a sufficient interest to justify his intervention as a party in the matter.

(c) When a hearing is held, no communication will be considered in determining the merits of any matter unless it has been received in evidence. The admissibility of any communication shall be governed by the applicable rules of evidence, and no communication shall be admissible on the basis of a stipulation unless Commission counsel as well as counsel for all of the parties shall join in such stipulation.

#### § 1.227 Consolidations.

(a) The Commission, upon motion or upon its own motion, will, where such action will best conduce to the proper dispatch of business and to the ends of justice, consolidate for hearing:

(1) Any cases which involve the same applicant or involve substantially the same issues, or

(2) Any applications which present conflicting claims.

(b)(1) In broadcast cases, no application will be consolidated for hearing with a previously filed application or applications unless such application, or such application as amended if amended so as to require a new file number, is substantially complete and tendered for filing by whichever date is earlier: (i) The close of business on the day preceding the day the previously filed application or one of the previously filed applications is designated for hearing; or (ii) the close of business on the day preceding the day designated by public notice published in the Federal Register as the day any one of the previously filed applications is available and ready for processing.

NOTE: Subdivision (ii) of this subparagraph applies only to standard broadcast applications for new stations or for major changes in the facilities of authorized stations. See also § 1.571 (c) and (h) and § 1.591(a).

(2) In non-broadcast cases other than common carrier cases, any application that is mutually exclu-

sive with another application or applications already designated for hearing will be consolidated for hearing with such other application or applications only if the later application in question has been filed within 5 days after public notice has been given in the Federal Register of the Commission's order which first designated for hearing the prior application or applications with which such application is in conflict.

(3) In common carrier cases, any application that is mutually exclusive with another previously filed application will be considered with such prior filed application only if the later filed application is substantially complete and tendered for filing prior to the close of business on the day preceding the day the earlier filed application is designated for hearing.

(4) Any mutually exclusive application filed after the date prescribed in subparagraphs (1), (2), or (3) of this paragraph will be dismissed without prejudice and will be eligible for refiling only after a final decision is rendered by the Commission with respect to the prior application or applications or after such application or applications are dismissed or removed from the hearing docket.

#### § 1.229 Motions to enlarge, change, or delete issues.

(a) A motion to enlarge, change or delete the issues may be filed by any party to a hearing.

(b) Such motions must be filed with the Commission not later than 15 days after the issues in the hearing have first been published in the Federal Register. Any person desiring to file a motion to enlarge, change, or delete the issues after the expiration of such 15 days must set forth the reason why it was not possible to file the petition within the prescribed 15 days. Unless good cause is shown for delay in filing, the motion will not be granted.

(c) Such motions, oppositions thereto, and replies to oppositions shall contain specific allegations of fact sufficient to support the action requested. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavits of a person or persons having personal knowledge thereof.

#### PRESIDING OFFICER

AUTHORITY: §§ 1.241, 1.243, and 1.245 issued under sec. 7, 60 Stat. 241; 5 U.S.C. 1006.

#### § 1.241 Designation of presiding officer.

(a) Hearings will be conducted by the Commission, by one or more commissioners, or by an examiner designated pursuant to section 11 of the Administrative Procedure Act. If a presiding officer becomes unavailable to the Commission prior to the taking of testimony, another presiding officer will be designated.

(b) Unless the Commission determines that due and timely execution of its functions requires otherwise, presiding officers shall be designated, and notice there-

of released to the public, at least 10 days prior to the date set for hearing.

#### § 1.243 Authority of presiding officer.

From the time he is designated to preside until issuance of his decision or the transfer of the proceeding to the Commission or to another presiding officer, the presiding officer shall have such authority as is vested in him by law and by the provisions of this chapter, including authority to:

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas;
- (c) Examine witnesses;
- (d) Rule upon questions of evidence;
- (e) Take or cause depositions to be taken;
- (f) Regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
- (g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law upon which he is required to rule during the course of the hearing;
- (h) Hold conferences for the settlement or simplification of the issues by consent of the parties;
- (i) Dispose of procedural requests or similar matters, as provided for in § 0.341 of this chapter;
- (j) Take actions and make decisions or recommend decisions in conformity with the Administrative Procedure Act.

#### § 1.245 Disqualification of presiding officer.

(a) In the event that a presiding officer deems himself disqualified and desires to withdraw from the case, he shall notify the Commission of his withdrawal at least 7 days prior to the date set for hearing.

(b) Any party may request the presiding officer to withdraw on the grounds of personal bias or other disqualification.

(1) The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. Such affidavit shall be filed not later than 5 days before the commencement of the hearing unless, for good cause shown, additional time is necessary.

(2) The presiding officer may file a response to the affidavit; and if he believes himself not disqualified, shall so rule and proceed with the hearing.

(3) The person seeking disqualification may except to a ruling of non-disqualification and, in that event, shall do so at the time the ruling is made. Unless exception is taken to the ruling at this time, the right to request withdrawal of the presiding officer shall be deemed waived.

(4) If exception to the ruling is taken, the presiding officer shall certify the question, together with the affidavit and any response filed in connection therewith, to the Commission. The hearing shall be suspended pending a ruling on the question by the Commission.

(5) The Commission may rule on the question without hearing, or it may require testimony or argument on the issues raised.

(6) The affidavit, response, testimony or argument thereon, and the Commission's decision shall be part of the record in the case.

#### PROCEEDINGS BEFORE THE PRESIDING OFFICER

#### § 1.251 Prehearing conferences; hearing conferences.

(a) The Commission, on its own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to a hearing, or to submit suggestions in writing, for the purpose of considering, among other things, the matters set forth in paragraph (c) of this section.

(b) The presiding officer (or the Commission or a panel of commissioners in a case over which it presides), on his own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to or during the course of a hearing, or to submit suggestions in writing, for the purpose of considering any of the matters set forth in paragraph (c) of this section.

(c) In conferences held, or in suggestions submitted, pursuant to paragraphs (a) and (b) of this section, the following matters, among others, may be considered:

- (1) The necessity or desirability of simplification, clarification, amplification, or limitation of the issues;
- (2) The possibility of stipulating with respect to facts;
- (3) The procedure at the hearing;
- (4) The limitation of the number of witnesses;
- (5) In cases arising under Title II of the Communications Act, the necessity or desirability of amending the pleadings and offers of settlement or proposals of adjustment; and
- (6) In cases involving comparative broadcast applications:
  - (i) Narrowing the issues or the areas of inquiry and proof at the hearing;
  - (ii) Admissions of fact and of documents which will avoid unnecessary proof;
  - (iii) Reports and letters relating to surveys or contacts;
  - (iv) Assumptions regarding the availability of equipment;
  - (v) Network programming;
  - (vi) Assumptions regarding the availability of networks proposed;
  - (vii) Offers of letters in general;
  - (viii) The method of handling evidence relating to the past cooperation of existing stations owned and/or operated by the applicants with organizations in the area;
  - (ix) Proof of contracts, agreements, or understandings reduced to writing;
  - (x) Stipulations;



- (xi) Need for depositions;
- (xii) The numbering of exhibits;
- (xiii) The order or offer of proof with relationship to docket number;
- (xiv) The date for the formal hearing; and
- (xv) Such other matters as may expedite the conduct of the hearing.

(d) At the prehearing conferences prescribed by this section, the parties in any broadcast proceeding shall be prepared to discuss the advisability of reducing any or all phases of their affirmative direct cases to written form. Where it appears that it will contribute significantly to the disposition of the proceeding for the parties to submit any portion of their cases in writing, it is the policy of the Commission to encourage them to do so. However, the phase or phases of the proceeding to be submitted in writing, the dates for the exchange of the written material, and other procedural limitations upon the effect of adopting the written case procedure (such as, whether material ruled out as incompetent may be restored by competent oral testimony) is to be left to agreement of the parties as approved by the presiding officer.

(e) An official transcript of all conferences shall be made.

#### § 1.253 Time and place of hearing.

(a) The Commission will specify the day on which and the place at which any hearing is to commence.

(b) The presiding officer will specify the days on which subsequent hearing sessions are to be held.

(c) If the Commission specifies that a hearing is to commence in the District of Columbia, it shall be moved therefrom only by order of the Commission.

(d) If the Commission specifies that a hearing is to commence at a field location, all appropriate proceedings will be completed at such location before the hearing is moved therefrom. When such proceedings are completed, the presiding officer may move the hearing from the field location specified to another appropriate field location or to the District of Columbia.

#### § 1.254 Nature of the hearing; burden of proof.

Any hearing upon an application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues, shall be upon the applicant except as otherwise provided in the order of designation.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

#### § 1.255 Order of procedure.

(a) At hearings on a formal complaint or petition or in a proceeding for any instrument of authorization which the Commission is empowered to issue, the complainant, petitioner, or applicant, as the case may be, shall, unless the Commission otherwise orders, open and close. At hearings on protests, the protestant opens and closes the proceedings in case the issues

are not specifically adopted by the Commission; otherwise the grantee does so. At hearings on orders to show cause, to cease and desist, to revoke or modify a station license under sections 312 and 316 of the Communications Act, or other like proceedings instituted by the Commission, the Commission shall open and close.

(b) At all hearings under Title II of the Communications Act, other than hearings on formal complaints, petitions, or applications, the respondent shall open and close unless otherwise specified by the Commission.

(c) In all other cases, the Commission or presiding officer shall designate the order of presentation. Intervenor shall follow the party in whose behalf intervention is made, and in all cases where the intervention is not in support of an original party, the Commission or presiding officer shall designate at what stage such intervenors shall be heard.

(d) Immediately upon convening the formal hearing in any proceeding, the presiding officer shall enter upon the record a statement reciting all actions taken at the prehearing conferences, and incorporating into the record all of the stipulations and agreements of the parties which are approved by him, and any special rules which he may deem necessary to govern the course of the proceeding.

#### § 1.258 Closing of the hearing.

The record of hearing shall be closed by an announcement to that effect at the hearing by the presiding officer when the taking of testimony has been concluded. In the discretion of the presiding officer, the record may be closed as of a future specified date in order to permit the admission into the record of exhibits to be prepared: *Provided*, The parties to the proceeding stipulate on the record that they waive the opportunity to cross-examine or present evidence with respect to such exhibits. The record in any hearing which has been adjourned may not be closed by such officer prior to the day on which the hearing is to resume, except upon 10 days' notice to all parties to the proceeding.

#### § 1.260 Certification of transcript.

After the close of the hearing, the complete transcript of testimony, together with all exhibits, shall be certified as to identity by the presiding officer and filed in the office of the Secretary of the Commission. Notice of such certification shall be served on all parties to the proceedings.

#### § 1.261 Corrections to transcript.

Within 10 days after the date of notice of certification of the transcript, any party to the proceeding may file with the presiding officer a motion requesting the correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties to the proceedings. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion.

Thereafter, the presiding officer shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties and made a part of the record. The presiding officer, on his own initiative, may specify corrections to be made in the transcript on 5 days' notice.

#### § 1.263 Proposed findings and conclusions.

(a) Each party to the proceeding may file proposed findings of fact and conclusions, briefs, or memoranda of law: *Provided, however*, That the presiding officer may direct any party other than Commission counsel to file proposed findings of fact and conclusions, briefs, or memoranda of law. Such proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within 20 days after the record is closed, unless additional time is allowed.

(b) All pleadings and other papers filed pursuant to this section shall be accompanied by proof of service thereof upon all other counsel in the proceeding; if a party is not represented by counsel, proof of service upon such party shall be made.

(c) In the absence of a showing of good cause therefor, the failure to file proposed findings of fact, conclusions, briefs, or memoranda of law, when directed to do so, may be deemed a waiver of the right to participate further in the proceeding.

(Sec. 8(b), 60 Stat. 242; 5 U.S.C. 1007(b))

#### § 1.264 Contents of findings of fact and conclusions.

Proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out in detail and with particularity all basic evidentiary facts developed on the record (with appropriate citations to the transcript of record or exhibit relied on for each evidentiary fact) supporting the conclusions proposed by the party filing same. Proposed conclusions shall be separately stated. Proposed findings of fact and conclusions submitted by a person other than an applicant may be limited to those issues in connection with the hearing which affect the interests of such person.

(Sec. 8(b), 60 Stat. 242; 5 U.S.C. 1007(b))

#### § 1.267 Initial and recommended decisions.

(a) Except as provided in § 1.274, the presiding officer shall prepare an initial (or recommended) decision which shall be transmitted to the Secretary of the Commission who shall make it public immediately and file it in the docket of the case.

(b) Each initial and recommended decision shall contain findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; each initial decision shall also contain the appropriate rule or order, and the sanction, relief, or denial thereof; and each recommended decision shall contain recommendations as to what disposition of the case should be made by the Commission. Each initial decision will show the date upon which it will become effective in accordance with the rules in this part in the absence of exceptions, appeal, or review.

(c) The authority of the presiding officer over the proceedings shall cease when he has filed his initial or recommended decision, or, if it is a case in which he is to file no decision, when he has certified the case to the Commission for decision after specifying corrections to the transcript in accordance with § 1.261.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409. Sec. 8, 60 Stat. 242; 5 U.S.C. 1007)

#### REVIEW PROCEEDINGS

#### § 1.271 Delegation of review function.

The Commission may direct, by order or rule, that its review function in a case or category of cases be performed by a commissioner, a panel of commissioners, or by the Review Board, in which event the commissioner, panel, or board shall exercise the authority and perform the functions which would otherwise have been performed by the Commission under §§ 1.273-1.282.

NOTE: Parties to any proceeding designated for hearing prior to August 31, 1961, are entitled to file exceptions to initial decisions with the Commission and to oral argument before the Commission en banc.

(Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155)

#### § 1.273 Waiver of initial or recommended decision.

At the conclusion of the hearing or within 20 days thereafter, all parties to the proceeding may agree to waive an initial or recommended decision, and may request that the Commission issue a final decision or order in the case. If the Commission has directed that its review function in the case be performed by a commissioner, a panel of commissioners, or by the Review Board, the request shall be directed to the appropriate review authority. The Commission or such review authority may in its discretion grant the request, in whole or in part, if such action will best conduce to the proper dispatch of business and to the ends of justice.

#### § 1.274 Certification of the record to the Commission for initial or final decision.

(a) Where the presiding officer is available to the Commission, and where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision. Unless the Commission finds that due and timely execution of its functions imperatively and unavoidably requires that no recommended decision be issued, the presiding officer will prepare and file a recommended decision, which will be released with the Commission's initial or final decision.

(b) Where the presiding officer becomes unavailable to the Commission after the taking of testimony has been concluded, the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision. In that event, the record shall be certified to the Commission by the Chief Hearing Examiner.

(c) (1) Where the presiding officer becomes unavailable to the Commission after the taking of evidence has commenced but before it has been concluded, the Commission may order a rehearing before another presiding officer designated in accordance with § 1.241.

(2) Upon a finding that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may (as an alternative) order that the hearing be continued by another presiding officer designated in accordance with § 1.241 or by the Commission itself. In that event, the officer continuing the hearing shall, upon completion of the hearing, certify the proceeding to the Commission for an initial or final decision. Unless the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably requires that no recommended decision be issued, the officer continuing the hearing shall prepare and file a recommended decision to be released with the Commission's initial or final decision. If all the parties expressly consent, and if the Commission does not order otherwise, the officer continuing the hearing may prepare an initial decision. (Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409)

#### § 1.276 Appeal and review of initial decision.

(a) Within 30 days after the date on which public release of the full text of an initial decision is made, or such other time as the Commission may specify, any of the parties may appeal to the Commission by filing exceptions to the initial decision; and such decision shall not become effective and shall then be reviewed by the Commission, whether or not such exceptions may thereafter be withdrawn. The time for filing such exceptions may be extended for good cause shown.

(b) The Commission may on its own initiative provide, by order adopted not later than 20 days after the time for filing exceptions expires, that an initial decision shall not become final, and that it shall be further reviewed or considered by the Commission.

(c) In any case in which an initial decision is subject to review in accordance with paragraph (a) or (b) of this section, the Commission may, on its own initiative or upon appropriate requests by a party, take any one or more of the following actions:

- (1) Hear oral argument on the exceptions;
- (2) Require the filing of briefs;
- (3) Prior to or after oral argument or the filing of exceptions or briefs, reopen the record and/or remand the proceedings to the presiding officer to take further testimony or evidence;
- (4) Prior to or after oral argument or the filing of exceptions or briefs, remand the proceedings to the presiding officer to make further findings or conclusions; and

(5) Prior to or after oral argument or the filing of exceptions or briefs, issue, or cause to be issued by the presiding officer, a supplemental initial decision.

(d) No initial decision shall become effective before 50 days after public release of the full text thereof is made unless otherwise ordered by the Commission.

The timely filing of exceptions, the further review or consideration of an initial decision on the Commission's initiative, or the taking of action by the Commission under paragraph (c) of this section shall stay the effectiveness of the initial decision until the Commission's review thereof has been completed. If the effective date of an initial decision falls within any further time allowed for the filing of exceptions, it shall be postponed automatically until 30 days after time for filing exceptions has expired.

(e) If no exceptions are filed, and the Commission has not ordered the review of an initial decision on its initiative, or has not taken action under paragraph (c) of this section, the initial decision shall become effective, an appropriate notation to that effect shall be entered in the docket of the case, and a "Public Notice" thereof shall be given by the Commission. The provisions of § 1.108 shall not apply to such public notices.

(f) When any party fails to file exceptions within the specified time to an initial decision which proposes to deny its application, such party shall be deemed to have no interest in further prosecution of its application, and its application may be dismissed with prejudice for failure to prosecute.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409)

#### § 1.277 Exceptions; oral arguments.

(a) Each exception to an initial decision or to any part of the record or proceeding in any case, including rulings upon motions or objections, shall point out with particularity alleged errors in the decision or ruling and shall contain specific references to the page or pages of the transcript of hearing, exhibit, or order if any on which the exception is based. Any objection not saved by exception filed pursuant to this section is waived. The exceptions should be concise and they will not be accepted if they contain argumentative matters or discussions of law. Lengthy excerpts of testimony, when desired, shall not be contained in the exceptions but shall be set forth in an appendix.

(b) Within the period of time allowed in § 1.276(a) for the filing of exceptions, any party may file a statement in support of an initial decision in whole or in part, which shall be similar in form to a statement of exceptions.

(c) Exceptions or supporting statements may be accompanied by a separate brief or memorandum of law in support thereof. Except by special permission, such brief or memorandum of law will not be accepted if it exceeds 50 double spaced typewritten pages in length. Within 10 days, or such other time as the Commission may specify, after the time for filing exceptions has expired, any other party may file a reply brief to which the same limitation in length applies. If exceptions have been filed, any party may request oral argument not later than five days after the time for filing replies to the exceptions has expired. The Commission in its discretion will, by order, grant or deny the request for oral argument. Within five days after release of the Commission's order

designating an initial decision for oral argument, as provided in paragraph (d) of this section any party who wishes to participate in oral argument shall file written notice of intention to appear and participate in oral argument; and failure to file written notice shall constitute a waiver of the opportunity to participate.

(d) Each order scheduling a case for oral argument will contain the allotment of time for each party for oral argument before the Commission. The Commission will grant, in its discretion, upon good cause shown, an extension of such time upon petition by a party, which petition must be filed within 5 days after issuance of said order for oral argument.

(e) Within 10 days after a transcript of oral argument has been filed in the office of the Secretary of the Commission, any party who participated in the oral argument may file with the Commission a motion requesting correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties who participated in the oral argument. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion. Thereafter, the officer who presided at the oral argument shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties to the proceeding. The officer who presided at the oral argument may, on his own initiative, by order, specify corrections to be made in the transcript on 5 days notice of the proposed corrections to all parties who participated in the oral argument.

(f) Any commissioner or member of the Review Board who is not present at oral argument and who is otherwise authorized to participate in a final decision may participate in making that decision after reading the transcript of oral argument.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409)

#### § 1.279 Limitation of matters to be reviewed.

Upon review of any initial decision, the Commission may, in its discretion, limit the issues to be reviewed to those findings and conclusions to which exceptions have been filed, or to those findings and conclusions specified in the Commission's order of review issued pursuant to § 1.276(b).

#### § 1.282 Final decision of the Commission.

(a) After opportunity has been afforded for the filing of proposed findings of fact and conclusions, exceptions, supporting statements, briefs, and for the holding of oral argument as provided in this subpart, the Commission will issue a final decision in each case in which an initial decision has not become final.

(b) The final decision shall contain:

(1) Findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record;

(2) Ruling on each relevant and material exception filed; and

(3) The appropriate rule or order and the sanction, relief or denial thereof.

(Sec. 8(b), 60 Stat. 2422; 5 U.S.C. 1007(b))

#### INTERLOCUTORY ACTIONS IN HEARING PROCEEDINGS

##### § 1.291 General provisions.

(a) (1) The Commission acts on petitions to amend, modify, enlarge or delete the issues in hearing proceedings which involve rule making matters exclusively. It also acts on interlocutory pleadings filed in matters or proceedings which are before the Commission.

(2) The Review Board acts on petitions to amend, modify, enlarge, or delete the issues in cases of adjudication (including mixed adjudicative and rule making proceedings) and upon joint requests for approval of agreements filed pursuant to § 1.525. It also acts on interlocutory pleadings filed in matters on proceedings which are before the Board.

(3) The Chief Hearing Examiner acts on those interlocutory matters listed in § 0.351 of this chapter.

(4) All other interlocutory matters in hearing proceedings are acted on by the presiding officer. See §§ 0.218 and 0.341 of this chapter.

(5) Each interlocutory pleading shall indicate in its caption whether the pleading is to be acted upon by the Commission, the Review Board, the Chief Hearing Examiner, or the presiding officer. If the pleading is to be acted upon by the presiding officer, he shall be identified by name.

(b) All interlocutory pleadings shall be submitted in accordance with the provisions of §§ 1.4, 1.44, 1.47, 1.48, 1.49, and 1.52.

(c) (1) Procedural rules governing interlocutory pleadings are set forth in §§ 1.292-1.298.

(2) Rules governing appeal from, and reconsideration of, interlocutory rulings made by the presiding officer are set forth in §§ 1.301 and 1.303.

(3) Rules governing the review of interlocutory rulings made by the Review Board or the Chief Hearing Examiner are set forth in §§ 1.101, 1.102(b), 1.115, and 1.117. Petitions requesting reconsideration of an interlocutory ruling made by the Commission, the Review Board, or the Chief Hearing Examiner will not be entertained. See, however, § 1.113.

(d) No initial decision shall become effective under § 1.276(e) until all interlocutory matters pending before the Review Board or the Commission in the proceeding at the time the initial decision is issued have been disposed of and the time allowed for appeal from interlocutory rulings of the presiding officer or the Review Board has expired.

ⓘ § 1.291, amended in I(63)-2, as further amended *re par.* (d) *eff* 9-11-64; I(63-3)Ⓜ

**§ 1.292 Number of copies.**

(a) An original and 14 copies of each interlocutory pleading to be acted upon by the Review Board, the Chief Hearing Examiner, or the presiding officer shall be filed.

(b) An original and 19 copies of each interlocutory pleading to be acted upon by the Commission shall be filed.

☐§ 1.292 as amended eff. 6-15-64; I(63)-2☐

**§ 1.294 Oppositions and replies.**

(a) Any party to a hearing may file an opposition to an interlocutory request filed in that proceeding.

(b) Except as provided in paragraph (c) of this section, oppositions shall be filed within 4 days after the original pleading is filed, and replies to oppositions will not be entertained. See, however, § 1.732.

(c) Oppositions to pleadings in the following categories shall be filed within 10 days after the pleading is filed. Replies to such oppositions shall be filed within 5 days after the opposition is filed, and shall be limited to matters raised in the opposition.

(1) Petitions to amend, modify, enlarge, or delete the issues upon which the hearing was ordered.

(2) Petitions to intervene.

(3) Petitions by adverse parties requesting dismissal of an application.

(4) Joint requests for approval of agreements filed pursuant to § 1.525.

(d) Additional pleadings may be filed only if specifically requested or authorized by the person(s) who is to make the ruling.

☐§ 1.294 as amended eff. 6-15-64; I(63)-2☐

**§ 1.296 Service.**

No pleading filed pursuant to § 1.292 or § 1.294 will be considered unless it is accompanied by proof of service upon the parties to the proceeding.

**§ 1.297 Oral argument.**

Oral argument with respect to any contested interlocutory matter will be held when, in the opinion of the person(s) who is to make the ruling, the ends of justice will be best served thereby. Timely notice will be given of the date, time, and place of any such oral argument.

☐§ 1.297 as amended eff. 6-15-64; I(63)-2☐

**§ 1.298 Rulings; time for action.**

(a) Unless it is found that irreparable injury would thereby be caused one of the parties, or that the public interest requires otherwise, or unless all parties have consented to the contrary, consideration of interlocutory requests will be withheld until the time for filing oppositions (and replies, if replies are allowed) has

expired. As a matter of discretion, however, requests for continuances and extensions of time, requests for permission to file pleadings in excess of the length prescribed in this chapter, and requests for temporary relief may be ruled upon ex parte without waiting for the filing of responsive pleadings.

(b) Interlocutory matters will be disposed of by written order, which will be released promptly. The order upon contested matters shall contain a statement of the reasons for the ruling therein, unless such order is self-explanatory or is merely an affirmation of a prior denial in which reasons have been given.

(c) Matters raised orally on the record of a hearing proceeding may, however, be disposed of orally by the presiding officer.

☐§ 1.298(a) & (b) as amended eff. 6-15-64; I(63)-2☐

APPEAL AND RECONSIDERATION OF PRESIDING OFFICER'S RULING

**§ 1.301 Appeal from the presiding officer's adverse ruling; effective date.**

(a) Any party to a hearing proceeding may file an appeal from an adverse ruling of the presiding officer. If a commissioner or panel of commissioners is presiding, the appeal will be acted upon by the Commission. The Commission also acts on appeals from the rulings of a hearing examiner in proceedings which involve rule making matters exclusively. In all other proceedings in which a hearing examiner is presiding, appeals from his rulings will be acted upon by the Review Board.

☐§ 1.301(a) as amended eff. 6-15-64; I(63)-2☐

(b) The appeal shall be filed within five days after the order is released or the ruling is made. Oppositions to such appeals shall be filed within five days after the appeal is filed. Replies to oppositions shall be filed within five days after the opposition is filed and shall be limited to matters raised in the opposition. Appeals, oppositions, and replies shall be submitted to the Secretary, Federal Communications Commission, Washington, D.C., 20554, and shall be served upon parties to the proceeding. Appeals and oppositions shall not exceed 15 double spaced typewritten pages. Replies shall not exceed 10 double spaced typewritten pages.

(c) Appeals, oppositions, and replies shall conform to the requirements of §§ 1.49, 1.51, and 1.52.

(d) The failure to file an appeal shall not preclude parties adversely affected from filing exceptions to rulings of the presiding officer.

(e) Unless the presiding officer orders otherwise, interlocutory rulings made by him shall be effective when the order is released or the ruling is made. If

an appeal is filed, the Review Board or the Commission, as the case may be, may in its discretion stay the effect of the ruling until its review of the matters at issue has been completed.

NOTE: Unless the ruling complained of is fundamental and affects the conduct of the entire case, appeals should be deferred and raised as exceptions.

### § 1.303 Reconsideration of presiding officer's adverse ruling.

Any party may, after obtaining the oral consent of the presiding officer, file a petition requesting the presiding officer to reconsider an oral ruling or a written order. Such petitions will be considered in accordance with the provisions of §§ 1.292-1.298.

#### DEPOSITIONS

AUTHORITY: §§ 1.311-1.319 issued under sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409.

### § 1.311 When depositions may be taken.

At any time after a case has been designated for hearing, the testimony of any witness may be taken by deposition for purposes other than discovery.

### § 1.312 Notice to take depositions.

(a) A party to a hearing desiring to take the deposition of any person shall give reasonable notice in writing to every other party and to the person to be examined. An original and seven copies of the notice shall be filed with the Commission.

(b) The notice shall contain the following information:

(1) The name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The time and place for taking the deposition of each person to be examined, and the name and address of the person before whom the deposition is to be taken.

(3) The matters upon which each person will be examined.

(4) A statement of reasons supporting the need for eliciting testimony upon such matters by deposition rather than by direct testimony.

(5) A statement of reasons (where depositions on a single matter are to be taken from more than one person) for taking multiple depositions to establish the facts in question.

ⓘ § 1.312(b)(2) as amended *eff.* 1-6-64; I(63)-1

### § 1.313 Deposition orders.

(a) On his own motion or upon motion seasonably made by any party or by the person to be examined, the presiding officer may order:

- (1) That the deposition shall not be taken.
  - (2) That it may be taken only at some designated time or place other than that stated in the notice.
  - (3) That it may be taken only on written interrogatories.
  - (4) That certain matters shall not be inquired into.
  - (5) That the scope of the examination shall be limited to certain matters.
  - (6) That the examination shall be held under such circumstances as will effectuate the ends of justice.
  - (7) That, after being sealed, the deposition shall be opened only by order of the presiding officer.
- (b) Motions opposing the taking of depositions shall be served on all parties to the proceeding. No further pleadings may be filed unless specifically requested or authorized by the presiding officer. The presiding officer may in his discretion direct the parties or their attorneys to appear at a specified time and place for a conference to consider matters raised by the notice or the opposition.

(c) If a motion opposing the taking of depositions is not filed, and if no action is taken by the presiding officer on his own motion, within ten days after filing of the notice to take depositions, the depositions described in the notice may be taken.

(d) In acting on the notice to take depositions, the presiding officer may consider the following matters:

(1) The relevancy and materiality of the matters upon which each person will be examined, and the competency of such person to testify on such matters.

(2) Any measures which justice may require to protect a party or witness from annoyance, embarrassment, or oppression.

(3) The desirability of establishing the facts in question by direct testimony rather than by deposition.

(4) The necessity for taking multiple depositions to establish the facts in question.

(e) No inference concerning the admissibility of a deposition in evidence shall be drawn because of favorable action on the notice to take depositions.

(f) Nothing in this section or in § 1.312 shall be construed to prevent the taking of depositions which may be authorized by the presiding officer on the record during the course of either a prehearing conference or an evidentiary hearing.

### § 1.314 Persons before whom deposition may be taken.

Depositions shall be taken before any judge of any court of the United States; any United States Commissioner; any clerk of a district court; any chancellor, justice or judge of a supreme or superior court; the mayor or chief magistrate of a city; any judge of a county court, or court of common pleas of any of the United States; any notary public, not being of

counsel or attorney to any party, nor interested in the event of the proceeding; or presiding officers, as provided in § 1.243.

**§ 1.315 Oath; transcript of depositions.**

The officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed, unless the parties agree otherwise. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

**§ 1.316 Submission of deposition to witness; changes; signing.**

When the testimony is fully transcribed, the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing, or the witness is ill, cannot be found, or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver, the illness or absence of the witness, or of his refusal to sign, together with the reason (if any) given therefor; and the deposition may then be used as fully as though signed, unless upon a motion to suppress, the Commission holds that the reason given for the refusal to sign requires rejection of the deposition in whole or in part.

**§ 1.317 Certification of deposition and filing by officer; copies.**

The officer shall certify on the deposition that the witness was duly sworn by him, that the deposition is

a true record of the testimony given by the witness, and that said officer is not of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly send the original and two copies thereof, together with the original and two copies of all exhibits, by registered mail to the Secretary of the Commission.

**§ 1.318 Inclusion in the record.**

(a) No deposition shall constitute a part of the record in any proceeding until received in evidence at a hearing.

(b) The deposition of a person with a substantial interest in, or holding a position of responsibility with, a party to the proceeding will not be admitted in evidence unless it is shown that the witness is dead or seriously ill, that other exceptional circumstances exist, or that the testimony proffered is of such character that, in the interest of justice and with due regard to the importance of presenting the testimony of the witnesses orally, the deposition should be admitted.

**§ 1.319 Objections to depositions.**

(a) Except as provided in paragraphs (b), (c) and (d) of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(b) Objections to the competency of a witness, or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(c) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in





the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(d) Any objection made at the time of the examination to the qualifications of the officer taking a deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to such objection.

#### SUBPENAS

**AUTHORITY:** §§ 1.331-1.340 Issued under sec. 409, 48 Stat. 1096; 47 U.S.C. 409.

#### § 1.331 Who may sign and issue.

Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing, may be signed and issued as follows:

(a) Hearings before the Commission en banc, an individual commissioner, or a panel of commissioners: By any commissioner participating in the conduct of the hearing.

(b) Hearings before a hearing examiner: By the hearing examiner or in his absence, by the Chief Hearing Examiner.

#### § 1.333 Requests for issuance of subpoena.

(a) Unless submitted on the record while a hearing is in progress, requests for a subpoena ad testificandum shall be submitted in writing.

(b) Requests for a subpoena duces tecum shall be submitted in writing, duly subscribed and verified, and shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby.

(c) All requests for subpoenas shall be supported by a showing of the general relevance and materiality of the evidence sought.

(d) Requests for subpoenas shall be submitted in triplicate, but need not be served on the parties to the proceeding.

#### § 1.334 Motions to quash.

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena, setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope.

#### § 1.335 Rulings.

Prompt notice, including a brief statement of the reasons therefor, will be given of the denial, in whole or in part, of a request for subpoena or of a motion to quash.

#### § 1.336 Service of subpoenas.

(a) A subpoena may be served by a United States marshal or his deputy, by Commission personnel, or by any person who is not a party to the proceeding and is not less than 18 years of age.

(b) Service of a subpoena upon the person named therein shall be made by exhibiting the original subpoena to him, by reading the original subpoena to him if he is unable to read, by delivering the duplicate subpoena to him, and by tendering to him the fees for one day's attendance at the proceeding to which he is summoned and the mileage allowed by law. If the subpoena is issued on behalf of the United States or an officer or agency thereof, attendance fees and mileage need not be tendered.

#### § 1.337 Return of service.

(a) If service of the subpoena is made by a person other than a United States marshal or his deputy such person shall make affidavit thereof, stating the date, time, and manner of service.

(b) In case of failure to make service, the reasons for the failure shall be stated on the original subpoena by the person who attempted to make service.

(c) The original subpoena, bearing or accompanied by the required return affidavit or statement, shall be returned forthwith to the Secretary of the Commission or, if so directed on the subpoena, to the official before whom the person named in the subpoena is required to appear.

#### § 1.338 Subpoena forms.

(a) Subpoena forms, marked "Original", "Duplicate", and "Triplicate", and bearing the Commission's seal, may be obtained from the Commission's Dockets Division. These forms are to be completed and submitted with any request for issuance of a subpoena.

(b) If the request for issuance of a subpoena is granted, the "Original" and "Duplicate" copies of the subpoena are returned to the person who submitted the request. The "Triplicate" copy is retained for the Commission's files.

(c) The "Original" copy of the subpoena includes a form for proof of service. This form is to be executed by the person who effects service and returned by him to the Secretary of the Commission or, if so directed on the subpoena, to the official before whom the person named in the subpoena is required to appear.

(d) The "Duplicate" copy of the subpoena shall be served upon the person named therein and retained by him. This copy should be presented in support of any claim for witness fees or mileage allowances for testimony on behalf of the Commission.

#### § 1.339 Witness fees.

Witnesses who are subpoenaed and respond thereto are entitled to the same fees, including mileage, as are paid for like service in the courts of the United States. Fees shall be paid by the party at whose instance the testimony is taken.

**§ 1.340 Attendance of witness; disobedience.**

The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpoena, the Commission or any party to a proceeding before the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

## EVIDENCE

**§ 1.351 Rules of evidence.**

Except as otherwise provided in this subpart, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern formal hearings. Such rules may be relaxed if the ends of justice will be better served by so doing.

**§ 1.352 Cumulative evidence.**

The introduction of cumulative evidence shall be avoided, and the number of witnesses that may be heard in behalf of a party on any issue may be limited.

**§ 1.353 Further evidence during hearing.**

At any stage of a hearing, the presiding officer may call for further evidence upon any issue and may require such evidence to be submitted by any party to the proceeding.

**§ 1.354 Documents containing matter not material.**

If material and relevant matter offered in evidence is embraced in a document containing other matter not material or relevant, and not intended to be put in evidence, such document will not be received, but the party offering the same shall present to other counsel, and to the presiding officer, the original document, together with true copies of such material and relevant matter taken therefrom, as it is desired to introduce. Upon presentation of such matter, material and relevant, in proper form, it may be received in evidence, and become a part of the record. Other counsel will be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant.

**§ 1.355 Documents in foreign language.**

Every document, exhibit, or other paper written in a language other than English, which shall be filed in any proceeding, or in response to any order, shall be filed in the language in which it is written together with an English translation thereof duly verified under oath to be a true translation. Each copy of every such document, exhibit, or other paper filed shall be accompanied by a separate copy of the translation.

**§ 1.356 Copies of exhibits.**

No document or exhibit, or part thereof, shall be received as, or admitted in, evidence unless offered in duplicate. In addition, when exhibits of a docu-

mentary character are to be offered in evidence, copies shall be furnished to other counsel unless the presiding officer otherwise directs.

**§ 1.357 Mechanical reproductions as evidence.**

Unless offered for the sole purpose of attempting to prove or demonstrate sound effect, mechanical or physical reproductions of sound waves shall not be admitted in evidence. Any party desiring to offer any matter alleged to be contained therein or thereupon shall have such matter typewritten on paper of the size prescribed by § 1.49, and the same shall be identified and offered in duplicate in the same manner as other exhibits.

**§ 1.358 Tariffs as evidence.**

In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity (tariff and page number) in such manner as to be readily identified, and may be received in evidence by reference subject to check with the original tariff schedules on file.

**§ 1.359 Proof of official record; authentication of copy.**

An official record or entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by the judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent, or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

**§ 1.360 Proof of lack of record.**

The absence of an official record or entry of a specified tenor in an official record may be evidenced by a written statement signed by an officer, or by his deputy, who would have custody of the official record, if it existed, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as provided in § 1.359. Such statement and certificate are admissible as evidence that the records of his office contain no such record or entry.

**§ 1.361 Other proof of official record.**

Sections 1.359 and 1.360 do not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

**SUBPART C—RULE MAKING  
PROCEEDINGS**

**AUTHORITY:** §§ 1.401–1.427 issued under sec. 4, 60 Stat. 238; 5 U.S.C. 1003.

**PETITIONS AND RELATED PLEADINGS**

**§ 1.401 Petitions for rule making.**

(a) Any interested person may petition for the issuance, amendment or repeal of a rule or regulation.

(b) The petition for rule making shall conform to the requirements of §§ 1.49, 1.52, and 1.419(b), and should be submitted or addressed to the Secretary, Federal Communications Commission, Washington, D.C., 20554.

(c) The petition shall set forth the text or substance of the proposed rule, amendment, or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested, and shall indicate how the interests of petitioner will be affected.

**¶ § 1.401(b) as amended eff. 1-1-64; I(63)-1**

**§ 1.403 Notice and availability.**

All petitions for rule making meeting the requirements of § 1.401 will be given a file number, and promptly thereafter, a “Public Notice” will be given (by means of a Commission release entitled “Petitions for Rule Making Filed”) as to the petitioner, file number, nature of the proposal and date of filing. Petitions are available for public inspection at the

Commission’s Docket Reference Room in Washington, D.C.

**§ 1.405 Responses to petitions; replies.**

(a) Any interested person may file a statement in support of or in opposition to a petition for rule making prior to Commission action on the petition but not later than 30 days after “Public Notice”, as provided for in § 1.403, is given of the filing of such a petition. Such a statement shall be accompanied by proof of service upon the petitioner on or prior to the date of filing in conformity with § 1.47 and shall conform in other aspects with the requirements of §§ 1.49, 1.52, and 1.419(b).

(b) Any interested person may file a reply to statements in support of or in opposition to a petition for rule making prior to Commission action on the petition but not later than 15 days after the filing of such a statement. Such a reply shall be accompanied by proof of service upon the party or parties filing the statement or statements to which the reply is directed on or prior to the date of filing in conformity with § 1.47 and shall conform in other aspects with the requirements of §§ 1.49, 1.52, and 1.419(b).

(c) No additional pleadings may be filed unless specifically requested by the Commission or authorized by it.

**¶ § 1.405 (a) & (b) as amended eff. 1-1-64; I(63)-1**

**§ 1.407 Action on petitions.**

If the Commission determines that the petition discloses sufficient reasons in support of the action requested to justify the institution of a rule making proceeding, and notice and public procedure thereon are required or deemed desirable by the Commission an appropriate notice of proposed rule making will be issued. In those cases where notice and public procedure thereon are not required, the Commission may issue a final order amending the rules. In all other cases the petition for rule making will be denied and the petitioner will be notified of the Commission’s action with the grounds therefor.

## RULE MAKING PROCEEDINGS

## § 1.411 Commencement of rule making proceedings.

Rule making proceedings are commenced by the Commission, either on its own motion or on the basis of a petition for rule making. See §§ 1.401-1.407.

## § 1.412 Notice of proposed rule making.

(a) Except as provided in paragraphs (b) and (c) of this section, prior notice of proposed rule making will be given.

(1) Notice is ordinarily given by publication of a "Notice of Proposed Rule Making" in the Federal Register. The text of the Notice is in that event also released by the Commission, and is available to interested persons in the Office of Reports and Information.

(2) If all persons subject to the proposed rules are named, the proposal may (in lieu of publication) be personally served upon those persons.

(3) If all persons subject to the proposed rules are named and have actual notice of the proposal as a matter of law, further prior notice of proposed rule making is not required.

(b) Rule changes (including adoption, amendment, or repeal of a rule or rules) relating to the following matters will ordinarily be adopted without prior notice:

(1) Any military, naval, or foreign affairs function of the United States.

(2) Any matter, relating to Commission management or personnel or to public property, loans, grants, benefits, or contracts.

(3) Interpretative rules.

(4) General statements of policy.

(5) Rules of Commission organization, procedure, or practice.

(c) Rule changes may in addition be adopted without prior notice in any situation in which the Commission for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. The finding of good cause and a statement of the basis for that finding are in such situations published with the rule changes.

(d) In addition to the notice provisions of paragraph (a) of this section, the Commission, before prescribing any requirements as to accounts, records, or memoranda to be kept by carriers, will notify the appropriate State agencies having jurisdiction over any carrier involved of the proposed requirements.

## § 1.413 Content of notice.

A notice of the proposed issuance, amendment, or repeal of a rule will include the following:

(a) A statement of the time, nature and place of any public rule making proceeding to be held.

(b) Reference to the authority under which the issuance, amendment or repeal of a rule is proposed.

(c) Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(d) The docket number assigned to the proceeding.

(e) A statement of the time for filing comments and replies thereto.

## § 1.415 Comments and replies.

(a) After notice of proposed rule making is issued, the Commission will afford interested persons an opportunity to participate in the rule making proceeding through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner.

(b) A reasonable time will be provided for submission of comments in support of or in opposition to proposed rules, and the time provided will be specified in the notice of proposed rule making.

(c) A reasonable time will be provided for filing comments in reply to the original comments, and the time provided will be specified in the notice of proposed rule making.

(d) No additional comments may be filed unless specifically requested or authorized by the Commission.

## § 1.417 Statutory requirement for hearing.

When rules are required by law to be made on the record after opportunity for a Commission hearing, the

requirements of sections 7 and 8 of the Administrative Procedure Act and applicable provisions of Subparts A and B of this part will govern in place of §§ 1.415 and 1.419.

**§ 1.419 Form of comments and replies; number of copies.**

(a) Comments, replies, and other documents filed in a rule making proceeding shall conform to the requirements of § 1.49.

(b) An original and 14 copies of all comments, replies, pleadings, briefs, and other documents filed in a rule making proceeding shall be furnished the Commission.

(c) Any person desiring to file identical documents in more than one docketed rule making proceeding shall furnish the Commission two additional copies of any such document for each additional docket. This requirement does not apply if the proceedings have been consolidated.

**§ 1.421 Further notice of rule making.**

In any rule making proceeding where the Commission deems it warranted, a further notice of proposed rule making will be issued with opportunity for parties of record and other interested persons to submit comments in conformity with §§ 1.415 and 1.419.

**§ 1.423 Oral argument and other proceedings.**

In any rule making proceeding where the Commission determines that an oral argument, hearing or any other type of proceeding is warranted, notice of the time, place and nature of such proceeding will be published in the Federal Register and will be mailed to all parties to the proceeding.

**§ 1.425 Commission action.**

The Commission will consider all relevant comments and material of record before taking final action in a rule making proceeding and will issue a decision incorporating its finding and a brief statement of the reasons therefor.

**§ 1.427 Effective date of rules.**

(a) Any rule issued by the Commission will be made effective not less than 30 days from the time it is published in the Federal Register except as otherwise specified in paragraphs (b) and (c) of this section.

(b) For good cause found and published with the rule, any rule issued by the Commission may be made effective within less than 30 days from the time it is

published in the Federal Register. Rules involving any military, naval or foreign affairs function of the United States; matters relating to agency management or personnel, public property, loans, grants, benefits or contracts; rules granting or recognizing exemption or relieving restriction; rules of organization, procedure or practice; or interpretative rules; and statements of policy may be made effective without regard to the 30-day requirement.

(c) In cases of alterations by the Commission in the required manner or form of keeping accounts by carriers, notice will be served upon affected carriers not less than 6 months prior to the effective date of such alterations.

## SUBPART D—BROADCAST APPLICATIONS AND PROCEEDINGS

### GENERAL

**§ 1.501 Scope.**

This subpart is applicable to all broadcast services listed in Parts 73 and 74 of this chapter. For additional information relative to applications, see the respective rules relating to each service.

**§ 1.502 Emergency Broadcast System Authorizations.**

(a) The Commission issues National Defense Emergency Authorizations (NDEA's) which require stations to operate in a manner consistent with the needs of national security and defense.

(b) Standard broadcast NDEA's permit such stations to operate, in accordance with the terms of their licenses, during an Emergency Action Condition and during the experimental period of the stations concerned, as provided by § 73.10 of this chapter: *Provided*, That no interference shall be caused to other stations maintaining a regular operating schedule within the experimental period unless the licensees of such other stations have previously consented thereto.

(c) FM broadcast station NDEA's permit such stations to operate with their licensed power and on their licensed frequency, in the State Defense Network (FM) of the State in which the FM station is located, to provide an alerting capability, and to aid in the restoration of normal communications facilities during and after an emergency.

(d) Remote pickup broadcast station NDEA's permit such stations to operate in a prescribed manner, on their licensed frequency and with normal power, in the State and local remote pickup broadcast intercommunication networks for intercommunication, cue and



control, and program purposes during or after an emergency.

(e) Other NDEA's which may be issued will be on such terms as may be designated therein.

(f) All NDEA's are issued for periods of time covered by the station license of the station concerned, subject, however to being changed or canceled at an earlier date in the discretion of the Commission without the necessity of a hearing.

(g) Unless canceled, National Defense Emergency renewal authorizations will be issued together with the station's renewal license.

#### GENERAL FILING REQUIREMENTS

##### § 1.511 Applications required.

(a) Except as provided in paragraph (b) of this section, construction permits as defined in section 3(dd) of the Communications Act of 1934, as amended; station licenses as defined in section 3(bb) of the Communications Act; modifications of construction permits or licenses; renewals of licenses; transfers; and assignments of construction permits or station licenses, or any rights thereunder, shall be granted only upon written and subscribed application. A separate application shall be filed for each instrument of authorization requested, except as may otherwise be provided in this part.

(b) In cases of (1) emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged, and when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, without the filing of a formal application; but no authorization so granted shall continue in effect beyond the period of the emergency or war requiring it.

(c) Each individual request submitted under the provisions of paragraph (b) of this section shall contain, as an minimum requirement, the following information:

- (1) Name and address of applicant.
- (2) Location of proposed installation or operation.
- (3) Official call letters of any valid station authorization already held by applicant and the station location.
- (4) Type of service desired (not required for re-

newal, nor for modification unless class of station is to be modified).

(5) Frequency assignment, authorized transmitter power(s), and authorized class(es) of emission desired (not required for renewal; required for modification only to the extent such information may be involved).

(6) Equipment to be used, specifying the manufacturer and type or model number (not required for renewal; required for modification only to the extent such information may be involved).

(7) Statements to the extent necessary for the Commission to determine whether or not the granting of the desired authorization will be in accordance with the citizenship eligibility requirements of section 310 of the Communications Act.

(8) Statement of facts which, in the opinion of the applicant, constitute an emergency to be found by the Commission for the purpose of this section, including the estimated duration of the emergency; or which, if during an emergency or war declared by the President or Congress, necessitate such action, without formal application, for the national defense or security or in furtherance of the war effort.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

##### § 1.512 Where to file; number of copies.

All applications for authorizations required by § 1.511 shall be filed at the Commission's main office in Washington, D.C. The number of copies required for each application is set forth in the FCC Form which is to be used in filing such application.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

[§ 1.512 as amended eff. 8-28-64; I(63)-3]

##### § 1.513 Who may sign applications.

(a) Except as provided in § 1.511(b) or in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be submitted under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

#### § 1.514 Content of applications.

(a) Each application shall include all information called for by the particular form on which the application is required to be filed, unless the information called for is inapplicable, in which case this fact shall be indicated.

(b) The Commission may require an applicant to submit such documents and written statements of fact as in its judgment may be necessary. The Commission may also, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

#### § 1.516 Specification of facilities.

(a) An application for facilities in the standard, FM, or television broadcast services shall be limited to one frequency, or channel assignment, and no application will be accepted for filing if it requests alternate frequency or channel assignments.

(b) An application for facilities in the experimental and auxiliary broadcast services may request the assignment of more than one frequency if consistent with applicable rules in Part 74 of this chapter. Such applications must specify the frequency or frequencies requested and may not request alternate frequencies.

(c) An application for construction permit for a new broadcast station, the facilities for which are specified in an outstanding construction permit, will not be accepted for filing.

(d) An application for facilities in the international broadcast service may be filed without a request for

specific frequency, as the Commission will assign frequencies from time to time in accordance with §§ 73.702 and 73.711 of this chapter.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

#### § 1.518 Inconsistent or conflicting applications.

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, his successor or assignee, or on behalf or for the benefit of the same applicant, his successor or assignee.

#### § 1.519 Repetitious applications.

(a) Where the Commission has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same kind to substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the Commission's action: *Provided, however*, That applicants whose applications have been denied in a comparative hearing for a particular television facility allocated in the television allocation table may immediately reapply for another available television channel.

(b) Where an appeal has been taken from the action of the Commission in denying a particular application, another application for the same class of broadcast station and for the same area, in whole or in part, filed by the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, will not be considered until final disposition of such appeal.

#### § 1.520 Multiple applications.

Where there is one application for new or additional facilities pending, no other application for new or additional facilities, for a station of the same class to serve the same community, may be filed by the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest. Multiple applications may not be filed simultaneously.

#### § 1.522 Amendment of applications.

(a) Subject to the provisions of §§ 1.525 and 1.580, any application may be amended as a matter of right prior to the adoption date of an order designating such application for hearing, merely by filing the appropriate number of copies of the amendments in question duly executed in accordance with § 1.513. If a petition to deny (or to designate for hearing) has been filed, the amendment shall be served on the petitioner. See § 1.571(j) for the effect of certain amendments to standard broadcast applications.

(b) Requests to amend an application after it has been designated for hearing will be considered only



upon written petition properly served upon the parties of record in accordance with § 1.47 and, where applicable, compliance with the provisions of § 1.525, and will be granted only for good cause shown. In the case of requests to amend the engineering proposal in standard broadcast applications (other than to make changes with respect to the type of equipment specified), good cause will be considered to have been shown only if, in addition to the usual good cause considerations, it is demonstrated that (1) the amendment is necessitated by events which the applicant could not reasonably have foreseen (e.g., notification of a new foreign station or loss of transmitter site by condemnation); (2) the amendment could not reasonably have been made prior to designation for hearing; and (3) the amendment does not require an enlargement of issues or the addition of new parties to the proceeding.

(c) Notwithstanding the provisions of paragraph (b) of this section, and subject to compliance with the provisions of § 1.525, a petition for leave to amend may be granted provided it is requested that the application as amended be removed from the hearing docket and returned to the processing line. See § 1.571(i).

☐§ 1.522 (a) amended cff. 11-10-66; I(63)-14☐

#### § 1.525 Agreements between parties for amendment or dismissal of, or failure to prosecute broadcast applications.

(a) Whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the Commission by withdrawal or amendment of an application or by its dismissal pursuant to § 1.568, all parties thereto shall, within 5 days after entering into the agreement, file with the Commission a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement and an affidavit of each party to the agreement setting forth in full all relevant facts including, but not limited to: (1) The exact nature of any consideration (including an agreement for merger of interests) promised or paid; (2) information as to who initiated the negotiations; (3) summary of the history of the negotiations; (4) the reasons why it is considered that the arrangement is in the public interest; and (5) a statement fully explaining and justifying any consideration paid or promised. The affidavit of any applicant to whom consideration is paid or promised shall, in addition, include an itemized accounting of the expenses incurred in connection with preparing, filing and advocating his application, and such factual information as the parties rely upon for the requisite showing that such reported expenses represent legitimate and prudent outlays. No such agreement between applicants shall become effective or be carried out unless and until the Commission has ap-

proved it, or until the time for Commission review of the agreement has expired.

(b)(1) Whenever two or more conflicting applications for construction permits for broadcast stations pending before the Commission involve a determination of fair, efficient and equitable distribution of service pursuant to section 307(b) of the Communications Act, and an agreement is entered into to procure the withdrawal (by amendment to specify a different community or by dismissal pursuant to § 1.568) of the only application or applications seeking the same facilities for one of the communities involved, all parties thereto shall file the joint request and affidavits specified in paragraph (a) of this section. If upon examination of the proposed agreement the Commission finds that withdrawal of one of the applications would unduly impede achievement of a fair, efficient and equitable distribution of radio service among the several States and communities, then the Commission shall order that further opportunity be afforded for other persons to apply for the facilities specified in the application or applications to be withdrawn before acting upon the pending request for approval of the agreement.

(2) Upon release of an order under subparagraph (1) of this paragraph, any party proposing to withdraw its application shall cause to be published a notice of such proposed withdrawal at least twice a week for 2 consecutive weeks within the 3-week period immediately following release of the Commission's order, in a daily newspaper of general circulation published in the community in which it was proposed to locate the station: *Provided, however*, That if there is no such daily newspaper published in the community, the notice shall be published as follows:

(i) If one or more weekly newspapers of general circulation are published in the community in which the station was proposed to be located, notice shall be published in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the release of the Commission's order.

(ii) If no weekly newspaper of general circulation is published in the community in which the station was proposed to be located, notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the release of the Commission's order in the daily newspaper having the greatest general circulation in the Community in which the station was proposed to be located.

(3) The notice shall set forth the name of the applicant; the location, frequency and power of the facilities proposed in the application; the location of the station or stations proposed in the applications with which it is in conflict; the fact that the applicant proposes to withdraw the application; and the date upon which the last day of publication shall take place.

(4) Such notice shall additionally include a statement that new applications for a broadcast station on the same frequency, in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, timely filed pursuant to the Commission's rules, or filed, in any event, within 30 days from the last date of publication of the notice (notwithstanding any provisions of this chapter normally requiring earlier filing of a competing application), will be entitled to comparative consideration with other pending mutually exclusive applications.

(5) Within 7 days of the last day of publication of the notice, the applicant proposing to withdraw shall file a statement in triplicate with the Commission, setting forth the dates on which the notice was published, the text of the notice and the newspaper in which the notice was published.

(6) Where the Commission orders that further opportunity be afforded for other persons to apply for the facilities sought to be withdrawn, no application of any party to the agreement will be acted upon by the Commission less than 30 days from the last day of publication of the notice specified in subparagraph (2) of this paragraph. Any applications for a broadcast station on the same frequency in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, filed within the 30-day period following the last date of publication of the notice (notwithstanding any provisions of this chapter normally requiring earlier filing of a competing application) or otherwise timely filed pursuant to the provisions of this chapter will be entitled to comparative consideration with other pending mutually exclusive applications. If the application of any party to which the new application may be in conflict has been designated for hearing, any such new application will be entitled to consolidation in the proceeding.

(c) (1) Except where a joint request is filed pursuant to paragraph (a) of this section, any applicant filing (i) an amendment pursuant to § 1.522(a) or a request for dismissal pursuant to § 1.568(a) which would remove a conflict with another pending application; (ii) a petition for leave to amend pursuant to § 1.522(b) or (c) which would permit a grant of the amended application or an application theretofore in conflict with the amended application; or (iii) a request for dismissal pursuant to § 1.568(c), shall file with it an affidavit as to whether or not consideration (including an agreement for merger of interests) has been promised to or received by such applicant, directly

or indirectly, in connection with the amendment, petition or request. Upon the filing of a petition for leave to amend or to dismiss an application for broadcast facilities which has been designated for hearing or upon the dismissal of such application on the Commission's own motion pursuant to § 1.568(b), each applicant or party remaining in hearing, as to whom a conflict would be removed by the amendment or dismissal shall submit for inclusion in the record of that proceeding an affidavit stating whether or not he has directly or indirectly paid or promised consideration (including an agreement for merger of interests) in connection with the removal of such conflict.

(2) Where an affidavit filed pursuant to this paragraph states that consideration has been paid or promised, the affidavit shall set forth in full all relevant facts, including, but not limited to, the material listed in paragraph (a) of this section for inclusion in affidavits.

(d) (1) Affidavits filed pursuant to this section shall be executed by the applicant, permittee or licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) Requests and affidavits which relate to an application which has not been designated for hearing shall bear the file number of such application. If the affiant is also an applicant, the affidavit shall also bear the file number of affiant's pending application(s). Affidavits which relate to an application which is designated for hearing shall bear the file number of that application and the hearing docket number.

(e) For the purposes of this section an application shall be deemed to be "pending" before the Commission and a party shall be considered to have the status of an "applicant" from the time an application is filed with the Commission until an order of the Commission granting or denying it is no longer subject to reconsideration by the Commission or to review by any court. (Sec. 5(a), 74 Stat. 892; 47 U.S.C. 311(c))

【§ 1.525(b)(2) amended *eff.* 5-24-65; I(63)-7】

#### § 1.526 Records to be maintained locally for public inspection by applicants, permittees, and licensees.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraph (1) of this paragraph, and every permittee or licensee of a station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraphs (1), (2), (3), and (4) of this paragraph: *Provided, however,* That the foregoing requirements shall not apply to

applicants for or permittees or licensees of television broadcast translator stations. The material to be contained in the file is as follows:

(1) A copy of every application tendered for filing by the applicant for such station after May 13, 1965, pursuant to the provisions of this part, with respect to which local public notice is required to be given under the provisions of § 1.580 or § 1.594; and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the Commission and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of § 0.417 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

NOTE: Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of § 1.594, and material related to such applications, need not be placed in the file required to be kept by this section. Applications tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of § 1.580, need not be placed in the file required to be kept by this section.

(2) A copy of every application tendered for filing by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part, which is not included in subparagraph (1) of this paragraph and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the Commission and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of § 0.417

of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

(3) A copy of every ownership report or supplemental ownership report filed by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed, and all documents incorporated therein by reference, including contracts listed in such reports in accordance with the provisions of § 1.615(a)(4)(i) and which according to the provisions of § 0.417 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.

(4) Such records as are required to be kept by §§ 73.120(d), 73.290(d), 73.590(d), and 73.657(d) of this chapter, concerning broadcasts by candidates for public office.

NOTE: The engineering section of applications mentioned in subparagraphs (1) and (2) of this paragraph, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps, and information (State, county, city, street address, or other identifying information) showing main studio and transmitter location shall be kept in the file.

(b) *Responsibility in case of assignment or transfer.*

(1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of § 1.580 or § 1.594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the Commission and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the Commission. The file main-

tained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the Commission files.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(c) *Station to which records pertain.* The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section.

(d) *Location of records.* The file shall be maintained at the main studio of the station, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

(e) *Period of retention.* The records specified in paragraph (a) (4) of this section shall be retained for the periods specified in §§ 73.120(d), 73.290(d), 73.590(d), and 73.657(d) of this chapter (2 years). The records specified in paragraph (a) (1), (2) and (3) of this section shall be retained as follows:

(1) The applicant for a construction permit for a new station shall maintain such a file so long as the application is pending before the Commission or any proceeding involving that application is pending before the courts. (If the application is granted, subparagraph (2) of this paragraph shall apply.)

(2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding.

¶§ 1.526 amended in I(63)-6 and I(63)-9; (d) amended *eff.* 11-7-66; I(63)-14

#### APPLICATION FORMS AND PARTICULAR FILING REQUIREMENTS

##### § 1.531 Formal and informal applications.

(a) "Formal application" means any request for authorization where an FCC Form for such request is prescribed. "Informal application" means all other requests for authorization. Informal applications may be in letter form, but all such applications should contain a caption clearly indicating the nature of the request submitted therein.

(b) An informal application requesting modification of an outstanding authorization must comply with the requirements as to signing specified in §§ 1.511 and 1.513.

##### § 1.533 Application forms for authority to construct a new station or make changes in an existing station.

(a) Applications for new facilities or modification of existing facilities shall be made on the following forms:

(1) FCC Form 301 "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station."

(2) FCC Form 309 "Application for Authority to Construct or Make Changes in an Existing International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station."

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 318 "Request for Subsidiary Communications Authorization." For use by existing FM broadcast licensees applying for permit to establish an SCA service, modification of SCA, or renewal of SCA.

(5) FCC Form 330-P "Application for Authority to Construct or Make Changes in an Instructional Fixed Station."

(6) FCC Form 340 "Application for Authority to Construct or Make Changes in a Noncommercial Educational TV, FM, or Standard Broadcast Station."

(7) FCC Form 343 "Application for Authority to Construct or Make Changes in a Television Broadcast Booster Station."

(8) FCC Form 346 "Application for Authority to Construct or make Changes in a Television Broadcast Translator Station."

(b) Applications for construction permit or modification thereof involving the installation of new transmitting apparatus should be filed at least 60 days prior to the contemplated construction.

(Secs. 308, 319, 48 Stat. 1084, 1089, as amended; 47 U.S.C. 308, 319)

**§ 1.534 Application for extension of construction permit or for construction permit to replace expired construction permit.**

(a) Application for extension of time within which to construct a station shall be filed on FCC Form 701. The application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases, an application will be accepted upon a showing satisfactory to the Commission of sufficient reasons for filing within less than 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension.

(b) Application to replace an expired construction permit shall be made on FCC Form 321 "Application for Construction Permit to Replace Expired Permit." Such application must be filed within 30 days of the expiration date of the authorization sought to be replaced.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

**§ 1.536 Application for license to cover construction permit.**

(a) The application for station license shall be filed by permittee prior to service or program tests.

(b) The following application forms shall be used:

(1) FCC Form 302 "Application for New Broadcast Station License."

(2) FCC Form 310 "Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License."

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 318 "Request for Subsidiary Communications Authorization."

(5) FCC Form 341 "Application for Noncommercial Educational TV, FM, or Standard Broadcast Station."

(6) FCC Form 344 "Application for Television Broadcast Booster Station License."

(7) FCC Form 347 "Application for Television Broadcast Translator Station License."

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

**§ 1.537 Application for license to use former main transmitter or antenna as an auxiliary.**

The following application forms shall be used when no new construction is involved:

(a) FCC Form 302 "Application for New Broadcast Station License."

(b) FCC Form 341 "Application for Noncommercial Educational TV, FM, or Standard Broadcast Station." (Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

**§ 1.538 Application for modification of license.**

(a) An application for modification of license may be filed for:

(1) Change in name of licensee where no change in ownership or control is involved;

(2) Change in station location involving no change in transmitter location;

(3) Change in main studio location of a television station to or from a location outside the principal community;

(4) Change in studio location of a standard or FM station to a location outside the city limits other than the associated transmitter site;

(5) Change of hours of operation of a standard broadcast station.

(b) The application forms set forth in § 1.533 shall be used.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

**§ 1.539 Application for renewal of license.**

(a) Unless otherwise directed by the Commission, an application for renewal of license shall be filed at least 90 days prior to the expiration date of the license sought to be renewed, except that applications for renewal of license of an experimental or developmental broadcast station shall be filed at least 60 days prior to the expiration date of the license sought to be renewed.

(b) No application for renewal of license of any broadcast station will be considered unless there is on file with the Commission the information, if any, currently required by §§ 1.611-1.615, inclusive, for the particular class of station. The renewal application shall include a reference by date and file number to such information on file.

(c) Whenever the Commission regards an application for a renewal of license as essential to the proper conduct of a hearing or investigation, and specifically directs that it be filed by a date certain, such application shall be filed within the time thus specified. If the licensee fails to file such application within the prescribed time, the hearing or investigation shall proceed as if such renewal application had been received.

(d) The following application forms shall be used:

(1) FCC Form 303 "Application for Renewal of Broadcast Station License."

(2) FCC Form 311 "Application for Renewal of an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License." To be used for all applications for renewal of licenses of Experimental Television, Experimental Facsimile, and Developmental Broadcast stations.

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services." To be used for

all applications for renewal of regular licenses of auxiliary broadcasting stations.

(4) FCC Form 318 "Request for Subsidiary Communications Authorizations."

(5) FCC Form 342 "Application for Renewal of Noncommercial Educational TV, FM, or Standard Broadcast Station License."

(6) FCC Form 345 "Application for Renewal of Television Broadcast Booster Station License."

(7) FCC Form 348 "Application for Renewal of Television Broadcast Translator Station License."

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

#### § 1.540 Application for voluntary assignment or transfer of control.

(a) Application for consent to the assignment of construction permit or license, or for consent to the transfer of control of a corporation holding such a construction permit or license, shall be filed with the Commission on FCC Form 314 (Assignment of License), FCC Form 315 (Transfer of Control), or FCC Form 316 (Short Form). Such application should be filed with the Commission at least 45 days prior to the contemplated effective date of assignment or transfer of control.

(b) The following assignment or transfer applications may be filed on FCC Form 316.

(1) Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;

(4) Corporate reorganization which involves no substantial change in the beneficial ownership of the corporation;

(5) Assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or

(6) Assignment of less than a controlling interest in a partnership.

(Sec. 310, 48 Stat. 1086, as amended; 47 U.S.C. 310)

#### § 1.541 Application for involuntary assignment of license or transfer of control.

(a) The Commission shall be notified in writing promptly of the death or legal disability of an indi-

vidual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee.

(b) Within 30 days after the occurrence of such death or legal disability, an application on FCC Form 316 shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.

(Sec. 310, 48 Stat. 1086, as amended; 47 U.S.C. 310)

#### § 1.542 Application for temporary authorization.

(a) The specific circumstances in which temporary authority will be granted are set out in Parts 2, 73, and 74 of this chapter.

(b) Temporary authority may be granted to a licensee or permittee of a broadcast station to operate such station for a period not to exceed 90 days upon request therefor. Any such request should be filed with the Commission at least 10 days prior to the date of the proposed operation, and should be accompanied by a statement giving full particulars as to the purpose for which the request is made. Any temporary authority issued under this section may be cancelled by the Commission without further notice or hearing.

(c) No request by a standard broadcast station for temporary authority to extend its hours of operation beyond those authorized by its regular authorization will be accepted or granted by the Commission.

(d) An informal application may be used provided such application is signed in accordance with the provisions of § 1.513.

(e) Request for temporary operation necessitated by equipment damage or failure may be made without regard to the procedural requirements of this section. (Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

#### § 1.543 Application for renewal or modification of special service authorization.

(a) No special service authorization will be issued after February 3, 1958: *Provided, however*, Consideration will be given to renewal or modification of a special service authorization outstanding on February 3, 1958 providing a satisfactory showing has been made in regard to the following, among others:

(1) That the requested operation may not be granted on a regular basis under the existing rules governing the operation of standard broadcast stations;

(2) That experimental operation is not involved as provided for by § 73.32 of this chapter; and

(3) That public interest, convenience, and necessity will be served by the authorization requested.

☐§ 1.543(b) deleted eff. 1-11-65; I(63)-5☐

**§ 1.544 Application for standard broadcast station experimental operation.**

Special experimental authorization may be issued, in accordance with § 73.32 of this chapter, to the licensee of a standard broadcast station in addition to the regular license. An informal application should be used in applying for such authorization.

(Sec. 303(g), 48 Stat. 1083, as amended; 47 U.S.C. 303(g))

**§ 1.545 Application for permit to deliver programs to foreign stations.**

Application under section 325(b) of the Communications Act for authority to locate, use, or maintain a broadcast studio in connection with a foreign station consistently received in the United States, should be made on FCC Form 308 "Application for permit to deliver programs to foreign broadcast stations": *Provided*, That an informal application (in letter form) may be used by applicants holding a valid radio or TV broadcast station license or construction permit. Informal applications must, however, contain a description of the nature and character of the programing proposed, together with other information requested on Page 4 of Form 308.

☐§ 1.545 amended eff. 2-15-67; I(63)-15☐

**§ 1.546 Application to determine operating power by direct measurement of antenna power.**

Application to determine operating power of standard broadcast stations by direct measurement of antenna power shall be made on FCC Form 302 "Application for New Broadcast Station License."

**§ 1.547 Application for permission to use lesser grade operators.**

(a) Application for temporary permission to operate standard and FM broadcast stations with licensed operators of a lesser grade than normally required by the Commission's rules shall be submitted to the Engineer in Charge of the radio district in which the station is located. Such permission will be granted for periods not to exceed 60 days if a proper showing is made, as set forth in this section, and may be renewed upon request only upon the making of an adequate similar showing. A request for extension of the permission previously granted may be granted upon a showing setting forth what continuing efforts have been made to obtain licensed operators of a grade normally required. The Engineer in Charge may terminate this permission in the absence of a

satisfactory showing in the written report that adequate efforts have been made to obtain such operators, or for other good reason in the judgment of the Engineer in Charge.

(b) Such application or report is not required to be submitted on any numbered or prescribed form. However, the request or report shall be in writing, signed by the licensee, if the licensee is an individual; by a partner, if the licensee is a partnership; or by an officer of the corporation, if the licensee is a corporation.

(c) A specific request for permission to use operators of lesser grade than required by the Commission's rules shall include the following information:

(1) Call letters of the station:

(2) Name of licensee:

(3) The number of persons holding radiotelephone first class operator licenses that will be employed as full-time operators at the station (this does not include part-time employees and persons only available on call in case of emergencies);

(4) A showing that at least one first class operator will be employed full time at the station and will be available on call at all times in the event of equipment failure;

(5) A statement that the additional licensed radiotelephone first class operators required for maintaining the normal schedule of operation could not be obtained for employment at the station:

(6) In the event an operator of the required grade was rejected by the station, a statement should be submitted by the station showing the reason for the rejection; and

(7) A showing that all known sources of broadcast operators within a reasonable distance have been exhausted. Names and addresses of sources contacted and the date of such contact shall be stated.

(d) The chief operator holding a radiotelephone first class operator license at a station to which temporary permission has been granted shall mail to the Engineer in Charge of the area from whom permission is received, within 3 days after employment of a lesser grade operator, a written certification setting forth the name and operator license number of the lesser grade operator employed and stating that the operator has the ability to perform the normal operation of the station.

(Sec. 318, 48 Stat. 1089, as amended; 47 U.S.C. 318)

**§ 1.548 Application to operate by remote control.**

Application by an existing licensee or permittee for a permit to operate a standard or FM broadcast station by remote control shall be made on FCC Form 301-A

"Request for Modification—Broadcast Station Authorization (Remote Control)."

(Sec. 318, 48 Stat. 1089, as amended; 47 U.S.C. 318)

**§ 1.549 Requests for extensions of authority to operate without certain indicating instruments.**

Requests for extension of authority to operate without a frequency monitor, a modulation monitor, a plate ammeter or voltmeter, a base current meter or common point meter, or a transmission line meter for FM and television stations, should be made by informal application to the Engineer in Charge of the radio district in which the station is located. Such requests must contain information as to when and what steps were taken to repair or replace the defective instrument.

**§ 1.550 Requests for new or modified call sign assignments.**

(a) Requests for new or modified call sign assignments for standard, FM or television broadcasting stations shall be made by letter to the Secretary, Federal Communications Commission, Washington, D.C., 20554.

(b) (1) No request for a new call sign assignment shall be made by an applicant for a new station until after the Commission has granted the construction permit.

(2) An applicant for transfer or assignment of an existing station may request a new call sign assignment at the time the application for assignment of license or transfer of control is filed, or at any time thereafter. In making such a request he shall comply with the provisions of this section.

(c) Each individual request submitted under the provisions of paragraphs (a) and (b) of this section shall include the following:

(1) A statement that a copy of the request has been served upon each broadcast station licensed to operate, or whose construction has been authorized, in communities wholly or partially within a 35-mile radius of the main post office of the community in which the applicant is authorized to operate, and a list of the call signs and locations of all stations upon which copies of the request have been served.

(2) Subject to the other requirements of this paragraph, as many as five call signs, listed in descending order of preference, may be included in a single request.

(d) (1) No request for call signs subject to the provisions of this section will be acted upon by the Commission earlier than 30 days following issuance of public notice of the receipt of such request. Appli-

cants for new or modified call signs are therefore advised to take no action in reliance on securing said call sign until notified by the Commission that said request has been granted.

(2) Objections to the assignment of the requested call signs may be filed within the 30-day period following issuance of public notice of the receipt of such request. Objections filed after the 30-day period will be considered only if, in the judgment of the Commission, good cause has been shown for failure to file within the time specified. The person who filed the original pleading may reply to said objections within 10 days after the time for filing objections has expired, or if the objections are filed late, within 10 days after the late pleading is filed. No further pleadings will be entertained.

(e) The requirements of paragraphs (b), (c), and (d) of this section do not apply to international broadcasting stations and stations in the experimental, auxiliary, and special broadcasting services.

(f) If an applicant for a new station does not file a request for assignment of a specific call sign, the Commission will assign an appropriate call sign to the station.

**【§ 1.550 adopted in I(63)-5; (c) (1) amended eff. 7-22-66; I(63)-13】**

**APPLICATION PROCESSING PROCEDURES**

**AUTHORITY:** §§ 1.561-1.587 issued under secs. 308, 309, 48 Stat. 1084, 1085, as amended; 47 U.S.C. 308, 309.

**§ 1.561 Staff consideration of applications which receive action by the Commission.**

Upon acceptance of an application, the complete file is reviewed by the staff and, except where the application is acted upon by the staff pursuant to delegation of authority, a report containing the recommendations of the staff and any other documents required is prepared and placed on the Commission's agenda.

**§ 1.562 Staff consideration of applications which do not require action by the Commission.**

Those applications which do not require action by the Commission but which, pursuant to the delegations of authority set forth in Subpart B of Part 0 of this chapter, may be acted upon by Chief, Broadcast Bureau are forwarded to the Broadcast Bureau for necessary action. If the application is granted, the license division issues the formal authorization. In any case where it is recommended that the application be set for hearing, where a novel question of policy is presented, or where the Chief, Broadcast Bureau desires



instructions from the Commission, the matter is placed on the Commission agenda.

(Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155)

#### § 1.564 Acceptance of applications.

(a) Applications which are tendered for filing in Washington, D.C., are dated upon receipt and then forwarded to the Broadcast Bureau, where an administrative examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete are accepted for filing and are given a file number. In case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications which are not substantially complete will be returned to the applicant.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review by the Commission's administrative staff as to completeness. Such acceptance will not preclude the subsequent dismissal of the application if it is found to be patently not in accordance with the Commission's rules.

(c) At regular intervals the Commission will issue a "Public Notice" listing all applications and major amendments thereto which have been accepted for filing.

☐ § 1.564(a) as amended eff. 8-28-64; I(63)-3 ☐

#### § 1.566 Defective applications.

(a) Applications which are determined to be patently not in accordance with the Commission's rules, regulations, or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing or if inadvertently accepted for filing will be dismissed. Requests for waiver shall show the nature of the waiver or exception desired and shall set forth the reasons in support thereof.

(b) If an applicant is requested by the Commission to file any additional documents or information not included in the prescribed application form, a failure to comply with such request will be deemed to render the application defective, and such application will be dismissed.

#### § 1.568 Dismissal of applications.

(a) Subject to the provisions of § 1.525, any application may, upon request of the applicant, be dismissed without prejudice as a matter of right prior to the designation of such application for hearing. An applicant's request for the return of an application that has been accepted for filing will be regarded as a request for dismissal.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Subject to the provisions of § 1.525, such dismissal will

be without prejudice where an application has not yet been designated for hearing, but may be made with prejudice after designation for hearing.

(c) Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only upon written petition properly served upon all parties of record and, where applicable, compliance with the provisions of § 1.525. Such requests shall be granted only upon a showing that the request is based on circumstances wholly beyond the applicant's control which preclude further prosecution of his application.

☐ § 1.568(c) as amended eff. 6-15-64; I(63)-2 ☐

#### § 1.569 Applications for frequencies adjacent to Class I-A channels.

Notwithstanding the provisions of any other rules of the Commission, all applications (regardless of when they were or may be filed) for frequencies located within 30 kc/s of a Class I-A channel listed in § 73.25 (a) of this chapter will be subject to the provisions of this section. The provision of paragraph (a) of this section to the frequencies listed therein, which are within 30 kc/s of a Class I-A channel on which an unlimited time Class II assignment is specifically provided for in § 73.22 or § 73.25(a) of this chapter, and which are not within 30 kc/s of the remaining Class I-A channels (except that the frequency 1230 kc/s is considered to be within 30 kc/s of duplicated I-A channels only). The provisions of paragraph (b) of this section apply to the frequencies listed in that paragraph, which are within 30 kc/s of unduplicated Class I-A channels and also, in each case, within 30 kc/s of Class I-A channels on which an unlimited time Class II assignment is specifically provided for in § 73.22 or § 73.25(a) of this chapter. For the purposes of paragraph (b) (2) (i), (ii) and (iii) of this section, the frequency 750 kc/s is regarded as an unduplicated Class I-A clear channel. The provisions of paragraph (c) of this section apply to the three frequencies listed therein, which are within 30 kc/s of unduplicated clear channels only.

(a) (1) The provisions of this paragraph apply to the following frequencies: 910, 920, 990, 1000, 1080, 1090, 1110, 1230, and 1240 kc/s; and 740 kc/s except with respect to the Class I-A clear channel 750 kc/s, in which case the provisions of paragraph (b) of this section apply.

☐ § 1.569 Intro. and par. (a) (1) as amended eff. 9-7-65; I(63)-8 ☐

(2) Where it appears that the facilities requested in any application for one of the designated frequencies (other than an application by an existing Class IV station to increase daytime power on 1230 or 1240 kc/s) involves undue risk of interference or prohibited overlap with a possible new Class II-A assignment specified in § 73.22 of this chapter or a new unlimited



time Class II assignment at Anchorage, Alaska, or San Diego, California, specified in § 73.25(a) of this chapter, such application will not be accepted for filing or, if filed prior to the effective date of this section, will not be acted upon, until the location and operating facilities of such new Class II station are established. An application for one of the designated frequencies shall be deemed to involve undue risk of interference with a possible new Class II assignment unless it is demonstrated that no interference would be caused to specified II-A assignments within 30 kc/s, assuming such facilities to be located at the nearest point on the boundary of the nearest state specified by the Clear Channel Decision released September 14, 1961, and assuming such II-A facility radiates at least 1238 mv/m omnidirectionally; and, in the case of frequencies within 30 kc/s of 750 kc/s or 760 kc/s the proposed facility would not cause interference to Class II assignments at San Diego, California, or Anchorage, Alaska, specified in § 73.25 (a) of this chapter.

(3) Assignments of new Class II facilities provided for in §§ 73.22 and 73.25(a) of this chapter will be made without regard to the pendency of applications on adjacent frequencies (i.e., the ten frequencies designated in subparagraph (1) of this paragraph and the additional 20 frequencies which are within 30 kc/s of both duplicated and unduplicated Class I-A channels). Any hearing which may be held on an application for an adjacent frequency will not be comparative with respect to the Class II-A facility, and any issues pertaining to the mutual impact of the Class II-A and adjacent channel proposals will be confined to the question of whether, with the Class II station operating as proposed, the public interest would be served by a grant of the adjacent channel application.

(b) (1) The provisions of this paragraph apply to the following frequencies: 680, 690, 710, 730, 790, 800, 810, 850, 860, 900, 1010, 1050, 1060, 1070, 1130, 1140, 1150, 1170, 1190, and 1220 kc/s; and 740 kc/s with respect to the Class I-A clear channel 750 kc/s.

☐§ 1.569(b)(1), amended in I(63)-2, as further amended eff. 9-7-65; I(63)-8☐

(2) Applications for new stations on, change of existing stations to, or for any major change in operation of stations presently operating on the designated frequencies will be accepted for filing and acted upon in normal course provided they are accompanied by appropriate exhibits and necessary supporting data to show clearly the following with respect to all Class I-A channels within 30 kc/s of the designated frequency:

(i) The proposed transmitter site is located inside the area encompassed by a 500 mile extension of the 0.5 mv/m-50 percent nighttime contour of Class I-A stations on unduplicated channels.

(ii) No interference or prohibited overlap would be caused to Class I-A stations on unduplicated I-A

channels, assuming such stations operate with power increased to 750 kw with their present antenna systems and radiation patterns.

(iii) No interference or prohibited overlap would be caused to an assumed Class II-A station on an unduplicated channel, radiating at least 1238 mv/m omnidirectionally from the nearest point on the boundary described in subdivision (i) of this subparagraph.

(iv) No interference or prohibited overlap would be caused to presently specified Class II-A assignments, assuming such facilities to be located at the nearest point on the boundary of the nearest state specified by the Clear Channel Decision released September 14, 1961, and assuming such II-A facility radiates at least 1238 mv/m omnidirectionally; and, in the case of frequencies within 30 kc/s of 750 kc/s or 760 kc/s, the proposed facility would not cause interference to Class II assignments at San Diego, California, or Anchorage, Alaska, specified in § 73.25(a) of this chapter.

(3) Applications of the type specified in subparagraph (2) of this paragraph filed before October 30, 1961, will be studied to determine whether they comply with each of the four standards set forth in subparagraph (2) of this paragraph. Those applications which are found to comply fully with the standards will be processed and acted upon in normal course. Applications which fail to comply with one or more of the standards will be retained in the pending file without further processing or consideration.

(4) Applications for other changes in facilities on the designated frequencies will be processed and acted upon in normal course.

(c) (1) The provisions of this paragraph apply to all applications for the following frequencies: 610, 620, 630 kc/s.

☐§ 1.569(c)(1) as amended eff. 8-31-64; I(63)-2☐

(2) Applications for new stations on, change of existing stations to, or for any major change in operation of stations presently operating on the designated frequencies will be accepted for filing and acted upon in normal course provided they are accompanied by appropriate exhibits and necessary supporting data to show clearly the following with respect to all Class I-A channels within 30 kc/s of the designated frequency:

(i) The proposed transmitter site is located inside the area encompassed by a 500 mile extension of the 0.5 mv/m-50 percent nighttime contour of Class I-A stations on unduplicated channels.

(ii) No interference or prohibited overlap would be caused to Class I-A stations on unduplicated I-A channels, assuming such stations operate with power increased to 750 kw, with their present antenna systems and radiation patterns.

(iii) No interference or prohibited overlap would be caused to an assumed Class II-A station on an unduplicated channel, radiating at least 1238 mv/m omnidirectionally from the nearest point on the boundary described in subdivision (i) of this subparagraph.

(3) Applications of the type specified in subparagraph (2) of this paragraph filed before October 30, 1961, will be studied to determine whether they comply with each of the three standards set forth in subparagraph (2) of this paragraph. Those applications which are found to comply fully with the standards will be processed and acted upon in normal course. Applications which fail to comply with one or more of the standards will be retained in the pending file without further processing or consideration.

(4) Applications for other changes in facilities on the designated frequencies will be processed and acted upon in normal course.

(d)(1) Applications previously accepted for filing which must be held without action pursuant to paragraph (a), (b), or (c) of this section, will not be designated for hearing unless they conflict with applications which may be acted upon in normal course.

(2) If the decision in a hearing looks toward grant of an application which may not be acted upon, pursuant to paragraph (a), (b), or (c) of this section, such application and all applications conflicting with it will be held without final action to the extent required by paragraph (a), (b), or (c) of this section. (Sec. 307, 48 Stat. 1083; 47 U.S.C. 307)

#### § 1.570 Standard broadcast applications involving other North American countries.

(a) *Applications involving conflicts with the U.S./Mexican Agreement or with countries which have ratified NARBA.* Except for applications falling within the provisions of paragraph (b) of this section, no application will be accepted for filing if authorization of the facilities requested in such application would be inconsistent with the provisions of the North American Regional Broadcasting Agreement (NARBA), or the Agreement Between the United States of America and the United Mexican States Concerning Radio Broadcasting in the Standard Broadcast Band (the U.S./Mexican Agreement). Any such application which has heretofore been accepted for filing or which is inadvertently accepted for filing will be dismissed.

(b) *Applications involving conflicts only with respect to Haiti or countries which have signed but not ratified NARBA.* Applications (regardless of when they were or may be filed) for facilities which would be inconsistent with NARBA only with respect to a country which has signed but not completed formal ratification of that agreement, or which would cause objectionable interference (under the standards set forth in NARBA) to a duly notified Haitian station, will be placed or retained in the pending file without further action, except where they conflict with other applications which do not involve international problems. In the latter situation, the various conflicting applications will be designated for hearing in a consolidated proceeding. Where an application inconsistent with international relationships as specified in

this paragraph is designated for hearing, the following procedures will govern:

(1) Where it is found that, of the applications involved in a consolidated hearing proceeding, all are inconsistent with international relationships as specified in this paragraph, all will be removed from hearing status and returned to the pending file.

(2) Where, of the applications involved in a consolidated hearing proceeding, one or more but not all are inconsistent with international relationships as specified in this paragraph the hearing issues will include an issue as to such inconsistency (if necessary the hearing issues will be enlarged, and if closed the hearing record will be reopened, to include this matter). The initial decision and the final decision will contain findings and conclusions as to this issue, but neither the presiding officer nor the Commission will in their decisions take into account such issue in determining whether the public interest would be served by grant of any of the various applications. In the decision in such a proceeding, applications will be:

(i) Granted, where they are not inconsistent with international relationships and the public interest will be served thereby.

(ii) Denied, if denial is required because of grant of other applications or for other reasons independent of the consistency issue; or

(iii) Placed in the pending file without removal from hearing status if grant of the application would be in the public interest except for inconsistency with international relationships as specified in this paragraph, or where denial would be only on the basis of comparative consideration with an application which is being placed in the pending file because of such inconsistency.

(3) Where an application inconsistent with international relationships is designated for hearing because of conflict with another application not involving such inconsistency, and the conflict is later removed by amendment or dismissal of the latter application, the inconsistent application will be removed from hearing status and returned to the pending file.

NOTE 1: Upon ratification by Canada, Cuba and the United States, NARBA entered into force April 19, 1960; the Dominican Republic deposited its ratification on May 4, 1961. When the other signatory power, The Bahama Islands and Jamaica, ratifies the agreement, or when Haiti (not a signatory power) formally adheres thereto, the Commission upon notification thereof will give public notice of such occurrence. Applications involving conflicts with respect to such country will thereupon automatically be removed from the provisions of paragraph (b) of this section and will fall within paragraph (a) of this section.

If The Bahama Islands and Jamaica completes formal ratification of NARBA, and at that time Haiti has not yet formalized its adherence to the agreement, the Commission will give consideration to whether applications involving conflicts with Haitian stations should continue to be handled as provided in paragraph (b) of this section, or whether, in view of the then pertaining relationship with Haiti in this area, they should be handled as provided in paragraph (a) of this section, or

should be handled otherwise. Applicants for facilities involving conflicts with duly notified Haitian stations should take note of these possibilities.

NOTE 2: For the purpose of this section, an application is not regarded as inconsistent with the provisions of NARBA if it is for Class IV facilities operating with more than 250 watts but no more than 1 kw power, to be located in those portions of the United States where such facilities are not precluded under the Note to § 73.21(c) of this chapter, and where such facilities would not cause objectionable interference (under the standards set forth in NARBA) to a duly notified station in any other NARBA signatory country or in Haiti.

NOTE 3: As to the use in hearings of groundwave field intensity measurements involving foreign countries, see the note to § 73.183(b) of this chapter.

(c) *Amendment of application designated for hearing.* When, in the case of any application which has been designated for hearing on issues not including an issue as to consistency with international relationships and as to which no final decision has been rendered, action under this section becomes appropriate because of inconsistency with international relationships, the applicant involved shall, notwithstanding the provisions of §§ 1.522 and 1.571, be permitted to amend its application to achieve consistency with such relationships. In such cases the provisions of § 1.605(c) will apply.

(d) *Applications not involving conflict with NARBA or U.S./Mexican Agreement.* As a matter of general practice, applications which are consistent with NARBA and the U.S./Mexican Agreement and which would not involve objectionable interference to a duly notified Haitian assignment, will be considered and acted upon by the Commission in accordance with its established procedure. In particular cases, involving applications of this character but in which special international considerations require that a different procedure be followed, the applicant involved will be formally advised to this effect.

#### § 1.571 Processing of standard broadcast applications.

(a) Applications for standard broadcast facilities are divided into three groups.

(1) In the first group are applications for new stations (except applications for new Class II-A stations) or for major changes in the facilities of authorized stations, i.e., any changes in frequency, power, hours of operation, or station location: *Provided, however,* That the Commission may, within 15 days after the tender for filing of any application for other modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.580.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(3) The third group consists of applications for new Class II-A stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a) (1) of this section or so as to result in a transfer of control or assignment which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.540), § 1.580 will apply to such amended application.

(c) Applications for new stations (except new Class II-A stations) or for major changes in the facilities of authorized stations are processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and are drawn by the staff for study, the lowest file number first. Thus, the file number determines the order in which the staff's work is begun on a particular application. There are two exceptions thereto: the Broadcast Bureau is authorized to (1) group together for processing applications which involve interference conflicts where it appears that the applications must be designated for hearing in a consolidated proceeding; and (2) to group together for processing and simultaneous consideration, without designation for hearing, all applications filed by existing Class IV stations requesting an increase in daytime power which involve interlinking interference problems only, regardless of their respective dates of filing.

In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed applications is begun, the Commission will periodically publish in the Federal Register a Public Notice listing applications which are near the top of the processing line and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all applications excepting those specified in exception (2) in this paragraph must be filed if they are to be grouped with any of the listed applications.

(d) Applications for new Class II-A stations are placed at the head of the processing line and processed as quickly as possible. Action on such applications may be at any time more than 30 days after public notice is given of acceptance of the application for filing.

(e) The processing and consideration of applications for new stations or major changes on those frequencies specified in § 1.569 are subject to certain restrictions, as set forth therein.

(f) Applications other than those for new stations or for major changes in the facilities of authorized stations are not placed on the processing line but are processed as nearly as possible in the order in which they are filed.

(g) Applications for modifications of license to change hours of operation of a class IV station, to decrease hours of operation of any other class of station, or to change station location involving no change in transmitter site will be considered without reference to the processing line.

(h) If, upon examination, the Commission finds that the public interest, convenience, and necessity will be served by the granting of an application, the same will be granted. If, on the other hand, the Commission is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in § 1.593 will be followed.

(i) When an application which has been designated for hearing has been removed from the hearing docket, the application will be returned to its proper position (as determined by the file number) in the processing line. Whether or not a new file number will be assigned will be determined pursuant to paragraph (j) of this section after the application has been removed from the hearing docket.

(j) (1) A new file number will be assigned to an application for a new station, or for major changes in the facilities of authorized stations, when it is amended to change frequency, to increase power, to increase hours of operation, or to change station location. Any other amendment modifying the engineering proposal, except an amendment respecting the type of equipment specified, will also result in the assignment of a new file number unless such amendment is accompanied by a complete engineering study showing that the amendment would not involve new or increased interference problems with existing stations or other applications pending at the time the amendment is filed. If, after submission and acceptance of such an engineering amendment, subsequent examination indicates new or increased interference problems with either existing stations or other applications pending at the time the amendment was received in the Commission, the application will then be assigned a new file number and placed in the processing line according to the numerical sequence of the new file number.

(2) A new file number will be assigned to an application for a new station when it is amended to specify a change in ownership as a result of which one or more parties with an ownership interest in the original application do not have, on a collective basis, a 50 percent or more ownership interest in the amended application.

(3) An application for changes in the facility of an existing station will continue to carry the same file number although an assignment of license or transfer of control of said licensee (permittee)-applicant has

been consented to by the Commission, provided the application for changes in facility (FCC Form 301) is amended jointly by the assignor and assignee or transferor and transferee, upon consummation of the assignment or transfer, to reflect the ownership changes and to include the financial and programming proposals of the new licensee (permittee)-applicant.

(k) When an application is reached for processing, and it is necessary to address a letter to the applicant asking further information, the application will not be processed until the information requested is received, and the application will be placed in the pending file to await the applicant's response.

(1) When an application is placed in the pending file, the applicant will be notified of the reason for such action.

NOTE: No application tendered for filing after July 13, 1964, will be accepted for filing unless it complies fully with the provisions of new § 73.24 (b) and new § 73.37 of this chapter, contained in the Commission's report and order, FCC 64-609 in Docket 15084, adopted July 1, 1964. No application accepted for filing after July 13, 1964, will be granted prior to August 13, 1964.

#### § 1.572 Processing of television broadcast applications.

(a) Applications for television broadcast stations are divided into two groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change is, in the case of stations authorized under Part 73 of this chapter, any change in frequency or station location, or any change in power or antenna location or height above average terrain (or combination thereof) which would result in a change of 50 percent or more of the area within the Grade B contour of the station; in the case of television translator stations authorized under Part 74 of this chapter it is any change in frequency (output channel), primary station (input channel) or principal community or communities: *Provided, however*, That, the Commission may, within 15 days after the tender for filing of

any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of § 1.580.

¶ § 1.572 (a) (1) amended *eff. 8-4-67; I(63)-17* ¶

(2) The second group consists of applications for licenses to cover construction permits and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a) (1) of this section or so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.540), § 1.580 will apply to such amended application.

(c) Applications for television stations will be processed as nearly as possible in the order in which they are filed.

(d) Regardless of the number of applications filed for channels in a city or the number of assignments available in that city, those applications which are mutually exclusive, i.e., which request the same channel, will be designated for hearing. All other applications for channels will, if the applicants are duly qualified, receive grants. For example, if Channels 6, 13, 47, and 53 have been assigned to City X and there are pending two applications for Channel 6 and one application for each of the remaining channels, the latter three applications will be considered for grants without hearing and the two mutually exclusive applications requesting Channel 6 will be designated for hearing. If there are two pending applications for Channel 6 and two applications for Channel 13, separate hearings will be held.

(e) Where applications are mutually exclusive because the distance between their respective proposed transmitter sites is contrary to the station separation requirements set forth in § 73.610 of this chapter, said applications will be processed and designated for hear-





ing at the time the application with the lower file number is reached for processing. In order to be considered mutually exclusive with a lower file number application, the higher file number application must have been accepted for filing at least one day before the lower file number application has been acted upon by the Commission.

#### § 1.573 Processing of FM and noncommercial educational FM broadcast applications.

(a) Applications for FM broadcast stations are divided into two groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations, i.e., (i) any change in frequency, station location or class of station, and (ii) any change in power, antenna height above average terrain and/or antenna location, if the change or combination of changes results in a change of 50 percent or more in the area within the station's 1 mv/m contour: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.580.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a)(1) of this section or so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.540), § 1.580 will apply to such amended application.

(c) Except as provided in the note to this section, if, upon examination, the Commission finds that the public interest, convenience and necessity will be served by the granting of an application for FM broadcasting facilities (Class A, Class B, Class C or non-commercial educational), the same will be granted. If, on the other hand, the Commission is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in § 1.593 will be followed.

**NOTE:** During further consideration of the matters and issues in Docket No. 14185 (pertaining to the revision of the FM broadcast rules), applications for FM broadcast authorizations (on both commercial and noncommercial educational channels in Puerto Rico and the Virgin Islands and on non-commercial educational channels elsewhere whether in or out of hearing status, and regardless of the date they were or may be tendered for filing) will be subject to the following procedures, notwithstanding any provision of the FM broadcast rules or of this section to the contrary:

(a) *Consideration pending decision as to an FM Table of Assignments for Puerto Rico and the Virgin Islands and adoption thereof if decided on:* Pending decision as to adoption of a Table of Assignments for the 80 commercial channels in Puerto Rico and the Virgin Islands, and final adoption of such Table if it is concluded to be in the public interest, no application will be granted or accepted for filing proposing a

new FM station or a change in the channel of an existing FM station in Puerto Rico or the Virgin Islands. Applications for other changes in the facilities of existing FM stations in Puerto Rico and the Virgin Islands will be accepted and acted upon if consistent with the requirements of subpart B, Part 73, of this chapter.

(b) *Alaska, Hawaii, and Guam:* Applications for facilities on commercial channels in Alaska, Hawaii, and Guam will be accepted and acted upon if they meet the requirements of Subpart B, Part 73, of this chapter.

(c) *Noncommercial educational stations:* With respect to grant and (after August 8, 1962) acceptance of applications for construction permits for new or changed facilities on the channels reserved in § 73.501 of this chapter for educational use, the following restrictions will apply:

(1) Applications for facilities on channels 218, 219, and 220 must meet the following criteria:

(i) The facilities requested must not exceed the maximum facilities specified in § 73.211 of this chapter (as amended July 25, 1963, effective September 11, 1963) for Class B or Class C commercial stations, depending on the zone in which the requested facilities would be located.

(ii) The requested facilities must be located, with respect to any assignment on FM Channels 221, 222, and 223 specified in the table of assignments in § 73.202 of this chapter at no less than the minimum mileage separations specified for stations of their class in §§ 73.207 and 73.504 of this chapter.

(iii) Where the application is for change in transmitter site, the move must not shorten the separation between the station and other co-channel and adjacent-channel stations, if the result would be a spacing less than that specified in § 73.207 of this chapter (as amended July 25, 1963, effective September 11, 1963).

(2) No application for facilities on any channel specified in § 73.501 of this chapter will be granted or accepted if the facilities requested would cause objectionable interference within the 1 mv/m contour of any co-channel or adjacent-channel station, or receive interference within the proposed 1 mv/m contour. The following standards shall be used to determine the existence of objectionable interference:

(i) The distance to the 1 mv/m contour shall be determined by use of Figure 1 of § 73.333 of this chapter (as amended July 25, 1962, effective September 10, 1962).

(ii) The distance to the applicable interference contour shall be determined by the F(50,10) curve published with the Commission's Order, FCC 61-1447, adopted December 6, 1961, setting forth the interim procedure for processing FM applications.

(iii) Objectionable interference will be considered to exist where, on the basis of the curves referred to in this subparagraph, the undesired signal of a co-channel signal exceeds one-tenth of the desired signal, the undesired signal of a station 20 kc/s removed exceeds one half of the desired signal, the undesired signal of a station 400 kc/s removed exceeds 10 times the desired signal, or the undesired signal of a station 600 kc/s removed exceeds 100 times the desired signal.

(3) Directional antennas. No application for construction permit for a new station, change in channel, or change in existing facilities on the same channel will be granted or accepted for filing where it proposes a directional antenna with a maximum-to-minimum ratio of more than 15 db.

(d) *Maximum and minimum facilities for stations on non-commercial channels.* No provisions of these rules as to minimum facilities shall apply to noncommercial educational stations operating on the channels specified in § 73.501 of this chapter, or to grant or acceptance of applications by any existing station for increase in facilities on its present channel; and no provisions as to maximum facilities shall apply to noncommercial educational stations on Channels 201 to 217, inclusive, set forth in § 73.501 of this chapter.

#### § 1.574 Processing of international broadcast applications.

(a) Applications for international broadcast facilities are divided into two groups.

(1) In the first group are applications for new stations for new or additional target zones, or for major changes in the facilities of authorized stations, i.e., a substantial change (other than local) in transmitter location or a significant change in the delivered median field intensity at the target zone: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any other application for modification, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.580.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a) (1) of this section, or so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.540), § 1.580 will apply to such amended application.

(c) Applications for international broadcast stations will be processed as nearly as possible in the order in which they are filed.

NOTE: Pending rule making pertaining to the authorization of international broadcast stations, no application seeking authority to construct a new international broadcast station or seeking authority to operate a greater number of frequency hours than authorized on April 25, 1963, will be granted, and, after April 25, 1963, no such application will be accepted for filing.

#### § 1.578 Amendments to applications for renewal, assignment and/or transfer of control.

(a) Any amendment to an application for renewal of any instrument of authorization shall be considered to be a minor amendment, except that any amendment which seeks to change the proposals contained therein relating to future programming of a station shall be considered to be a major amendment: *Provided, however*, That the Commission may, within 15 days after tender for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 1.580.

(b) Any amendment to an application for assignment of construction permit or license, or consent to the transfer of control of a corporation holding such a construction permit or license, shall be considered to be a minor amendment, except that any amendment which seeks a change in the ownership interest of the proposed assignee or transferee which would result in a change in control, or any amendment which would

require the filing of FCC Forms 314 or 315 (see § 1.540) if the changes sought were made in an original application for assignment or transfer of control, shall be considered to be a major amendment: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 1.580.

#### § 1.580 Local notice of filing; public notice of acceptance for filing; petitions to deny.

(a) All applications for instruments of authorization in the broadcast service (and major amendments thereto, as indicated in §§ 1.571, 1.572, 1.573, 1.574, and 1.578) are subject to the provisions of this section, except applications for:

(1) A minor change in the facilities of an authorized station, as indicated in §§ 1.571-1.574.

(2) Consent to an involuntary assignment or transfer under section 310(b) of the Communications Act of 1934, as amended, or to a voluntary assignment or transfer thereunder which does not result in a change of control and which may be applied for on FCC Form 316 pursuant to the provisions of § 1.540(b).

(3) A license under section 319(c) of the Communications Act or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license.

(4) Extension of time to complete construction of authorized facilities.

(5) An authorization of facilities for remote pickup or studio links for use in the operation of a broadcast station.

(6) Authorization pursuant to section 325(b) of the Communications Act where the programs to be transmitted are special events not of a continuing nature.

(7) An authorization under any of the proviso clauses of section 308(a) of the Communications Act.

(b) No application subject to the provisions of this section (whether as originally filed or as amended) will be acted upon by the Commission less than 30 days following issuance of public notice of the acceptance for filing of such application or amendment: *Provided, however*, That the Commission, notwithstanding the requirements of this section, may, if the grant of such application is otherwise authorized by law and if it finds that there are extraordinary circumstances requiring emergency operations in the public interest and that delay in the institution of such emergency

operations would seriously prejudice the public interest, grant a temporary authorization accompanied by a statement of its reasons therefor, to permit such emergency operations for a period not exceeding 90 days, and upon making like findings may extend such temporary authorization for one additional period not to exceed 90 days.

(c) Except as otherwise provided in paragraph (c) of this section, an applicant filing any application or an amendment thereto which is subject to the provisions of this section (except for applications for stations in the international broadcast service and for television translator stations) shall cause to be published a notice of such filing as follows: Notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the tendering for filing of such application or amendment, or at least twice a week for 2 consecutive weeks within the 3-week period immediately following notification by the Commission pursuant to § 1.571, § 1.572, § 1.573, or § 1.578, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located: *Provided, however,* That if there is no such daily newspaper published in the community, the notice shall be published as follows:

(1) If one or more weekly newspapers of general circulation are published in the community in which the station is located or proposed to be located, notice shall be published in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the tendering for filing of such application or amendment, or once a week for 3 consecutive weeks within the 4-week period immediately following notification by the Commission pursuant to § 1.571, § 1.572, § 1.573, or § 1.578.

(2) If no weekly newspaper of general circulation is published in the community in which the station is located or proposed to be located, notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the tendering for filing of such application or amendment, or at least twice a week for the 2 consecutive weeks within the 3-week period immediately following notification by the Commission pursuant to § 1.571, § 1.572, § 1.573, or § 1.578, in the daily newspaper having the greatest general circulation in the community in which the station is located or proposed to be located:

*And provided further,* That in the case of an application for a permit pursuant to section 325(b) of the Communications Act, the notice shall be published at least twice a week for 2 consecutive weeks within the

3-week period immediately following the tendering for filing of such application, or at least twice a week for 2 consecutive weeks within the 3-week period immediately following notification by the Commission pursuant to § 1.571, § 1.572, § 1.573, or § 1.578, in a daily newspaper of general circulation in the largest city in the principal area to be served in the United States by the foreign radio broadcast station:

*And provided further,* That in the case of an application for change in the location of a station, the notice shall be published both in the community in which the station is located and in the community in which the station is proposed to be located.

☐§ 1.580 (c) as amended eff. 5-24-65; I (63)-7☐

(d) If the application seeks modification, assignment, transfer, or renewal of an operating broadcast station (except for applications for stations in the international broadcast service and for television translator stations), the applicant shall, in addition to publishing a notice of such filing as provided in paragraph (c) of this section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the tendering for filing of such application, or in the second week immediately following notification by the Commission pursuant to § 1.571, § 1.572, § 1.573, or § 1.578. In the case of television broadcast stations and noncommercial educational television broadcast stations, such notice shall be broadcast orally with camera focused on the announcer. The notice required by this paragraph shall be broadcast during the following periods:

(1) For television broadcast stations, between 7:00 p.m. and 10:00 p.m.

(2) For standard and FM broadcast stations, between 7:00 a.m. and 10:00 a.m., but if such stations do not operate during those hours, then between 6:00 p.m. and 9:00 p.m.

(3) For noncommercial educational television broadcast stations, between 7:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

(4) For noncommercial educational FM broadcast stations and standard broadcast stations operating as educational stations, between 3:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

☐§ 1.580 (d) as amended eff. 5-24-65; I (63)-7☐

(e) If the station in question is the only operating station in its broadcast service which is located in the community involved, or if it is a noncommercial educational station (FM or television) or a standard broadcast station operating as a noncommercial educational station, publication of the notice in a newspaper, as provided in paragraph (c) of this section, is not required, and publication by broadcast over that station as provided in paragraph (d), shall be deemed sufficient to meet the requirements of paragraphs (c) and (d) of this section: *Provided, however,* That non-commercial educational FM broadcast stations, non-commercial educational television broadcast stations, and standard broadcast stations operating as noncommercial educational stations which do not broadcast during the portion of the year in which the period of broadcast of notice falls must comply with the provisions of paragraph (c) of this section.

(f) The notice required by paragraphs (c) and (d) of this section shall contain the information indicated in subparagraphs (1), (2), (3), (4), and (10) of this paragraph, and, if the notice concerns applications and amendments referred to in subparagraphs (5) through (9) of this paragraph, shall also contain the information called for in those subparagraphs:

(1) The name of the applicant, if the applicant is an individual: the names of all partners, if the applicant is a partnership; or the names of all officers and directors and of those persons holding 10 percent or more of the capital stock or other ownership interest if the applicant is a corporation or an unincorporated association. (In the case of applications for assignment or transfer of control, information should be included for all parties to the application.)

(2) The purpose for which the application was filed (i.e., construction permit, modification, transfer or assignment of control, renewal, etc.).

(3) The date when the application or amendment was tendered for filing with the Commission.

(4) The call letters, if any, of the station, and the frequency or channel on which the station is operating or proposes to operate.

(5) In the case of an application for construction permit for a new station, the facilities sought, including type and class of station, power, location of studios, transmitter site and antenna height.

(6) In the case of an application for modification of a construction permit or license, the exact nature of the modification sought.

(7) In the case of an amendment to an application, the exact nature of the amendment.

(8) In the case of applications for a permit pursuant to section 325(b) of the Communications Act, the call letters and location of the foreign radio broadcast station, the frequency or channel on which it operates, and a description of the programs to be transmitted over the station.

(9) In the case of an application for renewal of license, as follows:

The application of this station for a renewal of its license to operate this station in the public interest was tendered for filing with the Federal Communications Commission on ----- Members of the public who desire to bring to the Commission's attention facts concerning the operation of the station should write to the Federal Communications Commission, Washington, D.C. 20554, not later than ----- Letters should set forth in detail the specific facts which the writer wishes the Commission to consider in passing on this application.

NOTE 1: In the required statement in subparagraph (9) of this paragraph, the applicant shall insert, as the date on or before which members of the public who desire to submit facts should write to the Commission, the date 30 days after the date upon which the application was tendered for filing.

NOTE 2: The first sentence of the required statement in subparagraph (9) of this paragraph shall satisfy the requirement of subparagraph (3) of this paragraph in the case of an application for renewal of license.

(10) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the main studio is maintained or is proposed to be located. See § 1.526.

¶§ 1.580(f)(10) adopted in I(63)-6, as further amended *re par.* (f) *eff.* 11-15-65; I(63)-9

(g) An applicant filing an application or an amendment thereto for a television broadcast translator station which is subject to this section shall cause to be published a notice of such filing at least once during the two week period immediately following the tendering for filing of such application or major amendment, or, when an applicant is specifically advised by the Commission that public notice is required in a particular case pursuant to § 1.572, such notice shall be published at least once during the two week period immediately following Commission notification, in a daily, weekly or bi-weekly publication having general circulation in the community or area to be served: *Provided, however,* That, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(1) The name of the applicant, the community or area to be served, and the transmitter site.

(2) The purpose for which the application was filed (whether the application is for a new translator station, for authority to make changes in an existing translator station, for assignment or transfer of control, for assignment or transfer of control, renewal, etc.).

(3) The date when the application or amendment was filed with the Commission.

(4) The output channel or channels on which the station is operating or proposes to operate and the power used or proposed to be used.

(5) In the case of an application for changes in authorized facilities, the nature of the changes sought.

(6) In the case of a major amendment to an application, the nature of the amendment.

(7) A statement that the station engages in or intends to engage in rebroadcasting, and the call letters, location and channel of operation of each station whose signals it is rebroadcasting or intends to rebroadcast.

(h) Within 7 days of the last day of publication or broadcast of the notice required by paragraphs (c), (d), or (g) of this section, the applicant shall file a statement in triplicate with the Commission, setting forth the dates on which the notice was published, the newspaper in which the notice was published, the text of the notice, and/or, where applicable the dates and times that the notice was broadcast and the text thereof. When public notice is given by other means, as provided in paragraph (g) of this section, the applicant shall file, within 7 days of the giving of such notice, the text of the notice, the

means by which it was accomplished, and the date thereof.

(i) Any party in interest may file with the Commission a petition to deny any such application (whether as originally filed or amended) no later than 30 days after issuance of a public notice of the acceptance for filing of any such application or amendment thereto: *Provided, however*, That in the case of applications for standard broadcast facilities, petitions to deny may be filed at any time prior to the day of Commission grant thereof without hearing or the day of formal designation thereof for hearing; but where the Commission issues a public notice pursuant to the provisions of § 1.571(c) listing standard broadcast applications as available and ready for processing, no petitions to deny any such listed application will be accepted after the "cut off" date specified in the public notice: *And provided further*, That in the case of applications for renewal of license, petitions to deny may be filed at any time prior to the day of Commission grant thereof without hearing or the day of formal designation thereof for hearing. Petitions to deny shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience, and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.

(j) The applicant may file an opposition to any petition to deny, and the petitioner a reply to such



opposition (see § 1.45) in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof.

(k)(1) The provisions of sections 309 and 311(a) of the Communications Act, as amended by Public Law 86-752, shall not be applicable to applications for assignments of licenses or construction permits or for transfers of control of corporate licensees or permittees which are pending before the Commission and which have not been designated for hearing prior to December 12, 1960.

(2) Any other applications in the categories subject to this section which are pending before the Commission and which have not been designated for hearing before December 12, 1960, will not be acted on by the Commission until at least 30 days after that date. Any party in interest may file a petition to deny such applications pursuant to the provisions of this section. The provisions of section 309 of the Communications Act, as in effect prior to December 12, 1960, shall not be applicable to such applications. However, such applications shall not be subject to the provisions of paragraph (c) of this section.

(Sec. 5(a), 74 Stat. 892; 47 U.S.C. 311)

**§ 1.587 Procedure for filing informal objections.**

Before Commission action on any application for an instrument of authorization, other than a license pursuant to a construction permit, any person may file informal objections to the grant. Such objections shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in § 1.45 shall not be applicable to any objections duly filed under this section.

**ACTION ON APPLICATIONS**

**§ 1.591 Grants without hearing of authorizations other than licenses pursuant to construction permits.**

(a) In the case of any application for an instrument of authorization other than a license pursuant to a construction permit, the Commission will make the grant if it finds (on the basis of the application, the pleadings filed, or other matters which it may officially notice) that the application presents no substantial and material question of fact and meets the following requirements:

(1) There is not pending a mutually exclusive application filed in accordance with paragraph (b) of this section;

(2) The applicant is legally, technically, financially, and otherwise qualified;

(3) The applicant is not in violation of provisions of law or this chapter or established policies of the Commission; and

(4) A grant of the application would otherwise serve the public interest, convenience, and necessity.

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the Commission will not consider any other application, or any other application if amended so as to require a new file

number, as being mutually exclusive or in conflict with the application under consideration unless such other application was substantially complete and tendered for filing by whichever date is earlier: (1) The close of business on the day preceding the day on which the Commission takes action with respect to the application under consideration; or (2) the close of business on the day preceding the day designated by public notice in the FEDERAL REGISTER as the day the application under consideration is available and ready for processing.

NOTE: Paragraph (b)(2) of this section applies only to standard broadcast applications for new stations or for major changes in the facilities of authorized stations. See also §§ 1.227(b)(1) and 1.571 (c) and (h).

(c) If a petition to deny the application has been filed in accordance with § 1.580 and the Commission makes the grant in accordance with paragraph (a) of this section, the Commission will deny the petition and issue a concise statement setting forth the reasons for denial and disposing of all substantial issues raised by the petition.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

**§ 1.592 Conditional grant.**

(a) Where a grant of an application would preclude the grant of any application or applications mutually exclusive with it, the Commission may, if the public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that such grant is subject to being withdrawn if, at the hearing, it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(1) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of broadcast service in a particular community or area; or

(3) That a grant of one or more applications would be in the public interest, and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest, and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or the provisions of this chapter.

(b) When two or more applications for the same television assignment have been designated for hearing, the Commission may, if the public interest will be served thereby, make a conditional grant to a group

composed of any two or more of the competing applicants, such grant to terminate when the successful applicant commences operation under the terms of a regular authorization. No conditional grant will be made unless all of the competing applicants have been afforded a reasonable opportunity to participate in the group seeking the conditional grant. In its application, the group shall include a special showing as to the need for the service pending operation by the successful applicant under the terms of a regular authorization; the effect, if any, of a grant on the position of any applicant which is not a member of the group; and any other factors which are deemed pertinent to the public interest judgment.

#### § 1.593 Designation for hearing.

If the Commission is unable, in the case of any application for an instrument of authorization, to make the findings specified in § 1.591(a), it will formally designate the application for hearing on the grounds or reasons then obtaining and will forthwith notify the applicant and all known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

#### § 1.594 Local notice of designation for hearing.

(a) Except as otherwise provided in paragraph (c) of this section, when an application subject to the provisions of § 1.580 (except for applications for stations in the international broadcast service and for television translator stations) is designated for hearing, the applicant shall cause to be published a notice of such designation as follows: Notice shall be published at least twice a week, for 2 consecutive weeks within the 3-week period immediately following release of the Commission's order specifying the time and place of the commencement of the hearing, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located: *Provided, however,* That if there is no such daily newspaper published in the community, the notice shall be published as follows:

(1) If one or more weekly newspapers of general circulation are published in the community in which the station is located or proposed to be located, notice shall be published in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the release of the Commission's order specifying the time and place of the commencement of the hearing;

(2) If no weekly newspaper of general circulation is published in the community in which the station is located or proposed to be located, notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the release of the Commission's order specifying the time and place of the commencement of the hearing in the daily

newspaper having the greatest general circulation in the community in which the station is located or proposed to be located:

*And provided further,* That in the case of an application for a permit pursuant to section 325(b) of the Communications Act, the notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following release of the Commission's order specifying the time and place of the commencement of the hearing in a daily newspaper of general circulation in the largest city in the principal area to be served in the United States by the foreign radio broadcast station:

*And provided further,* That in the case of an application for change in the location of a station, the notice shall be published both in the community in which the station is located and in the community in which the station is proposed to be located.

(b) When an application which is subject to the provisions of § 1.580 and which seeks modification, assignment, transfer, or renewal of an operating broadcast station is designated for hearing (except for applications for stations in the international broadcast service and for television translator stations), the applicant shall, in addition to publishing a notice of such designation as provided in paragraph (a) of this section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the release of the Commission's order specifying the time and place of the commencement of the hearing. In the case of television broadcast stations and noncommercial educational television broadcast stations, such notice shall be broadcast orally with camera focused on the announcer. The notice required by this paragraph shall be broadcast during the following periods:

(1) For television broadcast stations, between 7:00 p.m. and 10:00 p.m.

(2) For standard and FM broadcast stations, between 7:00 a.m. and 10:00 a.m., but if such stations do not operate during those hours, then between 6:00 p.m. and 9:00 p.m.

(3) For noncommercial educational television broadcast stations, between 7:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

(4) For noncommercial educational FM broadcast stations and standard broadcast stations operating as educational stations, between 3:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

(c) If the station in question is the only operating station in its broadcast service which is located in the community involved, or if it is a noncommercial educational station (FM or television) or a standard broadcast station operating as a noncommercial educa-



tional station, publication of the notice in a newspaper, as provided in paragraph (a) of this section, is not required, and publication by broadcast over that station as provided in paragraph (b) shall be deemed sufficient to meet the requirements of paragraphs (a) and (b) of this section: *Provided, however*, That noncommercial educational FM broadcast stations, noncommercial educational television broadcast stations, and standard broadcast stations operating as noncommercial educational stations which do not broadcast during the portion of the year in which the period of broadcast of notice falls must comply with the provisions of paragraph (a) of this section.

(d) The notice required by paragraphs (a) and (b) of this section shall set forth:

(1) The name of the applicant or applicants designated for hearing.

(2) The call letters, if any, of the station or stations involved, and the frequencies or channels on which the station or stations are operating or proposed to operate.

(3) The time and place of the hearing.

(4) The issues in the hearing as listed in the Commission's order of designation for hearing.

(5) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the main studio is maintained or is proposed to be located. See § 1.526.

(e) When an application for renewal of license is designated for hearing, the notice shall contain the following additional statements:

(1) Immediately preceding the listing of the issues in the hearing:

The application of this station for a renewal of its license to operate this station in the public interest was tendered for filing with the Federal Communications Commission on \_\_\_\_\_ After considering this application, the Commission has determined that it is necessary to hold a hearing to decide the following questions:

(2) Immediately following the listing of the issues in the hearing:

The hearing will be held at \_\_\_\_\_, commencing at \_\_\_\_\_, on \_\_\_\_\_, 19\_\_\_. Members of the public who desire to give evidence concerning the foregoing issues should write to the Federal Communications Commission, Washington, D.C., 20554, not later than \_\_\_\_\_. Letters should set forth in detail the specific facts concerning which the writer wishes to give evidence. If the Commission

believes that the evidence is legally competent, material, and relevant to the issues, it will contact the person in question.

NOTE: In subparagraph (2) of this paragraph, the applicant shall insert, as the date on or before which members of the public who desire to give evidence should write to the Commission, the date 30 days after the date of release of the Commission's order specifying the time and place of the commencement of the hearing.

(f) When an application for a television broadcast translator station which is subject to the provisions of § 1.580 is designated for hearing, the applicant shall cause to be published a notice of such designation as follows: Notice shall be published at least once during the 2-week period immediately following release of the Commission's order specifying the time and place of the commencement of the hearing in a daily, weekly or biweekly publication having general circulation in the community or area to be served: *Provided, however*, That, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(1) The name of the applicant or applicants designated for hearing.

(2) The call letters, if any, of the station or stations involved, the output channel or channels of such stations, and the call letters, channel and location of the station or stations being or proposed to be rebroadcast.

(3) The time and place of the hearing.

(4) The issues in the hearing as listed in the Commission's order of designation for hearing.

(5) If the application is for renewal of license, the notice shall contain, in addition to the information required by subparagraphs (1) through (4) of this paragraph, the statements required by paragraph (e) of this section.

(g) Within 7 days of the last day of publication or broadcast of the notice required by paragraphs (a) and (b) of this section, the applicant shall file a statement in triplicate with the Commission, setting forth the dates on which the notice was published, the newspaper in which the notice was published, the text of the notice, and/or, where applicable, the date and time the notice was broadcast and the text thereof. When public notice is given by other means, as provided in paragraph (f) of this section, the applicant shall file,

within 7 days of the giving of such notice, the text of the notice, the means by which it was accomplished, and the date thereof.

(h) The failure to comply with the provisions of this section is cause for dismissal of an application with prejudice. However, upon a finding that applicant has complied (or proposes to comply) with the provisions of section 311(a) (2) of the Communications Act of 1934, as amended, and that the public interest, convenience and necessity will be served thereby, the presiding officer may authorize an applicant, upon a showing of special circumstances, to publish notice in a manner other than that prescribed by this section; may accept publication of notice which does not conform strictly in all respects with the provisions of this section; or may extend the time for publishing notice.

(Sec. 5(a), 74 Stat. 892; 47 U.S.C. 311)

¶§ 1.594, amended in I(63)-2 and I(63)-6, as further amended *re pars.* (a) and (b) *cf.* 5-24-65; I(63)-7¶

### § 1.597 Procedures on transfer and assignment applications.

(a) If, upon the examination, pursuant to sections 309(a) and 310(b) of the Communications Act of 1934, as amended, of an application for Commission consent to an assignment of a broadcast construction permit or license or for a transfer of control of a corporate permittee or licensee, it appears that the station involved has been operated by the proposed assignor or transferor for less than three successive years, the application will be designated for hearing on appropriate issues pursuant to section 309(b) of the Communications Act of 1934, as amended, unless the Commission is able to find that:

(1) The application involves a translator station only, or an FM station operated for at least 3 years together with a Subsidiary Communications Authorization held for a lesser period; or

(2) The application involves a pro forma assignment or transfer of control; or

(3) The assignor or transferor has made an affirmative factual showing, supported by affidavits of a person or persons with personal knowledge thereof, which

establishes that (due to unavailability of capital, to death or disability of station principals, or to other changed circumstances affecting the licensee or permittee occurring subsequent to the acquisition of the license or permit) Commission consent to the proposed assignment or transfer of control will serve the public interest, convenience and necessity.

(b) The commencement date of the 3-year period set forth in paragraph (a) of this section shall be determined as follows:

(1) Where the authorizations involved in the application consist of a license and a construction permit authorizing a major change in the facilities of the licensed station (as defined in §§ 1.571, 1.572, and 1.573), the 3-year period shall commence with the date of the Commission's grant of the construction permit for the modification. However, when operating authority has been issued to cover the construction permit for a major change in facility, the commencement date for calculating the length of time the station has been operated for purposes of this section shall then revert to the date the licensee received its original operating authority. A grant of authority for minor modifications in authorized facilities shall have no effect upon the calculation of this time period.

(2) Where the authorization involved in the application consists of a permit authorizing the construction of a new facility, or of a license covering such permit, the 3-year period shall commence with the date of issuance of initial operating authority.

(3) Where the operating station involved in the application was obtained by means of an assignment or transfer of control (other than pro forma), the 3-year period shall commence with the date of grant by the Commission of the application for said assignment or transfer of control. If the station was put in operation after such assignment or transfer, subparagraphs (1) and (2) of this paragraph shall apply.

(4) Where an application is filed for Commission consent to a transfer of control of a corporation holding multiple licenses and/or construction permits, the commencement date applicable to the last-acquired station shall apply to all the stations involved in the

transfer, except where the application involves an FM station operated for less than three years and an AM station operated for more than three years, both serving substantially the same area. Said exception shall apply to the same circumstances where assignment applications are involved.

(c) In determining whether a broadcast interest has been held for three years, the Commission will calculate the period between the date of acquisition (as specified in paragraph (b) of this section) and the date the application for transfer or assignment is tendered for filing with the Commission.

(d) With respect to applications filed after the 3-year period, the Chief of the Broadcast Bureau is directed (1) to examine carefully such applications, on a case-to-case basis, to determine whether any characteristics of trafficking remain; and (2) if so, to seek additional information, by letter inquiries to the applicants, such as that which will be required to be developed and tested in the hearing process with respect to stations held less than 3 years.

(Sec. 310, 48 Stat. 1086, as amended; 47 U.S.C. 310)

#### § 1.598 Period of construction.

Each construction permit will specify a maximum of 60 days from the date of granting thereof as the time within which construction of the station shall begin and a maximum of 6 months thereafter as the time within which construction shall be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

#### § 1.599 Forfeiture of construction permit.

A construction permit shall be automatically forfeited if the station is not ready for operation within the time specified therein or within such further time as the Commission may have allowed for completion, and a notation of the forfeiture of any construction permit under this provision will be placed in the records of the Commission as of the expiration date.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

#### § 1.601 License, simultaneous modification and renewal.

When an application is granted by the Commission necessitating the issuance of a modified license less than 60 days prior to the expiration date of the license sought to be modified, and an application for renewal of said license is granted subsequent or prior thereto (but within 30 days of expiration of the present license), the modified license as well as the renewal license shall be issued to conform to the combined action of the Commission.

#### § 1.603 Special waiver procedure relative to applications.

(a) In the case of any broadcast applications designated for hearing, the parties may request the Commission to grant or deny an application upon the basis of the information contained in the applications and other papers specified in paragraph (b) of this section, without the presentation of oral testimony. Any party desiring to follow this procedure should execute and file with the Commission a waiver in accordance with paragraph (e) of this section, and serve copies on all other parties, or a joint waiver may be filed by all the parties. Upon the receipt of waivers from all parties to a proceeding, the Commission will decide whether the case is an appropriate one for determination without the presentation of oral testimony. If it is determined by the Commission that, notwithstanding the waivers, the presentation of oral testimony is necessary, the parties will be so notified and the case will be retained on the hearing docket. If the Commission concludes that the case can appropriately be decided without the presentation of oral testimony, the record will be considered as closed as of the date the waivers of all parties were first on file with the Commission.

(b) In all cases considered in accordance with this procedure, the Commission will decide the case on the basis of the information contained in the applications and in any other papers pertaining to the applicants or applications which are open to public inspection and which were on file with the Commission when the record was closed. The Commission may call upon any party to furnish any additional information which the



Commission deems necessary to a proper decision. Such information shall be served upon all parties. The waiver previously executed by the parties shall be considered in effect unless within 10 days of the service of such information the waiver is withdrawn.

(c) Any decision by the Commission rendered pursuant to this section will be in the nature of a final decision, unless otherwise ordered by the Commission.

(d) By agreeing to the waiver procedure prescribed in this section, no party shall be deemed to waive the right to petition for reconsideration or rehearing, or to appeal to the courts from any adverse final decision of the Commission.

(e) The waiver provided for by this section shall be in the following form :

WAIVER

Name of applicant-----  
 Call letters-----  
 Docket No.-----

The undersigned hereby requests the Commission to consider its application and grant or deny it in accordance with the procedure prescribed in § 1.603 of the Commission's rules and regulations. It is understood that all the terms and provisions of ----- are incorporated in this waiver.

**§ 1.605 Retention of applications in hearing status after designation for hearing.**

(a) After an application for a broadcast facility is designated for hearing, it will be retained in hearing status upon the dismissal or amendment and removal from hearing of any other application or applications with which it has been consolidated for hearing.

(b) Where any applicants for a broadcast facility file a request pursuant to § 1.525(a) for approval of an agreement to remove a conflict between their applications, the applications will be retained in hearing status pending such proceedings on the joint request as may be ordered and such action thereon as may be taken.

(1) If further hearing is not required on issues other than those arising out of the agreement, the proceeding shall be terminated and appropriate disposition shall be made of the applications.

(2) Review Board action pursuant to this paragraph shall become final unless any of the parties files an application for review within 10 days after public release of the document containing the full text of that action or unless the Commission, by order issued within 20 days after the time for filing an application for review expires, stays the Board's action and reviews that action on its own motion.

(3) Where further hearing is required on issues unrelated to the agreement, the presiding officer shall continue to conduct the hearing on such other issues pending final action on the agreement, but the record in the proceeding shall not be closed until such final action on the agreement has been taken.

(4) In any case where a conflict between applications will be removed by an agreement for an engineering amendment to an application, the amended application shall be removed from hearing status upon final ap-

proval of the agreement and acceptance of the amendment.

(c) An application for a broadcast facility which has been designated for hearing and which is amended so as to eliminate the need for hearing or further hearing on the issues specified, other than as provided for in paragraph (b) of this section, will be removed from hearing status.

FORMS AND INFORMATION TO BE FILED WITH THE COMMISSION

**§ 1.611 Financial report.**

Each licensee or permittee of a commercially operated standard, FM, television, or international broadcast station (as defined in Part 73 of this chapter) shall file with the Commission on or before April 1 of each year, on FCC Form 324, an annual financial report.

**§ 1.613 Filing of contracts.**

Each licensee or permittee of a standard, FM, television, or international broadcast station (as defined in Part 73 of this chapter), whether operating or intending to operate on a commercial or noncommercial basis, shall file with the Commission copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations, within 30 days of execution thereof. The substance of oral contracts shall be reported in writing.

(a) Contracts relating to network service: All network affiliation contracts, agreements, or understandings between a station and a national, regional, or other network shall be filed. Transcription agreements or contracts for the supplying of film for television stations which specify option time must be filed. This section does not require the filing of transcription agreements or contracts for the supplying of film for television stations which do not specify option time, nor contracts granting the right to broadcast music such as ASCAP, BMI, or SESAC agreements.

(b) Contracts relating to ownership or control: Contracts, instruments, or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights, or interests therein, or relating to changes in such ownership or control. This paragraph shall include but is not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document, or instrument (i) providing for the assignment of a license or permit or (ii) affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or non-voting), such as: (a) Agreements for transfer of stock; (b) Instruments for the issuance of new stock; or (c) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Pledges, trust

agreements, options to purchase stock and other executory agreements are required to be filed.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of one year; and all proxies, whether or not running for a period of one year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted; *Provided, however*, That when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1 percent or more of the corporation's voting stock; in cases where the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are neither officers or directors nor hold 1 percent or more of the corporation's stock, the only information required to be filed is the name of any person voting 1 percent or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy;

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, the maintenance of current assets, etc.; or

(6) Any agreement reflecting a change in the officers, directors, or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 1.615.

(c) Contracts relating to the sale of broadcast time to "time brokers" for resale.

(d) Contracts relating to Subsidiary Communications Authorization Operation, except contracts granting licensees or permittees engaged in SCA the right to broadcast copyright music.

(e) Time sales contracts: Time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests musical programs, and special events) broadcast pursuant to the contract is not under control of the station.

(f) Contracts relating to personnel:

(1) The following contracts, agreements, or understandings shall be filed: management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee station; management contracts with any persons, whether or not officers, direc-

tors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with chief engineers or other engineering personnel except those contracts required to be filed under the provisions of §§ 73.93(c), 73.265(c), and 73.565(c) of this chapter; contracts with attorneys, accountants, or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

#### § 1.615 Ownership reports.

(a) Each licensee of a TV, FM, or standard broadcast station (as defined in Part 73 of this chapter), other than noncommercial educational stations, shall file an Ownership Report (FCC Form 323) at the time the application for renewal of station license is required to be filed; *Provided, however*, That licensees owning more than one TV, FM, or standard broadcast station need file only one Ownership Report at 3-year intervals. Ownership Reports shall give the following information as of a date not more than 30 days prior to the filing of the Ownership Report:

(1) In the case of an individual, the name of such individual;

(2) In the case of a partnership, the names of the partners and the interest of each partner;

NOTE: Any change in partners or in their rights will require prior consent of the Commission upon an application for consent to assignment of license or permit. If such change involves less than a controlling interest, the application for Commission consent to such change may be made upon FCC Form 316 (Short Form).

(3) In the case of a corporation, association, trust, estate, or receivership, the data applicable to each:

(i) The name, residence, citizenship, and stockholdings of officers, directors, stockholders, trustees, executors, administrators, receivers, and members of any association;

(ii) Full information as to family relationship or business association between two or more officials and/or stockholders, trustees, executors, administrators, receivers, and members of any association;

(iii) Capitalization with a description of the classes and voting power of stock authorized by the corporate charter or other appropriate legal instrument and the number of shares of each class issued and outstanding; and

(iv) Full information on FCC Form 323 with respect to the interest and identity of any person having any direct, indirect, fiduciary, or beneficiary interest in the licensee or any of its stock;

For example:

(a) Where A is the beneficial owner or votes stock held by B, the same information should be furnished for A as is required for B.

(b) Where X corporation controls the licensee, or holds 25 percent or more of the number of issued and outstanding shares of either voting or non-voting stock of the licensee, the same information should be furnished with respect to X corporation (its capitalization, officers, directors, and stockholders and the amount of stock [by class] in X held by each) as is required in the case of the licensee, together with full information as to the identity and citizenship of the person authorized to vote licensee's stock, in case of voting stock.

(c) The same information should be furnished as to Y corporation if it controls X corporation or holds 25 percent or more of the number of issued and outstanding shares of either voting or non-voting stock of X, and as to Z corporation if it controls Y corporation or holds 25 percent or more of the number of issued and outstanding shares of either voting or non-voting stock of Y and so on back to natural persons.

(4) In the case of all licensees :

(i) A list of all contracts still in effect required to be filed with the Commission by § 1.613 showing the date of execution and expiration of each contract ; and (ii) Any interest which the licensee may have in any other broadcast station.

(b) A permittee shall file an Ownership Report (FCC Form 323) within 30 days of the date of grant by the Commission of an application for original construction permit. The ownership Report of the permittee shall give the information required by the applicable portions of paragraph (a) of this section.

(c) A supplemental Ownership Report (FCC Form 323) shall be filed by each licensee or permittee within 30 days after any change occurs in the information required by the Ownership Report from that previously reported. Such report shall include without limitation :

- (1) Any change in capitalization or organization ;
- (2) Any change in officers and directors ;
- (3) Any transaction affecting the ownership, direct or indirect, or voting rights of licensee's or permittee's stock, such as :
  - (i) A transfer of stock ;
  - (ii) Issuance of new stock or disposition of treasury stock ; or
  - (iii) Acquisition of licensee's or permittee's stock by the issuing corporation ; or

(4) Any change in the officers, directors, or stockholders of a corporation other than the licensee or permittee such as X, Y, or Z corporation described in the example in paragraph (a) (3) of this section.

NOTE : Before any change is made in the organization, capitalization, officers, directors, or stockholders of a corporation other than licensee or permittee, which results in a change in the control of the licensee or permittee, prior Commission consent must be received under § 310(b) of the Communications Act and § 1.540. A transfer of control takes place when an individual, or group in privity, gains or loses affirmative or negative (50 percent) control. See instructions on FCC Form 323 "Ownership Report".

(d) Exceptions : Where information is required under paragraphs (a), (b), or (c) of this section with respect to a corporation or association having more than 50 stockholders or members, such information need be filed only with respect to stockholders or members who are officers or directors of the corporation or association, or to other stockholders or members who have 1 percent or more of either the voting or non-voting stock of the corporation or voting rights in the association.

(e) The provisions of this paragraph apply to all licensees and permittees of noncommercial educational TV, FM, or standard broadcast stations.

(1) Each licensee covered by this paragraph shall file an Ownership Report (FCC Form 323E) : *Provided, however,* That licensees owning more than one non-commercial educational TV, FM, or standard broadcast station need file only one Ownership Report at 3-year intervals. Ownership Reports shall give the following information as of a date not more than 30 days prior to the filing of the Ownership Report :

(i) The following information as to all officers, members of governing board, and holders of 1 percent or more ownership interest (if any) : Name, residence, office held, citizenship, principal profession or occupation, and by whom appointed or elected.

(ii) Full information of FCC Form 323E with respect to the interest and identity of any individual, organization, corporation, association, or any other

entity which has direct or indirect control over the licensee or permittee.

(iii) A list of all contracts still in effect required by § 1.613 to be filed with the Commission, showing the date of execution and expiration of each contract.

(iv) Any interest which the licensee or permittee or any of its officers, members of the governing board, and holders of 1 percent or more ownership interest (if any) hold in any other broadcast station.

(2) A permittee shall file an Ownership Report (FCC Form 323E) within 30 days of the date of grant by the Commission of an application for original construction permit. The Ownership Report of the permittee shall give the information required by the applicable portions of this paragraph.

(3) A supplemental Ownership Report (FCC Form 323E) shall be filed by each licensee or permittee within 30 days after any change occurs in the information required by the Ownership Report from that previously reported. Such report should include, without limitation:

- (i) Any change in organization;
- (ii) Any change in officers or directors;
- (iii) Any transaction affecting the ownership (direct or indirect) or voting rights with respect to the licensee or permittee (or with respect to any stock interest therein).

(f) A copy of all ownership and supplemental ownership reports and related material filed pursuant to this section shall be maintained and made available for public inspection locally as required by § 1.526.

ⓘ § 1.615 (f) as adopted eff. 5-14-65; I (63)-6 Ⓜ

#### FORFEITURES RELATING TO BROADCAST LICENSEES AND PERMITTEES

##### § 1.621 Forfeitures relating to broadcast licensees and permittees.

(a) Whenever the Commission finds that grounds exist to support a suit for collection of forfeiture provided by section 503(b) of the Communications Act of

1934, as amended, a written notice of apparent liability shall be issued by the Commission and shall be sent by the Commission by registered or certified mail to the last known address of the licensee or permittee. The notification shall specify the date or dates, facts, and the nature of the alleged act or acts, omission or omissions with which the licensee or permittee is charged, and shall specifically identify the particular provision or provisions of the law, rule, or regulation or the license, permit, or cease and desist order involved and shall set forth the amount of the forfeiture. The notification shall inform the licensee or permittee that:

(1) He may admit liability by paying the amount specified therein;

(2) He has a right under section 503(b)(2) of the Act to show in writing why he should not be held liable; and

(3) If he admits liability but considers the amount of the forfeiture excessive, he may submit in writing the reasons therefor.

(b) Payment must be made, or a written statement in duplicate in response to a notification of apparent liability must be submitted, within 30 days from the receipt of the notification or the attempted delivery thereof. After consideration of the statement, an order shall be entered declaring non-liability or establishing the amount of the forfeiture. If the licensee or permittee fails to take any action in respect to a notification of apparent liability for forfeiture, an order shall be entered establishing the forfeiture as the amount set forth in the notice of apparent liability. Orders of forfeiture shall also advise the party or parties of the Commission's authority under section 504(b) of the Act to remit or mitigate such forfeitures upon application therefor. The Commission shall serve orders of forfeiture or orders of non-liability upon the licensee or permittee involved.

(c) Orders of forfeiture may be satisfied by payment, within 30 days from the date of receipt of the order, of the amount specified therein. Applications for mitigation or remission shall be filed within 30 days



from the date of receipt of the order of forfeiture. The application must state the facts relied upon and must be in duplicate. After considering the application, an order remitting the entire amount, mitigating the forfeiture, or denying relief shall be served on the licensee or permittee. Such orders may be satisfied by payment within 30 days from the date of receipt of the notification of the amount specified therein.

(d) If the licensee or permittee fails to take any action in respect to an order imposing or mitigating a forfeiture or denying relief, the case may be referred by the Commission to the Attorney General of the United States for appropriate civil action to recover the forfeiture in accordance with the provisions of section 504(a) of the Act.

(e) Payment of forfeitures shall be made by check or similar means drawn to the order of the Treasurer of the United States and mailed to the Commission.

(f) Factual material contained in statements or applications submitted by the licensee or permittee in accordance with the provisions of this section shall, except for material of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.

(Sec. 503, 48 Stat. 1101, as amended; 47 U.S.C. 503)

## SUBPART E—COMPLAINTS, APPLICATIONS, TARIFFS, AND REPORTS INVOLVING COMMON CARRIERS

### GENERAL

#### § 1.701 Show cause orders.

(a) The Commission may commence any proceeding within its jurisdiction against any common carrier by serving upon the carrier an order to show cause. The order shall contain a statement of the particulars and matters concerning which the Commission is inquiring and the reasons for such action, and will call upon the carrier to appear before the Commission at a place and

time therein stated and give evidence upon the matters specified in the order.

(b) Any carrier upon whom an order has been served under this section shall file its answer within the time specified in the order. Such answer shall specifically and completely respond to all allegations and matters contained in the show cause order.

(c) All papers filed by a carrier in a proceeding under this section shall conform with the specifications of §§ 1.49 and 1.50 and the subscription and verification requirements of § 1.52. An original and 14 copies of all such papers shall be filed.

#### § 1.703 Appearances.

(a) *Hearings.* Except as otherwise required by § 1.221 regarding application proceedings, by § 1.91 regarding proceedings instituted under section 312 of the Communications Act of 1934, as amended, or by Commission order in any proceeding, no written statement indicating intent to appear need be filed in advance of actual appearance at any hearing by any person or his attorney.

(b) *Oral arguments.* Within 5 days after release of an order designating an initial decision for oral argument or within such other time as may be specified in the order, any party who wishes to participate in the oral argument shall file a written statement indicating that he will appear and participate. Within such time as may be specified in an order designating any other matter for oral argument, any person wishing to participate in the oral argument shall file a written statement to that effect setting forth the reasons for his interest in the matter. The Commission will advise him whether he may participate. (See § 1.277 for penalties for failure to file appearance statements in proceedings involving oral arguments on initial decisions.)

(c) *Commission counsel.* The requirement of paragraph (b) of this section shall not apply to counsel representing the Commission or the Chief of the Common Carrier Bureau.



COMPLAINTS

§ 1.711 Formal or informal complaints.

Complaints filed against carriers under section 208 of the Communications Act may be either formal or informal.

§ 1.713 Satisfaction of complaints; damages.

If a carrier satisfies any complaint brought to its attention by the Commission, a statement must be filed with the Commission, in duplicate, setting forth when and how the complainant has been satisfied: *Provided, however,* That no complaint seeking damages as a result of alleged unjust or unreasonable charges, practices, classifications, or regulations contained in an effective tariff schedule on file with the Commission shall be satisfied except after appropriate authorization by the Commission.

INFORMAL COMPLAINTS

§ 1.716 Form.

An informal complaint shall be in writing and shall contain: (a) The name and address of the complainant, (b) the name of the carrier against which the complaint is made, and (c) a complete statement of the facts tending to show that such carrier did or omitted to do anything in contravention of the Communications Act.

§ 1.717 Procedure.

Upon receipt of any informal complaint, the Commission will forward a copy to the carrier complained of or take the question up by correspondence with the carrier. The carrier will also be called upon, within such time as may be prescribed, either to satisfy the complaint or advise the Commission of its refusal or inability to do so. If the carrier satisfies the complaint, it shall so notify the Commission in accordance with the provisions of § 1.713. The Commission will forward a copy of the carrier's notice of satisfaction to the complainant. If the carrier refuses or is unable to satisfy the complaint, it shall so notify the Commission, in duplicate, and the Commission will forward a copy of such notice to the complainant, with a statement of the procedure to be followed to further prosecute the complaint.

§ 1.718 Unsatisfied informal complaints; formal complaints relating back to the filing dates of informal complaints.

When an informal complaint has not been satisfied pursuant to § 1.717, the complainant may file a formal complaint in the form specified in § 1.721. Such filing will be deemed to relate back to the filing date of the informal complaint: *Provided,* That the formal complaint: (a) Is filed within 6 months from the date of the Commission's statement accompanying a copy of the carrier's notice of refusal or inability to satisfy, (b) makes reference to the date of the informal complaint, and (c) is based on the same cause of action as the informal complaint. If no formal complaint is filed

within the 6-month period, the complainant will be deemed to have abandoned the unsatisfied informal complaint, and such complaint will be deemed dismissed.

FORMAL COMPLAINTS

§ 1.721 Form.

(a) A formal complaint shall contain the name of each complainant and defendant, the address of each complainant, and the name and address of his attorney, if represented by attorney, and shall be subscribed and verified by the complainant.

(b) The following form may be used in cases to which it is applicable, with such alterations as the circumstances may render necessary.

COMPLAINT

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION,  
WASHINGTON, D.C.

Docket No. ----- (To be inserted by the Secretary of the Commission)

-----  
Complainant  
v.

-----  
Defendant

The complainant (here insert full name of each complainant and if a corporation the corporate title of such complainant) shows:

(1) That (here state occupation and post office address of each complainant).

(2) That (here insert the full name, occupation, and post office address of each defendant).

(3) That (here insert fully and clearly the specific act or thing complained of, together with such facts as are necessary to give a full understanding of the situation).

Wherefore, complainant asks (here state specifically the relief desired).

Dated at ----- this ----- day of -----, 19--

-----  
(Name of each complainant)

-----  
(Name and address of attorney, if any)

Form of Verification

-----  
being first duly sworn, on oath, deposes, and says: That he is the complainant (or one of the complainants) in the above-entitled matter; that he has read the within and foregoing complaint and knows the contents thereof, and that the matter and things therein stated are true of his own knowledge, save and except those matters therein stated on information and belief, and as to those he believes them to be true.

-----  
Subscribed and sworn to before me this ----- day of ----- 19--

-----  
(Notary public or other proper officer)

§ 1.722 Statement of issues and facts.

A formal complaint shall be so drawn as to advise the Commission and the defendant fully wherein the provisions of the Communications Act, or an order, rule, or regulation of the Commission have been violated; as to the facts claimed to constitute such violation, including such data as will identify, with reasonable certainty, the communications, transmissions, or other services complained of (as well as any

other appropriate facts elicited by § 1.723); and as to the relief sought.

#### § 1.723 Damages; allegations with certainty.

(a) In case recovery of damages is sought, the complaint shall contain appropriate allegations showing such data as will serve to identify, with reasonable certainty, the communications, transmissions, or other services for which recovery is sought, and shall state:

- (1) That the complainant makes claim for damages;
- (2) The name and address of each individual claimant asking damages;
- (3) The name and address of the defendant against which claim is made;
- (4) The communications, transmissions, or other services rendered, the charge applied thereto, the date when charges were paid, by whom paid, and by whom borne;
- (5) The period of time within which, or the specific dates when the communications, transmissions, or other services were rendered;
- (6) The points of origin and reception of the communications or transmissions, and if the damages sought to be recovered are for services other than communications or transmissions, then the allegations of the complaint shall state the nature and extent of such services, the date or dates when rendered, when paid for, and by whom borne;
- (7) The nature and amount of injury sustained by each claimant;
- (8) Separately, the damages with respect to each communication, transmission, or other service for which recovery is sought;
- (9) If damages are sought on behalf of others than the complainant, in what capacity or by what authority complaint is made in their behalf; and
- (10) That suit has not been filed in any court on the basis of the same cause of action.

(b) Damages will not be awarded upon a complaint unless specifically requested. Damages may be awarded, however, upon a supplemental complaint based upon the finding of the Commission in the original proceeding.

#### § 1.724 Specific tariff schedule references.

The several charges, classifications, regulations, or practices complained of should be set out by specific

reference to the tariff schedules in which they appear, whenever that is possible.

#### § 1.725 Joinder of complainants and causes of action.

(a) Two or more complainants may join in one complaint if their respective causes of action are against the same defendant and concern substantially the same alleged violation of the Communications Act and substantially the same facts.

(b) Two or more grounds of complaint involving the same principle, subject, or statement of facts may be included in one complaint, but should be separately stated and numbered.

#### § 1.726 Discrimination, preference, or prejudice.

When unjust or unreasonable discrimination or undue or unreasonable preference, advantage, prejudice, or disadvantage is alleged, the complaint shall clearly specify the particular person, company or other entity, locality, or description of traffic affected thereby, and the particular discrimination, preference, advantage, prejudice, or disadvantage relied upon as constituting a violation of the Communications Act.

#### § 1.727 Supplemental complaints.

(a) *Filing.* There may be filed with the Commission a supplemental complaint setting forth transactions, occurrences or events which have happened since the filing of the original complaint and which relate to the original cause of action.

(b) *Seeking damages.* If recovery of damages or overcharges is sought by supplemental complaint, it must be filed with the Commission within the statutory periods of limitations as to actions contained in section 415 of the Communications Act.

#### § 1.728 Cross complaints.

A cross complaint, seeking any relief within the jurisdiction of the Commission against any carrier which is a party (complainant or defendant) to the proceeding, may be filed by a defendant with its answer. A cross complaint will be accepted for filing and will be served by the Commission in the manner provided in § 1.729 for serving complaints. For the purpose of this subpart, the term "cross complaint" shall include counterclaim.

**§ 1.729 Copies; service.**

(a) An original and 19 copies of all pleadings and briefs filed in any formal complaint proceeding shall be furnished the Commission. When service is to be made by the Commission, one extra copy shall be furnished for each party to the proceeding.

(b) The Commission will serve a copy of any formal complaint filed with it (and any supplemental, amended, or cross complaint) together with a notice of the filing of the complaint. Such notice shall call upon the carrier to satisfy the complaint in accordance with § 1.713 or answer the same in writing within the time specified in said notice.

(c) All subsequent pleadings and briefs filed in any formal complaint proceeding shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of § 1.47. Proof of such service shall also be made in accordance with the requirements of said section.

☐§ 1.729 (a) as amended eff. 7-6-64; I(63)-2☐

**§ 1.730 Answers to complaints, supplemental complaints, amended complaints, and cross complaints.**

Any carrier upon whom a copy of a formal complaint, supplemental complaint, amended complaint, or cross complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense, and shall respond specifically to all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

**§ 1.731 Motions to dismiss complaints or to make them more definite and certain.**

(a) A defendant may serve with his answer a motion to dismiss a complaint because of lack of legal sufficiency appearing on the face of such complaint.

(b) Within 10 days after service of a complaint by the Commission, a defendant may file a motion that the allegations in the complaint be made more definite

and certain, such motion to point out the defects complained of and details desired. If such motion is granted by the Commission, it will order the complainant to file an amended complaint within such time as may be specified in the order.

**§ 1.732 Replies to answers or amended answers; motions to make answers more definite and certain.**

Within 10 days after service of an answer or an amended answer, a complainant may serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matters. Failure to reply will not be deemed as admission of any allegations contained in such answer or amended answer. A complainant may also serve with his reply a motion that the answer be made more definite and certain, such motion to point out the defects complained of and the details desired. If such motion is granted by the Commission, it will order the defendant to file an amended answer within such time as may be specified in the order.

**§ 1.733 Oppositions to motions to dismiss complaints or to make them more definite and certain.**

Within 10 days after service of a motion to dismiss a complaint or to make it more definite and certain, a complainant may serve an opposition to such motion.

**§ 1.734 Specifications as to pleadings, briefs, and other documents; subscription and verification.**

All papers filed in any formal complaint proceeding must be drawn in conformity with the requirements of §§ 1.49, 1.50, and 1.52.

**§ 1.735 Formal complaints not stating a cause of action; defective pleadings.**

(a) Any document purporting to be a formal complaint which does not state a cause of action under the Communications Act will be dismissed. In such case any amendment to such document will be considered a new filing which must be made within the statutory periods of limitations of actions contained in section 415 of the Communications Act, if recovery of damages or overcharges is sought.

(b) Any pleading filed in a formal complaint proceeding not in conformity with the requirements of the

applicable rules in this part (other than the matter covered in paragraph (a) of this section) may be deemed defective. In such case the Commission will:

(1) Request that specified defects be corrected and that corrected pleadings be filed and served within a prescribed time as a condition to being treated as timely filed; and

(2) Notify all persons known to the Commission to have been served with any defective pleading of the action taken under this paragraph.

#### APPLICATIONS

##### § 1.741 Scope.

The general rules relating to applications contained in §§ 1.742 through 1.748 apply to all applications filed by carriers except those filed by public correspondence radio stations pursuant to Parts 21, 81, 83, 85, and 87 of this chapter, and those filed by common carriers pursuant to Part 25 of this chapter. Part 21 contains general rules applicable to applications filed pursuant thereto. For general rules applicable to applications filed pursuant to Parts 81, 83, 85, and 87, see such parts and Subpart F of this part. For rules applicable to applications filed pursuant to Part 25, see said part.

##### § 1.742 Place of filing, fees, and number of copies.

All applications shall be tendered for filing at the Commission's main office in Washington, D.C. The applications will be dated by the Mail and Files Division upon receipt and then forwarded to the Common Carrier Bureau. The number of copies required for each application and the nonrefundable fees (see Subpart G) which must accompany each application in order to qualify it for acceptance for filing and consideration are set forth in the rules in this chapter relating to various types of applications. However, if any application is not of the types covered by this chapter, an original and two copies of each such application shall be submitted, accompanied by a nonrefundable fee of \$10.

☐§ 1.742 as amended eff. 8-28-64; I(63)-3☐

##### § 1.743 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall

be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability, or in case the applicant does not reside in any of the contiguous 48 States of the United States or in the District of Columbia. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

##### § 1.744 Amendments.

(a) Any application not designated for hearing may be amended at any time by the filing of signed amendments in the same manner, and with the same number of copies, as was the initial application. If a petition to deny (or to designate for hearing) has been filed, the amendment shall be served on the petitioner.

(b) After any application is designated for hearing, requests to amend such application may be granted by

the presiding officer upon good cause shown by petition, which petition shall be properly served upon all other parties to the proceeding.

(c) The applicant may at any time be ordered to amend his application so as to make it more definite and certain. Such order may be issued upon motion of the Commission (or the presiding officer, if the application has been designated for hearing) or upon petition of any interested person, which petition shall be properly served upon the applicant and, if the application has been designated for hearing, upon all parties to the hearing.

ⓘ§ 1.744 amended in I(63)-2; (a) amended eff. 11-10-66; I(63)-14Ⓜ

#### § 1.745 Additional statements.

The applicant may be required to submit such additional documents and written statements of fact, signed and verified (or affirmed), as in the judgment of the Commission (or the presiding officer, if the application has been designated for hearing) may be necessary. Any additional documents and written statements of fact required in connection with applications under Title II of the Communications Act need not be verified (or affirmed).

ⓘ§ 1.745 as amended eff. 6-15-64; I(63)-2Ⓜ

#### § 1.746 Defective applications.

(a) Applications not in accordance with the applicable rules in this chapter may be deemed defective and returned by the Commission without acceptance of such applications for filing and consideration. Such applications will be accepted for filing and consideration if accompanied by petition showing good cause for waiver of the rule with which the application does not conform.

(b) The assignment of a file number, if any, to an application is for the administrative convenience of the Commission and does not indicate the acceptance of the application for filing and consideration.

#### § 1.747 Inconsistent or conflicting applications.

When an application is pending or undecided, no inconsistent or conflicting application filed by the same applicant, his successor or assignee, or on behalf of for the benefit of said applicant, his successor, or assignee, will be considered by the Commission.

#### § 1.748 Dismissal of applications.

(a) *Before designation for hearing.* Any application not designated for hearing may be dismissed without prejudice at any time upon request of the applicant. An applicant's request for the return of an application that has been accepted for filing and consideration, but not designated for hearing, will be deemed a request for dismissal without prejudice. The Commission may dismiss an application without prejudice before it has been designated for hearing when the applicant fails to comply or justify noncompliance with Commission requests for additional information in connection with such application.

(b) *After designation for hearing.* A request to dismiss an application without prejudice after it has been designated for hearing shall be made by petition properly served upon all parties to the hearing and will be granted only for good cause shown. An application may be dismissed with prejudice after it has been designated for hearing when the applicant:

(1) Fails to comply with the requirements of § 1.221(c);

(2) Otherwise fails to prosecute his application; or

(3) Fails to comply or justify noncompliance with Commission requests for additional information in connection with such application.

ⓘ§ 1.748(b) as amended eff. 6-15-64; I(63)-2Ⓜ

#### § 1.749 Action on applications under delegated authority.

Certain applications do not require action by the Commission but, pursuant to the delegated authority contained in Subpart B of Part 0 of this chapter, may be acted upon by the Telegraph Committee, the Telephone Committee, or the Chief of the Common Carrier Bureau, respectively, subject to reconsideration by the Commission.

#### SPECIFIC TYPES OF APPLICATIONS UNDER TITLE II OF COMMUNICATIONS ACT

#### § 1.761 Cross reference.

Specific types of applications under Title III of the Communications Act involving public correspondence radio stations are specified in Parts 21, 23, 81, 83, and 87 of this chapter.





**§ 1.762 Interlocking directorates.**

Applications under section 212 of the Communications Act for authority to hold the position of officer or director of more than one carrier subject to the act or for a finding that two or more carriers are commonly owned shall be made in the form and manner, with the number of copies and accompanied by the fees set forth in Part 62 of this chapter. The Commission shall be informed of any change in status of any person authorized to hold the position of officer or director of more than one carrier, as required by Part 62 of this chapter.

**§ 1.763 Construction, extension, acquisition or operation of lines.**

(a) Applications under section 214 of the Communications Act for authority to construct a new line, extend any line, acquire or operate any line or extension thereof, or to engage in transmission over or by means of such additional or extended line, to furnish temporary or emergency service, or to supplement existing facilities shall be made in the form and manner, with the number of copies and accompanied by the fees specified in Part 63 of this chapter.

(b) In cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. Hearing is held if any of these persons desires to be heard or if the Commission determines that a hearing should be held. Copies of applications for certificates are filed with the regulatory agencies of the States involved.

**§ 1.764 Discontinuance, reduction, or impairment of service.**

(a) Applications under section 214 of the Communications Act for authority to discontinue, reduce, or impair service to a community or part of a community or for the temporary, emergency, or partial discontinuance, reduction, or impairment of service shall be made in the form and manner, with the number of copies and accompanied by the fees specified in Part 63 of this chapter. Posted and published notice shall be given the public as required by Part 63 of this chapter.

(b) In cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. Hearing is held if any of these persons desires to be heard or if the Commission determines that a hearing should be held. Copies of all formal applications under this section requesting authorizations (including certificates) are filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. Copies of all applications under this section requesting authorizations (including certificates) are filed with the regulatory agencies of the States involved.

**§ 1.765 Consolidation or acquisition of telephone companies.**

Applications under section 221(a) of the Communications Act for authority to consolidate or acquire telephone companies shall be made in the form and manner, with the number of copies and accompanied by the fees shown in Part 66 of this chapter.

**§ 1.766 Consolidation of domestic telegraph carriers.**

(a) Applications under section 222 of the Communications Act by two or more domestic telegraph carriers for authority to effect a consolidation or merger or by any domestic telegraph carrier to acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any carrier shall contain such information as is necessary for the Commission to act upon such application under the provisions of section 222 of the act. Each such application shall be accompanied by a non-refundable fee of \$10.00.

(b) These applications are acted upon by the Commission after public hearing. Reasonable notice in writing of the public hearing and an opportunity to be heard is given by the Commission to the Governor of each of the States in which any of the physical property involved in such proposed consolidation or merger is situated, to the Secretary of State, the Secretary of the Army, the Attorney General of the United States, the Secretary of the Navy, representatives of employees where represented by bargaining representatives known to the Commission, and to such other persons as the Commission may deem advisable.

**§ 1.767 Cable landing licenses.**

(a) Applications for cable landing licenses under 47 U.S.C. 34-39 and Executive Order No. 10530, dated May 10, 1954, should be filed in duplicate and in accordance with the provisions of that Executive Order. These applications should contain the name and address of the applicant; the corporate structure and citizenship of officers if a corporation; a description of the submarine cable, including the type and number of channels and the capacity thereof; the location of points on the shore of the United States and in foreign countries where cable will land (including a map); the proposed use, need, and desirability of the cable; and such other information as may be necessary to enable the Commission to act thereon. A separate application shall be filed with respect to each individual cable system for which a license is requested, or for which modification or amendment of a previous license is requested, and each such application shall be accompanied by a nonrefundable fee of \$100.

(b) These applications are acted upon by the Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as it may require.

(c) Original files relating to submarine cable landing licenses and applications for licenses since June

30, 1934, are kept by the Commission. Such applications for licenses (including all documents and exhibits filed with and made a part thereof, with the exception of any maps showing the exact location of the submarine cable or cables to be licensed) and the licenses issued pursuant thereto, with the exception of such maps, shall, unless otherwise ordered by the Commission, be open to public inspection in the offices of the Commission in Washington, D.C.

(d) Original files relating to licenses and applications for licenses for the landing operation of cables prior to June 30, 1934, were kept by the Department of State, and such files prior to 1930 have been transferred to the Executive and Foreign Affairs Branch of the General Records Office of the National Archives. Requests for inspection of these files should, however, be addressed to the Federal Communications Commission, Washington, D.C., 20554; and the Commission will obtain such files for a temporary period in order to permit inspection at the offices of the Commission.

#### TARIFFS

##### § 1.771 Filing.

Schedules of charges, and classifications, practices, and regulations affecting such charges, required under section 203 of the Communications Act shall be constructed, filed, and posted in accordance with and subject to the requirements of Part 61 of this chapter.

##### § 1.772 Application for special tariff permission.

Applications under section 203 of the Communications Act for special tariff permission shall be made in the form and manner, with the number of copies and accompanied by the fees shown in Part 61 of this chapter.

##### § 1.773 Petitions for suspension of tariff schedules.

(a) *Content.* A petition for suspension of a new tariff schedule or any provision thereof shall indicate the schedule affected by its Federal Communications Commission number and give specific reference to the items against which protest is made, together with a statement indicating in what respects the protested tariff schedule is considered unlawful. No petition shall include a prayer that it also be considered a formal complaint. Any such formal complaint shall be filed as a separate pleading as provided in § 1.721.

(b) *When filed.* A petition for suspension shall be filed with the Commission and served upon the publishing carrier and the Chief, Common Carrier Bureau at least 14 days before the effective date of the tariff schedule. In case of emergency and within the time limits herein provided, a telegraphic request for suspension may be sent to the Commission setting forth succinctly the substance of the matters required by paragraph (a) of this section. A copy of any such telegraphic request shall be sent simultaneously to the publishing carrier and the Chief, Common Carrier Bureau and forthwith confirmed by petition filed and served in accordance with this section.

(c) *Reply.* A publishing carrier may reply to a petition for suspension, but any such reply shall be filed

with the Commission and served simultaneously upon petitioner and the Chief, Common Carrier Bureau within 3 days after service of the petition for suspension.

(d) *Copies; service.* An original and 14 copies of each petition or reply must be filed with the Commission, and served in accordance with paragraphs (b) and (c) of this section.

☐ § 1.773 amended eff. 5-13-66, I(63)-12 ☐

#### CONTRACTS, REPORTS, AND REQUESTS REQUIRED TO BE FILED BY CARRIERS

##### § 1.781 Requests for extension of filing time.

Requests for extension of time within which to file contracts, reports, and requests referred to in §§ 1.783 through 1.814 shall be made in writing and may be granted for good cause shown.

#### CONTRACTS

##### § 1.783 Filing.

Copies of carrier contracts, agreements, concessions, licenses, authorizations or other arrangements, shall be filed as required by Part 43 of this chapter.

#### FINANCIAL AND ACCOUNTING REPORTS AND REQUESTS

##### § 1.785 Annual financial reports.

(a) Annual financial reports shall be filed by carriers and affiliates as required by Part 43 of this chapter on the following forms:

(1) Form II (holding companies who do not report to the Commission in the manner prescribed in paragraph (b) of this section).

(2) Form L (licensees in the domestic public land mobile radio services who do not report to the Commission on Annual Report Form M).

(3) Form M (telephone companies).

(4) Form O (wire-telegraph and ocean-cable carriers).

(5) Form R (radiotelegraph carriers).

(b) Verified copies of annual reports filed with the Securities and Exchange Commission on its Form 10-K, Form 1-MD, or such other form as may be prescribed by that Commission for filing of equivalent information, shall be filed annually with this Commission by each person directly or indirectly controlling any communications common carrier in accordance with Part 43 of this chapter.

(c) Carriers having separate departments or divisions for carrier and non-carrier operations shall file separate supplemental annual reports with respect to such carrier and non-carrier operations in accordance with Part 43 of this chapter.

☐ § 1.785(a) as amended eff. 1-7-66; I(63)-10 ☐

##### § 1.786 Monthly financial reports.

Monthly reports of revenues, expenses, and other items shall be filed by carriers as required by Part 43 of this chapter on the following forms:

FCC Form 901—Telephone.

FCC Form 903—Radiotelegraph and Ocean-cable.

FCC Form 905—Wire-telegraph.

**§ 1.787 Reports of proposed changes in depreciation rates.**

Carriers shall file reports regarding proposed changes in depreciation rates as required by Part 43 of this chapter.

**§ 1.788 Reports regarding pensions and benefits.**

Carriers shall file reports regarding pensions and benefits as required by Part 43 of this chapter.

**§ 1.789 Reports regarding division of international telegraph communication charges.**

Carriers engaging in international telegraph communication shall file reports in regard to the division of communication charges as required by Part 43 of this chapter.

**§ 1.790 Reports relating to traffic by international carriers.**

Carriers shall file periodic reports regarding overseas point-to-point traffic and marine telegraph traffic as required by Part 43 of this chapter.

[[§ 1.790 as amended eff. 11-12-64; I(63)-4]]

**§ 1.791 Reports and requests to be filed under Part 31 of this chapter.**

Reports and requests shall be filed either periodically, upon the happening of specified events, or for specific approval by class A and class B telephone companies in accordance with and subject to the provisions of Part 31 of this chapter.

**§ 1.792 Reports and requests to be filed under Part 33 of this chapter.**

Reports and requests shall be filed either periodically, upon the happening of specified events, or for specific approval, by class C telephone companies in accordance with and subject to the provisions of Part 33 of this chapter.

**§ 1.793 Reports and requests to be filed under Part 34 of this chapter.**

Reports and requests shall be filed either periodically, upon the happening of specified events, or for specific approval, by radiotelegraph carriers in accordance with and subject to the provisions of Part 34 of this chapter.

**§ 1.794 Reports and requests to be filed under Part 35 of this chapter.**

Reports and requests shall be filed either periodically, upon the happening of specified events, or for specific approval, by wire-telegraph and ocean-cable carriers in accordance with and subject to the provisions of Part 35 of this chapter.

SERVICES AND FACILITIES REPORTS

**§ 1.801 Reports regarding telegraph carrier services.**

Telegraph carriers shall file descriptions of their services as required by Part 43 of this chapter.

**§ 1.802 Reports relating to continuing authority to supplement facilities or to provide temporary or emergency service.**

Carriers receiving authority under Part 63 of this chapter shall file quarterly or semiannual reports as required therein.

**§ 1.803 Reports relating to reduction in temporary experimental service.**

As required in Part 63 of this chapter, carriers shall report reductions in service which had previously been expanded on an experimental basis for a temporary period.

**§ 1.804 Reports regarding domestic telegraph speed of service.**

The Western Union Telegraph Company shall furnish monthly reports under Subpart B of Part 64 of this chapter in regard to origin to destination speed of service on F.C.C. Form 338-B and any additional recurring monthly speed of service reports prepared by the telegraph company, together with copies of related instructions issued by the company to its field offices, in accordance with Part 64 of this chapter.

**§ 1.805 Reports relating to service by carriers engaged in public radio service operations.**

Monthly and quarterly reports must be filed with the Commission in connection with certain fixed public radio service operations. No form is prescribed. A complete description of the contents of these reports is contained in Part 23 of this chapter.

MISCELLANEOUS REPORTS

**§ 1.811 Reports regarding amendments to charters, by-laws and partnership agreements of carriers engaged in domestic public radio services.**

Amendments to such documents shall be reported and filed in accordance with Part 21 of this chapter.

**§ 1.812 Reports regarding premature destruction of records.**

Pursuant to the requirements of Part 42 of this chapter, carriers shall file reports relating to the premature destruction of records.

**§ 1.813 Reports of negotiations regarding foreign communication matters.**

Pursuant to the requirements of Part 43 of this chapter, carriers engaging or participating in foreign communications shall file monthly reports covering negotiations conducted.

**§ 1.814 Reports regarding free service rendered the Government for national defense.**

Carriers rendering free service in connection with the national defense to any agency of the United States

Government shall file reports in accordance with Part 2 of this chapter.

## SUBPART F—SAFETY AND SPECIAL RADIO SERVICES APPLICATIONS AND PROCEEDINGS

[[Subpart F title as amended eff. 7-24-64; I(63)-2]]

### GENERAL

#### § 1.901 Scope.

This subpart is applicable to all services listed in Parts 81-99 of this chapter, except that rules involving common carriers concerning complaints, tariffs, applications and reports required under Title II of the Communications Act are set forth in subpart E of this part. (For additional information relative to applications, see the rules in this chapter relating to each of the respective services.) In case of any conflict or inconsistency between the rules set forth in this subpart and the rules for the specific services enumerated in this section, the former shall govern.

### GENERAL FILING REQUIREMENTS

#### § 1.911 Applications required.

(a) Except as provided in paragraph (b) of this section, construction permits as defined in section 3 (dd) of the Communications Act of 1934, as amended; station licenses as defined in section 3 (bb) of the Communications Act; operator licenses or modifications or renewals thereof; assignments of construction permits or station licenses or any rights thereunder; and consent to transfer control of a corporation hold-

ing a construction permit or license, shall be granted only upon written and signed application.

(b) In cases (1) of an emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) of a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged, when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, or (3) of emergency where the Commission finds, in these services, that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, without the filing of a formal application; but no such authorization shall be granted for or continue in effect beyond the period of the emergency or war requiring it. The procedure to be followed for requests submitted under the provisions of this paragraph is the same as for obtaining special temporary authority under § 1.925.

(c) In case of vessels at sea, the Commission may issue by cable, telegraph, or radio a permit for the operation of a station until the vessel returns to a port of the continental United States.

(d) Canadian licensees desiring to operate in the United States under the terms of Articles 2 and 3 of the Convention between the United States and Canada concerning Operation of Certain Radio Equipment or Stations (which entered into force May 15, 1952) shall make application upon FCC Form 410, which shall be filed with the Secretary, Federal Communications

Commission, Washington, D.C., 20554. Forms may be obtained from the FCC Secretary, any field office of the Commission, or from the Controller of Telecommunications, Department of Transport, Ottawa, Canada.

(e) An alien amateur desiring to operate in the United States under provisions of sections 303(1)(2) and 310(a) of the Communications Act of 1934, as amended, and under the terms of a bilateral agreement in force between his country and the United States concluded pursuant to the provisions of Public Law 88-313, shall make application on FCC Form 610-A, which shall be filed with the Secretary, Federal Communications Commission, Washington, D.C., 20554. Forms may be obtained from the Secretary, any field office of the Commission and, in some instances, from United States missions abroad.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

【§ 1.911 (e) as adopted eff. 3-29-65; I(63)-6】

#### § 1.912 Where applications are to be filed.

(a) Applications for any class of amateur operator license requiring examination under Part 97 of this chapter shall be filed in the nearest FCC field office listed in § 0.121 of this chapter.

(b) All applications (except those for renewal of station license) for authority to establish or operate stations (other than ship stations) covered by Part 85 of this chapter, "Public Fixed Stations and Stations of the Maritime Services in Alaska", including correspondence relating thereto, shall be filed in triplicate with the Commission's Engineer in Charge at Seattle, Washington.

(c) Formal applications for ship station licenses for use of radiotelephone or radar transmitting apparatus or both, and applications for modification of such licenses, shall, when accompanied by requests for interim ship station licenses, be filed in accordance with § 83.35 of this chapter and presented in person by applicants or their agents at the nearest field office of the Commission as shown in § 0.121 (a) and (b) of this chapter, or at the Commission's main office in Washington, D.C.: *Provided*, That, as an alternative procedure, an applicant, in Alaska, for such a ship station license may submit an application by mail to the Commission's Field Engineering Office at Anchorage, Alaska, when accompanied by a written request for an interim ship station license. Applications for renewal of ship station licenses are not subject to the provisions of this paragraph.

(d) All formal applications for Class B, C, or D station licenses in the Citizens Radio Service, ship

station license (FCC Forms 502 and 405-B), and aircraft station license (FCC Forms 404 and 405-B) shall be mailed to, or filed in person at the Commission's office at 334 York Street, Gettysburg, Pa., 17325. Any special requests or applications for special temporary authority concerning a Class B, C, or D station and all applications for Class A station licenses shall be filed in accordance with paragraph (e) of this section.

(e) All other applications shall be filed with the Commission's offices in Washington as follows:

(1) Applications submitted by mail shall be addressed to:

Federal Communications Commission, Washington, D.C., 20554.

(2) Hand-carried applications accompanied by fees shall be delivered to:

Mail and Files Division, Office of Executive Director, New Post Office Building, 13th Street and Pennsylvania Avenue NW., Washington, D.C.

(3) Hand-carried applications not accompanied by fees shall be delivered to:

Office of the Secretary, New Post Office Building, 13th Street and Pennsylvania Avenue NW., Washington, D.C.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

【§ 1.912 amended in I(63)-3; (d) amended eff. 4-22-66, I(63)-12】

#### § 1.913 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only



(rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a) (1) of the Communications Act of 1934, as amended.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

**§ 1.914 Full disclosures.**

Each application shall contain full and complete disclosures with regard to the real party or parties in interest and as to all matters and things required to be disclosed by the application forms.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

**§ 1.915 Shared use of broadcast antenna structure.**

Applicants who propose to share the use of an antenna structure used by a standard FM, or TV broadcast station shall submit the following information as a part of the application:

(a) A scale sketch of the antenna system showing the position of the proposed antenna on the tower structure and its relation to any required obstruction lights and other antennas on the tower; and

(b) A diagram which will clearly indicate the proposed method of mounting the transmission feed lines and how these lines will bridge antenna base insulators if employed by the broadcast station.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

**§ 1.916 Repetitious applications.**

Where the Commission has, for any reason, denied an application for a new station or for any modification of services or facilities, dismissed such application with prejudice, or revoked the license for a radio station in the Safety and Special Radio Services, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

**§ 1.918 Amendment of applications.**

(a) Any amendment to an application shall be signed and submitted in the same manner and with the same number of copies as was the original application.

(b) Any application may be amended as a matter of right prior to the designation of such application for hearing merely by filing the appropriate number of copies of the amendments in question duly executed. If a petition to deny (or to designate for hearing) has been filed, the amendment shall be served on the petitioner.

(c) The Commission (or the presiding officer, if the application has been designated for hearing) may, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain, and may require an applicant to submit such documents and written statements of fact as in its judgment may be necessary.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

¶ § 1.918 amended in I(63)-2; (b) amended eff. 11-10-66; I(63)-17

APPLICATION FORMS AND PARTICULAR FILING REQUIREMENTS

**§ 1.921 Procedure for obtaining a radio station authorization and for commencement of operation.**

(a) Persons desiring to install and operate radio transmitting equipment should first submit an application for a radio station authorization in accordance with the rules for the particular service. A list of all application forms used by Safety and Special Radio Services Bureau is contained in § 1.922. Each form contains appropriate instructions concerning the number of required copies, where it may be filed, and the services in which it is intended to be used.

(b) Each application shall include all information called for by the particular form on which the application is required to be filed unless the information called for is inapplicable, in which case that fact shall be indicated.

(c) In some cases equipment and service tests are required before an authorized station may be placed in regular operation. Reference should be made to the specific service regarding these provisions.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

**§ 1.922 Forms to be used.**

<i>FCC Form</i>	<i>Title</i>
400	Application for Radio Station Authorization in the Safety and Special Radio Services.
400-10	Instructions for Completion of FCC Form 400.
402	Application for Microwave Station Authorization in the Safety and Special Radio Services.
402-10	Instructions for Completion of FCC Form 402.

<i>FCC Form</i>	<i>Title</i>
403	Application for Radio Station License or Modification Thereof (Other than Broadcasting, Amateur, Ship, and Aircraft).
404	Application for Aircraft Radio Station License.
405-A	Application for Renewal of Radio License (Short Form).
405-B	License expiration notice and/or renewal application.
406	Application for Ground Station Authorization in the Aviation Services.
407	Application for Radio Station Construction Permit for Parts 23, 81, 83, and 85.
410	Registration of Canadian Radio Station Licensee and Application for Permit to Operate.
453-B	Certificate of Special Temporary Authorization for Operation of Radio Station on Board New Aircraft.
480	Application for Civil Air Patrol Radio Station Authorization.
481	Application for Authority to Operate a Station in the Radio Amateur Civil Emergency Service.
482	Certification of Civil Defense Radio Officer.
501	Application for Ship Radio Station License.
502	Application for Ship Radiotelephone and/or Radio-navigation Station License.
505	Application for Class B, C, or D Station License in the Citizens Radio Service.
525	Application for Disaster Communications Radio Station Construction Permit and License.
610	Application for Amateur Radio Station and/or Operator License.
610-A	Application of Alien Amateur Radio Licensee for Permit to Operate in the United States.
701	Application for Additional Time to Construct Radio Station.
702	Application for Consent to Assignment of Radio Station Construction Permit or License (For Stations in Services Other Than Broadcast).
703	Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License (For Station in Services Other Than Broadcast).
714	Supplement to Application for New or Modified Radio Station Authorization (concerning antenna structure notification to FAA).
820	Application for Exemption from Ship Radio Station Requirements.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

☐ § 1.922 amended in I(63)-7 and I(63)-9; and amended to add form 405-B *cf.* 8-1-66, I(63)-12 ☐

### § 1.923 Construction permits.

A construction permit is not required for mobile radio stations or for any station in the Amateur Radio Service. Furthermore, a construction permit is not required for stations in the Maritime, Aviation, Public Safety, Industrial, Land Transportation, Citi-

zens Radio, or Disaster Communications Services except for the following categories within these services (other than mobile) for which construction permits are required:

- (a) Operational fixed stations;
- (b) Land radiopositioning stations in the industrial radiolocation service;
- (c) Public coast stations and limited Class I and Class II coast stations;
- (d) Shore radiolocation, shore radionavigation, and shore radar stations;
- (e) Alaskan public fixed stations; and
- (f) Any station involving the erection of a new antenna or changes in an existing antenna if:

(1) The antenna structure proposed to be erected will exceed an over-all height of 170 feet above ground level, except where the antenna is mounted on top an existing man-made structure other than an antenna structure, and does not increase the over-all height of such man-made structure by more than 20 feet; or

(2) The antenna structure proposed to be erected will exceed an over-all height of one foot above an established airport (landing area) elevation for each 200 feet of distance, or fraction thereof, from the nearest boundary of such landing area, except where the antenna does not exceed 20 feet above the ground or where the antenna is mounted on top an existing man-made structure, other than an antenna structure, or natural formation and does not increase the over-all height of such man-made structure or natural formation by more than 20 feet.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

### § 1.924 Assignment or transfer of control, voluntary and involuntary.

(a) (1) Radio station licenses are not transferable; however, except for those set forth in subparagraph (2) of this paragraph, they may be assigned. Licenses must be assigned whenever there is a change of ownership of an authorized radio station as, for example, if the radio communication equipment is sold with a business. The new owner must apply for assignment to him of the existing authorization in accordance with the rules under which the station is authorized.

(2) Licenses for stations in the Amateur, Aviation (aircraft), Citizens, and Maritime (ship) Radio Services cannot be assigned. Whenever there is a change of ownership of one of these latter stations, the new owner must apply for a new license. Upon receipt



of the new license, the former license must be surrendered for cancellation.

(b) (1) Application for consent to voluntary assignment of a construction permit or license, or for consent to voluntary transfer of control of a corporation holding a construction permit or license, shall be filed with the Commission at least 60 days prior to the contemplated effective date of assignment or transfer of control.

(2) The following application forms should be used:

(i) FCC Form 400: for assignment of station authorization in services under Parts 89, 91, and 93 of this chapter, except as provided in subdivision (ii) of this subparagraph. Attached thereto shall be a signed letter from proposed assignor stating his desire to assign his current authorization in accordance with the rules governing the particular service involved.

(ii) FCC Form 402: for assignment of an authorization for fixed stations in the Safety and Special Radio Services using frequencies above 952 MC/s (so-called microwave stations). Attached thereto shall be a signed letter from proposed assignor stating his desire to assign his current authorization in accordance with the rules governing the particular service involved.

(iii) FCC Form 406: for assignment of ground station authorizations in the Aviation Services, except as provided in subdivision (ii) of this subparagraph.

(iv) [Reserved]

ⓘ § 1.924(b)(2)(iv) *deleted eff. 4-15-66; I(63)-11*

(v) FCC Form 702: for assignment of licenses or construction permits of all other types.

(vi) FCC Form 703: for consent to transfer control of a corporation holding any type of license or construction permit.

ⓘ § 1.924(b)(2)(vi) *as amended eff. 4-15-66; I(63)-11*

(c) (1) In the event of the death or legal disability of a permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee, the Commission shall be notified in writing promptly of the occurrence of such death or legal disability.

(2) Within 30 days after the occurrence of such death or legal disability (except in the case of a ship or amateur station), application shall be filed for consent to involuntary assignment of such permit or license, or for involuntary transfer of control of such corporation, to a person or entity legally qualified to succeed to the foregoing interests under the laws of

the place having jurisdiction over the estate involved. The procedure and forms to be followed are the same as those specified in paragraph (b) of this section.

(3) In the case of stations in the Amateur, Aviation (aircraft), Citizens, and Maritime (ship) Radio Services, involuntary assignment of licenses will not be made: such licenses shall be surrendered for cancellation upon the death or legal disability of the licensee. (Sec. 310, 48 Stat. 1086, as amended; 47 U.S.C. 310)

#### § 1.925 Application for special temporary authorization.

(a) Special temporary authority may be granted to install and operate new equipment, or to operate a licensed station in a manner and to an extent or for service other or beyond that authorized in an existing license, upon proper application therefor. No such request will be considered unless full particulars as to the purpose for which the request is made are stated and unless the request is received by the Commission at least 10 days prior to the date of proposed operation. A request received within less than 10 days may be accepted upon due showing of sufficient reasons.

(b) Requests for such temporary authorization may be filed in letter form, properly signed; however, in cases of emergency involving danger to life or property or due to damage to equipment, such request may be made by telephone or telegraph, provided written request, properly signed, is submitted within 10 days from the date of such request.

(c) The purchasers of a new aircraft with factory-installed radio equipment may operate the radio station on the aircraft for a period of 30 days under Special Temporary Authority evidenced by a copy of a certificate (FCC Form 453B) executed by the manufacturer, dealer, or distributor, the original of which has been mailed to the Commission with the formal application for station license.

#### § 1.926 Application for renewal of license.

(a) Application for renewal of station license shall be submitted on FCC Form 405-A (except as noted in paragraph (b) of this section).

(b) (1) Applications for renewal of an amateur operator license, an amateur station license, or a combined amateur operator-station license shall be filed on FCC Form 610.

(2) Applications for renewal of aircraft radio station licenses, shall be submitted on FCC Form 405-B.

(3) Application for renewal of authorization to operate an amateur station in the Radio Amateur Civil

Emergency Service (RACES) shall be filed on FCC Form 481-1 and shall be submitted concurrently with the application for renewal of the basic amateur radio station license.

- (4) [Reserved]
- (5) [Reserved]
- (6) [Reserved]
- (7) [Reserved]
- (8) [Reserved]

(9) Applications for renewal of licenses for radiotelephone stations required by Title III, Part II of the Communications Act of 1934, as amended, or the Safety of Life at Sea Convention and for renewal of all ship licenses which include radiotelegraph shall be filed on Form 405-A. An application for renewal of ship radiotelephone station license (other than those listed in the preceding sentence) and/or ship radionavigation station license shall be filed on FCC Form 405-B.

(10) Application for renewal of Class B, Class C, or Class D station license in the Citizens Radio Service shall be submitted on FCC Form 505.

(11) Application for renewal of Class A station license in the Citizens Radio Service shall be submitted on FCC Form 400.

(c) All applications for renewal of license must be made during the license term and should be filed within 90 days but not later than 30 days prior to the end of the license term. In any case in which the licensee has, in accordance with the provisions of this chapter, made timely and sufficient application for renewal of license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

§ 1.926 amended in I(63)-1, I(63)-6 and I(63)-7;  
(b) (2) & (9) amended eff. 8-1-66, I(63)-12

**§ 1.927 Application for ship radio inspection or periodical survey of ships subject to compulsory radio requirements.**

(a) Applications for ship radio inspection and certification of the ship radio license in accordance with the requirements of section 362(b) of the Communications Act, and/or issuance of a Safety Convention certificate in accordance with the terms of Regulations 12 and 13, Chapter 1 of the Safety Convention, should be submitted on FCC Form 801 entitled "Application for Ship Radio Inspection". This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired port of inspection (see § 0.121 of this chapter).

(b) Applications for periodical survey as required by Article 11 of the Great Lakes Agreement, and certification prescribed by Articles 12 and 13 thereof, should be submitted on FCC Form 809 "Application for Periodical Survey (Great Lakes Agreement)." This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired place of survey (see § 0.121 of this chapter).

(c) Applications for inspection of ship radio equipment and apparatus, for the purposes of Part II of Title III of the Communications Act of 1934, as amended, or the Great Lakes Agreement, on a Sunday or national holiday, or during other than the established working hours on any other day, should be submitted on FCC Form 808 entitled "Application for and Certificate of Overtime Service Involving Inspection of Ship Radio Equipment." This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired port of inspection (see § 0.121 of this chapter).

(d) Application for periodical inspection and certification of vessels subject to Part III of Title III of the Communications Act pursuant to section 385 thereof should be submitted on FCC Form 812 entitled "Application for Periodical Inspection (Communications Act, Title III, Part III)." This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired port of inspection (see § 0.121 of this chapter).

(Sec. 10(b), 50 Stat. 196, as amended, 47 U.S.C. 360; and sec. 1, 70 Stat. 1047, 47 U.S.C. 385)

§ 1.927(a) as amended eff. 5-26-65; I(63)-7

**§ 1.928 Procedure with respect to applications for ship radio inspection or periodical survey.**

After the following applications are accepted for filing, the Engineer in Charge of the radio district office in which the application is submitted makes the necessary examination and issues the appropriate certification:

(a) Application for ship radio inspection and certification of the ship radio license, pursuant to the requirements of section 362(b) of the Communications Act;

(b) Application for a Safety Convention certificate in accordance with the terms of Regulations 12 and 13, Chapter 1 of the Safety Convention.

(c) Application for periodical survey as required by Article 11 of the Great Lakes Agreement and certification prescribed by Articles 12 and 13 thereof;

(d) Application for periodical inspection and certification of vessels subject to Part III of Title III of the Communications Act, pursuant to section 385 thereof.

(Sec. 10(b), 50 Stat. 196, as amended, 47 U.S.C. 360; and sec. 1, 70 Stat. 1047, 47 U.S.C. 385)

ⓘ § 1.928(b) as amended eff. 5-26-65; I(63)-7Ⓜ

**§ 1.929 Application for exemption from compulsory ship radio requirements.**

Applications for exemption, filed under the provisions of sections 352 (b) or (c) and 383 of the Communications Act; Regulation 5, Chapter IV of the Safety Convention; and Article 6 of the Great Lakes Radio Agreement, shall be submitted on FCC Form 820 entitled "Application for Exemption from Ship Radio Station Requirements".

(Sec. 10(b), 50 Stat. 192, as amended, 47 U.S.C. 352; and sec. 170 Stat. 1047, 47 U.S.C. 383)

ⓘ § 1.929 as amended eff. 5-26-65; I(63)-7Ⓜ

**§ 1.930 Application for temporary waiver of annual inspection.**

Informal application for temporary waiver of the annual inspection required under section 362(b) of the Communications Act, as provided in that section, shall be filed by the vessel owner, the vessel's operating agency, the ship station licensee, or the master of the vessel with the Commission's Engineer in Charge of the radio district office nearest the port where the ship is located.

(Sec. 10(b), 50 Stat. 196, as amended; 47 U.S.C. 360)

**§ 1.931 Application for extension of construction permit.**

(a) A construction permit shall be automatically forfeited if the station is not ready for operation within the time specified therein or within such further time as the Commission may have allowed for completion, and a notation of the forfeiture of any construction permit under this provision will be placed in the records of the Commission as of the expiration date.

(b) Application for extension of time within which to construct a station in the Public Safety, Industrial, and Land Transportation Radio Services shall be submitted on FCC Form 400 or on FCC Form 402, as appropriate; in the Aviation Services, on FCC Form 406, except Civil Air Patrol applications which shall use FCC Form 480; in the case of Class A stations in the Citizens Radio Service, on FCC Form 400; and in all other services, on FCC Form 701. Such application

shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases such applications will be accepted upon a showing satisfactory to the Commission of sufficient reasons for filing within less than 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

**§ 1.932 Time in which station must be placed in operation.**

In those cases in which a license is issued initially in lieu of a construction permit, if the station authorized is not placed in operation within eight months from the date of grant, the authorization shall be invalid and must be returned to the Commission for cancellation.

**§ 1.933 Installation or removal of apparatus.**

(a) In the Public Safety, Industrial, and Land Transportation Radio Services, replacement of transmitting equipment may be made without prior authorization: *Provided*, The replacement transmitter appears in the Commission's "Radio Equipment List, Part C" as designated for use in the Public Safety, Industrial, and Land Transportation Radio Services, and the substitute equipment employs the same type of emission and does not exceed the power limitation as set forth in the station authorization.

(b) In the Citizens Radio Service, replacement of transmitting equipment may be made without prior authorization: *Provided*, The replacement transmitter appears in the Commission's "Radio Equipment List, Part C" as designated for use in the Citizens Radio Service or, in the case of a Class C or Class D station using crystal control, the substitute equipment is crystal controlled: *Provided, further*, That the substitute equipment employs the same type of emission and does not exceed the frequency tolerance and power limitations prescribed for the particular class of station involved.

**§ 1.934 Procedure with respect to amateur radio operator license.**

After an application for an amateur radio operator license is accepted and an examination is conducted in accordance with § 97.27 of this chapter, the examina-

tion is graded by the office supervising the examination. The results of the examination are forwarded to Washington, and if the applicant is successful, a license is issued by the Safety and Special Radio Services Bureau. (Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

#### APPLICATION PROCESSING PROCEDURES

##### § 1.951 How applications are distributed.

(a) Amateur and Citizens Division: Amateur, Disaster, RACES, and Citizens.

(b) Aviation and Marine Division:

(1) Aviation Radio Services applications: Air Carrier Aircraft, Private Aircraft, Airdrome Control, Aeronautical En Route, Aeronautical Fixed, Operational Fixed (Aviation), Aeronautical Utility Mobile, Radionavigation (Aviation), Flight Test, Flying School, Aeronautical Public Service, Civil Air Patrol, Aeronautical Advisory, Aeronautical Metropolitan, Aeronautical Search and Rescue Mobile, and Aeronautical Multicom.

(2) Marine Radio Services applications: Public Coast Stations, Limited Coast Stations, Stations on Land in the Maritime Radiodetermination Service, Fixed Stations associated with the Maritime Mobile Service, Stations operated in the Land Mobile Service for maritime purposes, Stations on Shipboard in the Maritime Services, and Public Fixed Stations in Alaska.

(c) Industrial and Public Safety Facilities Division:

(1) Industrial Radio Services applications: Business, Forest Products, Industrial Radiolocation, Manufacturers, Motion Picture, Petroleum, Power, Relay Press, Special Industrial, and Telephone Maintenance.

(2) Land Transportation Radio Services applications: Motor Carrier, Railroad, Taxicab, and Automobile Emergency.

(3) Public Safety Radio Services applications: Fire, Forestry-Conservation, Highway Maintenance, Local Government, Police, Special Emergency, and State Guard.

【§ 1.951 amended eff. 5-9-66, I(63)-12】

##### § 1.952 How file numbers are assigned.

(a) File numbers are assigned to certain categories of applications by the various Divisions of the Safety and Special Radio Services Bureau. Applications for fixed stations using frequencies above 952 Mc/s are further designated by the addition of a letter X at the end of the file number.

(b) File number symbols and service or class of station designators:

#### AMATEUR AND DISASTER SERVICES

Y—Amateur.  
D—Disaster.  
R—RACES.

#### AVIATION SERVICES

A—Aeronautical and fixed group.  
AM—Aircraft group.  
AA—Aviation auxiliary group.  
AR—Aviation radionavigation land.  
AC—Civil Air Patrol

#### CITIZENS SERVICE

CA—Class A.  
CB—Class B.  
CC—Class C.  
CD—Class D.

#### INDUSTRIES SERVICES

IB—Business.  
IF—Forest products.  
IR—Industrial radiolocation.  
IX—Manufacturers.  
IM—Motion picture.  
IP—Petroleum.  
IW—Power.  
IY—Relay press.  
IS—Special industrial.  
IT—Telephone maintenance.

#### LAND TRANSPORTATION SERVICES

LA—Automobile emergency.  
LI—Interurban passenger.  
LJ—Interurban property.  
LR—Railroad.  
LX—Taxicab.  
LU—Urban passenger.  
LV—Urban property.

#### MARINE SERVICES

MK—Alaskan group.  
M—Coastal group.  
MA—Marine auxiliary group.  
MR—Marine radiolocation land.

#### PUBLIC SAFETY SERVICES

PF—Fire.  
PO—Forestry conservation.  
PH—Highway maintenance.  
PL—Local government.  
PP—Police.  
PS—Special emergency.  
PG—State Guard.

(c) Application or authorization designator symbols:

P—Construction permit.  
MP—Modified CP.  
MP/L—Modified CP and license.  
MP/ML—Modified CP and modified license.  
AP—Assignment of permit.  
L—License.  
ML—Modified license.  
AL—Assignment of license.  
P/L—Combination CP and license.  
R—Renewed license.  
TC—Transfer of control.

##### § 1.953 How applications are processed.

(a) Applications are processed in sequence according to date of filing. Applications which are in accordance

with the provisions of this chapter and established policies of the Commission may be processed to completion in accordance with the applicable delegations of authority as set forth in Part 0 of this chapter.

(b) Applications are presented to the Commission in cases where :

(1) Applicant requests reconsideration of action taken by the staff under such delegations of authority ;

(2) Requests are made for waiver of, or exception to, a rule for a period in excess of 180 days, but not including certain categories of requests for waivers in excess of 180 days pertaining to ship stations covered by § 0.331(b) (13) of this chapter ;

(3) Applicant requests construction permit for new public coast station at locations other than Alaska ;

(4) The staff is not authorized to dismiss an application consistent with the provisions of this chapter and is unable to reach the positive public interest findings prescribed by § 1.971(a) ; or

(5) A petition has been filed to deny an application of the categories listed in § 1.962.

**§ 1.955 Frequency coordination, Canada.**

(a) As a result of mutual agreements, the Commission has, since May 1950, exchanged comments with the Canadian Department of Transport regarding proposed assignments in certain frequency bands for stations north of "Line A". Line A is described as follows: Begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N. and 120° W., thence along parallel 48° N. to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N. 85° W., thence southward along the meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N. to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates.

(b) The frequency bands are as follows :

<i>Mc/s</i>	<i>Mc/s</i>
30.56-32.00	75.40-76.00
33.00-34.00	150.80-174.00
35.00-36.00	450.00-464.725
37.00-38.00	465.275-470.00
39.00-40.00	942.00-960.00
42.00-46.60	1850.0-2200.0
47.00-49.60	3700.0-4200.0
72.00-74.60	5925.0-7125.0

*Gc/s*  
10.55-13.25

(c) Due, however, to the nature of the service, proposed assignments on the following specific frequencies are not coordinated :

<i>Mc/s</i>	<i>Mc/s</i>
156.3	156.7

<i>Mc/s</i>	<i>Mc/s</i>
156.35	156.8
156.4	156.9
156.47	156.95
156.5	157.0 and 161.6
156.55	157.05
156.6	157.1
156.65	157.15

§ 1.955 (b) and (c) as amended eff. 8-2-64; I(63)-1

**§ 1.956 Rented communications equipment.**

(a) Applications for authorization in the Safety and Special Radio Services which indicate that the equipment therefor will be obtained pursuant to lease-maintenance arrangements with the American Telephone and Telegraph Company or its subsidiaries will not be granted.

(b) For the purposes of this section, subsidiaries of A.T. & T. include the following :

- Bell Telephone Co. of Nevada
- Citizen Telephone Co., Inc.
- Illinois Bell Telephone Co.
- Indiana Bell Telephone Co.
- Michigan Bell Telephone Co.
- New England Telephone and Telegraph Co.
- New Jersey Bell Telephone Co.
- New York Telephone Co.
- Northwestern Bell Telephone Co.
- Southern Bell Telephone and Telegraph Co.
- Southwestern Bell Telephone Co.
- The Bell Telephone Co. of Pennsylvania
- The Chesapeake and Potomac Telephone Co.
- The Chesapeake and Potomac Telephone Co. of Maryland
- The Chesapeake and Potomac Telephone Co. of Virginia
- The Chesapeake and Potomac Telephone Co. of West Virginia
- The Cincinnati and Suburban Bell Telephone Co.
- The Diamond State Telephone Co.
- The Mountain States Telephone and Telegraph Co.
- The Ohio Bell Telephone Co.
- The Pacific Telephone and Telegraph Co.
- The Southern New England Telephone Co.
- Wisconsin Telephone Co.

NOTE: Pending final action in Docket No. 12722, the terms of this section are not intended to encompass in a negative or affirmative manner applications involving telephone company lease-maintenance arrangements which have been found or may be found, by any jurisdiction, to be "the furnishing of common carrier communications services" and/or if the charges therefor are or may become "subject to public regulation." See Pars. 24 and 25, First Report and Order, Docket No. 12722.

**§ 1.958 Defective applications.**

(a) Applications which are incomplete with respect to completeness of answers, supplementary statements, execution, or other matters of a formal character shall be deemed to be defective and may be returned to the applicant with a brief statement as to such defects.

(b) Applications will also be deemed to be defective and may be returned to the applicant in the following cases :

(1) Statutory disqualification of applicant, e.g., aliens under section 310 of the Communications Act ;

(2) Proposed use or purpose of station would be unlawful ;



(3) Requested frequency is not allocated for assignment for the service proposed.

(c) Applications which are not in accordance with the provisions of this chapter or other requirements of the Commission will be considered defective and may be dismissed unless accompanied either by (1) a petition to amend any rule or regulation with which the application is in conflict, or (2) a request of the applicant for waiver of, or exception to, any rule, regulation, or requirement with which the application is in conflict. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof. Applications may be dismissed, if the accompanying petition for waiver or amendment of rules does not set forth reasons which, sufficient if true, would justify a waiver or change of the rules.

(d) If an applicant is requested by the Commission to file any additional documents or information not included in the prescribed application form, failure to comply with such request will be deemed to render the application defective, and such application may be dismissed.

(Sec. 308, 48 Stat. 1084, as amended; 47 U.S.C. 308)

#### § 1.959 Resubmitted applications.

Any application which has been returned to the applicant for correction will be processed in original order of receipt when resubmitted if it is received within 30 days (45 days outside continental United States) from the date on which it was returned to the applicant. If the application is not resubmitted within the prescribed time, it will be treated as a new application and considered at the time other applications received on the same date are considered.

#### § 1.961 Dismissal of applications.

(a) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the designation of such application for hearing.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice where an application has not yet been designated for hearing; such dismissal may be with prejudice after an application has been designated for hearing.

(c) Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only upon written petition properly served upon all parties of record and will be granted only for good cause shown. Such petition must be accompanied by a written and signed statement of a person with knowledge of the facts as to whether or not consideration has been promised to or received by petitioner, directly or indirectly, in connection with the filing of such petition for dismissal of the application.

#### § 1.962 Public notice of acceptance for filing; petitions to deny applications of specified categories.

(a) Except as qualified in paragraph (b) of this section, the provisions of this section shall apply to all applications for authorizations, and substantial amendments thereof, for the categories of stations and services listed in this paragraph which are filed with the Commission on or after December 12, 1960, and to such applications which were filed prior to December 12, 1960, but are amended substantially on or after that date.

(1) Fixed point-to-point stations using frequencies above 890 Mc/s (exclusive of control, relay, and repeater stations used as integral parts of mobile radio systems).

(2) Industrial radiopositioning stations for which frequencies are assigned on an exclusive basis.

(3) Aeronautical enroute stations.

(4) Aeronautical advisory stations.

(5) Airdrome control stations.

(6) Aeronautical fixed stations.

(7) Public coast stations, excluding those located in Alaska which will not render service for hire.

[[§ 1.962(a)(8) deleted eff. 4-9-65; I(63)-6]]

(b) The provisions of this section are not applicable to applications for the type of authorizations listed in this paragraph.

(1) A minor change in the facilities of an authorized station or a minor amendment of an application on file.

(2) Consent to an involuntary assignment or transfer under section 310(b) of the Communications Act or to a voluntary assignment or transfer thereunder which does not involve a substantial change in ownership or control.

(3) A license under section 319(c) of the Communications Act or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such licensee.

(4) Extension of time to complete construction of authorized facilities.

(5) A special temporary authorization not to exceed 30 days where the applicant does not contemplate the filing of an application for regular operation, or not to exceed 60 days pending or after the filing of an application for regular operation.

(6) An authorization under any of the proviso clauses of section 308(a) of the Communications Act.

[[§ 1.962(b)(5) as amended eff. 6-18-64; I(63)-2]]

(c) For the purposes of this section, a substantial amendment of an application on file and applications for a substantial change in the facilities of an authorized station shall be:

(1) Any addition or change in frequency (except deletion of a frequency);

(2) Any change in antenna azimuth;

(3) Any change in antenna beam width;

(4) Any change in antenna location greater than 5 seconds;

(5) Any change in antenna location of less than 5 seconds but also involving a requirement for special aeronautical study;

(6) Any change in emission;

(7) Any increase in antenna height;

(8) Any increase in authorized power in excess of a 2 to 1 ratio;

(9) Any increase in emission bandwidth.

(d) All amendments of an application on file and all changes requested in the facilities of an authorized station other than those amendments and modifications listed in paragraph (c) of this section shall be considered minor.

(e) The Commission will issue at regular intervals a "Public Notice" listing all applications subject to this section which have been accepted for filing. Such "Public Notice" will re-list any application which has been amended substantially since its previous listing. For the purposes of this section, "accepted for filing" means that an application has been received at the Commission. Such acceptance for filing shall not preclude the subsequent dismissal of an application, pursuant to the provisions of this chapter, as being defective.

(f) No application subject to the provisions of this section, as originally filed or substantially amended, will be granted by the Commission prior to the 31st day following the issuance of public notice of the acceptance for filing of such application or of any substantial amendment thereof: *Provided, however,* That the Commission, notwithstanding the requirements of this paragraph, may, if the grant of such application is otherwise authorized by law and if it finds that there are extraordinary circumstances requiring emergency operations in the public interest and that delay in institution of such emergency operations would seriously prejudice the public interest, grant a temporary authorization, accompanied by a statement of its reasons therefor, to permit such emergency operation for a period not exceeding 90 days, and upon making like findings may extend such temporary authorization for one additional period not to exceed 90 days.

(g) Any party in interest may file with the Commission a petition to deny any application, whether as filed originally or as subsequently amended, subject to the provisions of this section, at any time prior to the day the Commission grants such application or formally designates such application for hearing. A petitioner shall serve a copy of such petition on the applicant. A petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity. Such allegations of fact except for

those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof.

(h) The applicant may file an opposition to any petition to deny and the petitioner may file a reply thereto (see § 1.45) in which allegations of fact or denials thereof, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof. The applicant shall serve a copy of his opposition on the petitioner, and the petitioner shall serve a copy of his reply on the applicant.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

#### ACTION ON APPLICATIONS

AUTHORITY: §§ 1.971 and 1.973 issued under sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309.

#### § 1.971 Grants without a hearing.

(a) The Commission will grant without a hearing an application for a station authorization if it is proper upon its face and if the Commission finds from an examination of such application and supporting data, any pleading filed, or other matters which it may officially notice, that:

(1) There are no substantial and material questions of fact;

(2) The applicant is legally, technically, financially, and otherwise qualified;

(3) A grant of the application would not involve modification, revocation, or non-renewal of any existing license or outstanding construction permit;

(4) A grant of the application would not preclude the grant of any mutually exclusive application; and

(5) A grant of the application would serve the public interest, convenience, and necessity.

(b) If a petition to deny an application has been filed pursuant to § 1.962 and the Commission grants such application pursuant to paragraph (a) of this section, the Commission will deny the petition and issue a concise statement of the reason for such denial and disposing of all substantial issues raised by the petition.

#### § 1.973 Designation for hearing.

(a) If the Commission is unable to make the findings prescribed by § 1.971(a) with reference to an application filed prior to December 12, 1960, and not amended substantially on or after that date, the Commission, by letter, will notify the applicant and other known parties in interest of the grounds and reasons for its inability to make such findings and of all the objections made to such application. Following such notice, the applicant will be given an opportunity to reply. If the Commission after considering such reply is still unable to make the findings prescribed by § 1.971(a), it will formally designate the application for hearing on the grounds or reasons then obtaining and shall notify the applicant and all other known parties in interest of such action.

(b) If the Commission is unable to make the findings prescribed in § 1.971(a) with reference to any applica-



tion filed on or after December 12, 1960, or any application filed prior to December 12, 1960, but amended substantially on or after that date, it will formally designate the application for hearing on the grounds or reasons then obtaining and will notify forthwith the applicant and all other known parties in interest of such action.

(c) Orders designating applications for hearing will specify with particularity the matters and things in issue and will not include issues or requirements phrased generally.

(d) Parties in interest, if any, who are not notified by the Commission of its action in designating a particular application for hearing may acquire the status of a party to the proceeding by filing a petition for intervention showing the basis of their interest not more than 30 days after publication in the Federal Register of the hearing issues or any substantial amendment thereto.

(e) Any hearing subsequently held upon such applications shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate. The burden of proceeding with the introduction of evidence and burden of proof shall be upon the applicant, except that with respect to any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission.

☐§ 1.973 (d) as amended eff. 3-10-65; I(63)-6☐

#### REPORTS TO BE FILED WITH THE COMMISSION

##### § 1.981 Reports, annual and semiannual.

(a) Licensees of stations authorized for developmental operation shall submit a report on the results of the developmental program. The report shall be filed with and made a part of each application for renewal of authorization.

(b) The report shall include comprehensive and detailed information on the following:

- (1) The final objective.
- (2) Results of operation to date.
- (3) Analysis of the results obtained.
- (4) Copies of any published reports.
- (5) Need for continuation of the program.
- (6) Number of hours of operation on each frequency.

(c) Where required by the particular service rules, licensees who have entered into agreements with other persons for the cooperative use of radio station facilities must submit annually an audited financial statement reflecting the nonprofit cost-sharing nature of the arrangement to the Commission's offices in Washington,

D.C., no later than three months after the close of the licensee's fiscal year.

#### FORFEITURES AGAINST SHIPS AND SHIP MASTERS

##### § 1.991 Forfeitures against ships and ship masters.

(a) Whenever it appears that a shipowner or a shipmaster has become subject to forfeitures under sections 364, 386, or 507 of the Communications Act of 1934, as amended, a written notice of apparent liability will be sent to the shipowner and/or to the shipmaster to the last known address. This notice will set forth the facts which indicate apparent liability; will identify the offenses which are involved and the provisions of the statute, treaty, or rule which appear to have been violated; will state the amount of the forfeiture incurred; and will summarize the courses of action available to the person involved under the provisions of paragraph (b) of this section.

(b) Response to a notice of apparent liability: The shipowner and/or shipmaster involved shall respond to a notice of apparent liability within 30 days after the notice is mailed, or within such longer period of time as may be specified in the notice. Any of the following actions by the shipowner or shipmaster shall constitute a response meeting the requirements of this paragraph:

(1) Payment of the forfeiture in the amount specified in the notice of apparent liability. The forfeiture should be paid by check or money order drawn to the order of the Treasurer of the United States and should be mailed to the Federal Communications Commission, Washington, D.C., 20554. The Commission does not accept responsibility for cash payments sent through the mails.

(2) Submission of a written statement denying liability for the forfeiture in whole or in part and/or requesting (even if liability is admitted) that the forfeiture be canceled or reduced because of extenuating circumstances connected with the offense. Allegations or requests made in any such statement must be supported by detailed facts and reasons. The statement should be mailed to the Federal Communications Commission, Washington, D.C., 20554.

(c) Commission action after written statement: After the submission of a written statement, as prescribed in paragraph (b) of this section, the Commission will consider all relevant information available to it. Based on such considerations, the Commission will (1) cancel the forfeiture, (2) offer to reduce the amount of the forfeiture, or (3) require the forfeiture to be paid in full. Notice of such Commission action, stating the amount of the forfeiture (if any) and the date by which it must be paid, will thereupon be mailed

to the shipowner and/or the shipmaster involved. The forfeiture in the amount stated shall be paid by check or money order drawn to the order of the Treasurer of the United States and shall be mailed to the Federal Communications Commission, Washington, D.C., 20554. The Commission does not accept responsibility for cash payments sent through the mails.

(d) Judicial enforcement of forfeitures imposed by the Commission: If a shipowner or shipmaster fails to respond to the notice of apparent liability as required by paragraph (b) of this section, or if he fails to pay the forfeiture imposed by the Commission under paragraph (c) of this section, the case will, without further notice, be referred by the Commission to the Attorney General of the United States for prosecution in the appropriate Federal District Court to recover the amount of the forfeiture initially imposed.

NOTE: See §§ 1.101-1.117 for reconsideration and review procedures.

ⓘ § 1.991 as amended eff. 2-11-66; I(63)-11Ⓜ

(Sec. 10(b), 50 Stat. 196, as amended, 47 U.S.C. 362; sec. 1, 70 Stat. 1048, 47 U.S.C. 386; sec. 504, 48 Stat. 1101, as amended, 47 U.S.C. 504; and sec. 3, 68 Stat. 729, 47 U.S.C. 507)

## SUBPART G—SCHEDULE OF FEES FOR APPLICATIONS FILED WITH THE COMMISSION

AUTHORITY: §§ 1.1101-1.1119 issued under sec. 501, 65 Stat. 290; 5 U.S.C. 140.

### GENERAL INFORMATION

#### § 1.1101 Authority.

Authority for this Subpart is contained in Title V of the Independent Offices Appropriation Act of 1952 (5 U.S.C. 140) which provides that any service rendered by a Federal agency to or for any person shall be performed on a self-sustaining basis to the fullest extent possible. Title V further provides that the head of each Federal agency is authorized by regulation to prescribe such fees as he shall determine to be fair and equitable.

#### § 1.1103 Payment of fees.

(a) Each application, filed on or after January 1, 1964, for which a fee is prescribed in this subpart, must be accompanied by a remittance in the full amount of the fee. In no case will an application be accepted for filing or processed prior to payment of the full amount specified. Applications for which no remit-

tance is received, or for which an insufficient amount is received, may be returned to the applicant.

(b) Fee payments accompanying applications received in the Commission's Offices in Washington, D.C., or in any of the Commission's field offices, should be in the form of a check or money order payable to the Federal Communications Commission. The Commission will not be responsible for cash sent through the mails. All fees collected will be paid into the United States Treasury as miscellaneous receipts in accordance with the provisions of Title V of the Independent Offices Appropriations Act of 1952 (5 U.S.C. 140).

(c) Receipts will be furnished upon request in the case of payments made in person, but no receipts will be issued for payments sent through the mails.

(d) Except as provided in §§ 1.1104 and 1.1105, all fees will be charged irrespective of the Commission's disposition of the application. Applications returned to applicants for additional information or corrections will not require an additional fee when resubmitted.

ⓘ § 1.1103 (d) amended eff. 1-3-66; I(63)-10Ⓜ

#### § 1.1104 Return or refund of fees.

(a) The full amount of any fee submitted will be returned or refunded, as appropriate, in the following instances:

(1) Where no fee is required for the application filed.

(2) Where the application is filed by an applicant who cannot fulfill a prescribed age requirement.

(3) Where the application is filed for renewal without reexamination of an amateur or commercial radio operator license after the grace period has expired.

(4) Where the applicant is precluded from obtaining a license by the provisions of section 303(1) or 310(a) of the Communications Act.

(5) Where circumstances beyond the control of the applicant, arising after the application is filed, would render a grant useless.

(b) Payments in excess of an applicable fee will be refunded only if the overpayment exceeds \$2.

ⓘ § 1.1104 as adopted eff. 1-3-66; I(63)-10Ⓜ

#### § 1.1105 General exceptions.

(a) No fee is required for an application filed for the sole purpose of amending an authorization or pending application (if a fee is otherwise required) so as to comply with new or additional requirements of the Commission's rules or the rules of another Federal government agency affecting the authorization or pending application; however, if the applicant also requests an additional modification or the renewal of his author-

ization, the appropriate modification or renewal fee must accompany the application. Fee exemptions arising out of this general exception will be announced to the public in the orders amending the rules or in other appropriate Commission notices.

(b) No fee is required for an application filed by an alien pursuant to a reciprocal radio licensing agreement.

(c) No fee is required for any application or request for an STA or waiver.

⌈§ 1.1105 *as amended eff. 1-3-66; I(63)-10*⌋

SCHEDULE OF FEES

§ 1.1111 Schedule of fees for Radio Broadcast Services.

(a) Except as provided in paragraph (b) of this section, applications filed in the Radio Broadcast Services shall be accompanied by the fees prescribed below:

	AM	FM	TV	Translator	Auxiliary
Application for construction permit for new station.....	\$75	\$75	\$150	\$10	<sup>1</sup> \$30
Application for major change.....	75	75	150	10	10
Application for renewal or assignment of license or transfer of control, exclusive of FCC Form 316 applications (where more than one broadcast station license is involved, the application must be accompanied by the total amount of the fees prescribed for each license so involved).....	75	75	150	10	<sup>1</sup> 30
Applications filed on FCC Form 316 (where more than one broadcast station license is involved, the application must be accompanied by the total amount of the fees prescribed for each license so involved).....	30	30	30	No fee	No fee
Application for construction permit to replace expired permit, FCC Form 321.....	30	30	30	10	<sup>1</sup> 30
Application for modification other than a major change.....	30	30	30	No fee	<sup>1</sup> 10
Application for change of call sign for broadcast station.....	\$30 in all services.				
All other applications in the broadcast services (excluding television translator applications not specified above).....	<sup>1</sup> \$30 for each application.				

<sup>1</sup> With respect to applications for remote pickup broadcast stations authorized under Subpart D of Part 74 of this chapter, one fee will cover the base station (if any) and all the remote pickup mobile stations of a main station, provided the applications therefor are filed at the same time.

<sup>2</sup> For determining when a translator application is required to be accompanied by a fee under this section (though not for other purposes in the translator or other broadcast services), "major change" is defined to include only a change in the output frequency of the translator.

(b) Fees are not required in the following instances:

(1) Applications filed by tax exempt organizations for the operation of stations providing noncommercial educational broadcast services, whether or not such stations operate on frequencies allocated for noncommercial educational use.

(2) Applications in the AM service requesting only authority to determine antenna power by direct measurement.

(3) Applications filed for covering licenses in the Auxiliary Broadcast Services.

⌈§ 1.1111 *as amended eff. 1-3-66; I(63)-10*⌋

§ 1.1113 Schedule of fees for Common Carrier Services.

Applications filed for Common Carrier Services shall be accompanied by the fees prescribed below:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE <sup>1</sup>

Application for initial construction permit or for relocation of a base station (including authority for mobile units, blanket dispatch station authority, <sup>2</sup> and standby transmitters without independent radiating systems <sup>3 1</sup> ).....	\$75
Application for initial construction permit or for relocation of a dispatch station, <sup>5</sup> control station or repeater station <sup>4</sup> .....	25
Application for modification of construction permit or license for base station, dispatch station, control station or repeater station at an existing station location.....	10
Application for renewal of license for base station.....	25
Application for renewal of license for dispatch station, control station or repeater station.....	10
Application for license, modification of license, or renewal of license for individual mobile stations.....	5

RURAL RADIO SERVICE

Application for an initial construction permit or for relocation of facilities <sup>4</sup> .....	10
Application for modification of construction permit or license.....	10
Application for license for operation of a rural subscriber station at temporary-fixed locations.....	10
Application for license or modification of license for individual subscriber stations.....	5
Application for renewal of license.....	5

See footnotes at end of table.

**POINT TO POINT MICROWAVE RADIO SERVICES**

Application for construction permit or for modification of construction permit to add or change point(s) of communication or to increase service to existing points of communication or for relocation of facilities<sup>4</sup>----- 30

All other applications for construction permits or modification of construction permits (no fee required when filed as part of a modification application requiring a \$30 fee)----- 10

Application for license for operation of a station at temporary-fixed locations----- 30

Application for modification of license----- 10

Application for renewal of license----- 5

**LOCAL TELEVISION TRANSMISSION SERVICE**

Application for construction permit or for modification of construction permit to add or change point(s) of communication or to increase service to an existing station location or for relocation of facilities<sup>4</sup>----- 30

All other applications for construction permits or modification of construction permits (no fee required when filed as part of a modification application requiring a \$30 fee)----- 10

Application for license for operation of an STL station at temporary-fixed locations----- 30

Application for license for operation of a mobile television pickup station----- 30

Application for modification of license----- 10

Application for renewal of license----- 5

**INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES**

**International Fixed Public Station:**

Application for an initial construction permit for a new station or an additional transmitter(s) at an authorized station<sup>4</sup>----- 100

Application for construction permit for a replacement transmitter(s) at an authorized station (no fee will be charged for application for modification of license to delete transmitter(s) being replaced if both applications are filed simultaneously) ----- 50

Application for change of location of an authorized station----- 100

Application for modification of license----- 10

Application for renewal of license----- 75

**International Control Station:**

Application for an initial construction permit for a new station or an additional transmitter(s) at an authorized station<sup>4</sup>----- 30

**International Control Station—Continued**

Application for construction permit for a replacement transmitter(s) at an authorized station (no fee will be charged for application for modification of license to delete transmitter being replaced if both applications are filed simultaneously) ----- 10

Application for change of location of an authorized station----- 30

Application for modification of license----- 10

Application for renewal of license----- 10

**OTHER RADIO APPLICATIONS**

Application for assignment of an authorization or transfer of control (a separate \$10 fee is required for each call sign covered by the Application) ----- 10

All other Common Carrier Radio applications-- 10

**COMMON CARRIER NONRADIO APPLICATIONS**

Applications by Communications Common Carriers for Authorization to Own Stock in the Communications Satellite Corp.----- 10

Section 214 Applications by Telephone Co.----- 50

Section 214 Applications by Telegraph Co.----- 10

Cable Landing License Applications----- 100

Section 221 Applications----- 50

Interlocking Directorate Applications----- 10

Tariff applications to change charges or regulations on less than statutory notice----- 10

All other Common Carrier nonradio Applications ----- 10

<sup>1</sup> In this service each transmitter at a fixed location is a separate station notwithstanding the inclusion of more than one such station on a single authorization or under a single call sign.

<sup>2</sup> When included as part of a base station application, a request for blanket dispatch station authority made pursuant to the provisions of § 21.519(a) of this chapter does not require an individual application or fee. A request for such dispatch station authority filed separately from a base station construction permit application requires an application for modification of license and an appropriate fee.

<sup>3</sup> An application for a standby transmitter having its own independent radiating system requires the same fee as a base station application.

<sup>4</sup> No additional fee will be charged for applications for license to cover a construction permit unless there is a modification or variation of outstanding authority involved. In that event the appropriate fee for modification is applicable.

<sup>5</sup> This fee applies to any request for dispatch station authority not made pursuant to § 21.519(a) of this chapter.

【§ 1.1113 as amended eff. 1-3-66; I (6.3)-10】

§ 1.1115 Schedule of fees for Safety and Special Radio Services.

(a) Except as provided in paragraph (b) of this section, all formal applications filed in the Safety and Special Radio Services shall be accompanied by the fees prescribed below:

Applications in the Amateur Radio Service:	
For initial license, including new class of operator license, and for renewal of license.....	\$4
For modification of license.....	2
Request for special call sign pursuant to § 97.51....	20
Applications in the Citizens Radio Service:	
For Class A station authorization.....	10
For all other classes of stations in the Citizens Radio Service.....	8
Applications for Radio Station Authorizations for Operational Fixed Radio Stations for which frequencies above 952 Mc/s are requested:	
For construction permit.....	30
For modification of authorization.....	10
Applications for Common Carrier Public Coast Stations in the Maritime Radio Services:	
For initial construction permit.....	50
For modification of authorization.....	10
Applications for renewal only for which FCC Form 405-A or 405-B is prescribed.....	4
All other applications filed in the Safety and Special Radio Services.....	10

- (b) Fees are not required in the following instances:
- (1) Applications filed in the Police, Fire, Forestry-Conservation, Highway Maintenance, Local Government, and State Guard Radio Services.
  - (2) Applications filed by governmental entities in any of the Safety and Special Radio Services.
  - (3) Applications filed by the following in the Special Emergency Radio Service: Hospitals, Disaster Relief Organizations, Beach Patrols, and School Buses, and non-profit Ambulance Operators and Rescue Organizations.
  - (4) Applications filed in the Disaster Communications Service.
  - (5) Applications for ship inspections pursuant to the Great Lakes Agreement, the Safety of Life at Sea Convention, and Parts II and III, Title III, of the Communications Act of 1934, as amended.
  - (6) Applications for Novice Class license in the Amateur Radio Service, applications for amateur stations under military auspices, and applications filed in the Radio Amateur Civil Emergency Service (RACES).
  - (7) Operational Fixed Microwave Applications filed for Closed Circuit Educational Television Service.
  - (8) Applications for Civil Air Patrol Stations, Aeronautical Radionavigation Stations and for Aeronautical Search and Rescue Stations.
  - (9) Applications for license to cover construction permit.

【§ 1.1115 amended in I(63)-10; (a) amended eff. 8-1-66, I(63)-12】

§ 1.1117 Schedule of fees for commercial radio operator examinations and licensing.

(a) Except as provided in paragraphs (b) and (c) of this section, applications filed for commercial radio operator examinations and licensing shall be accompanied by the fees prescribed below:

Applications for new operator license:	
First-class license, either radiotelephone or radiotelegraph .....	\$5
Second-class license, either radiotelephone or radiotelegraph .....	4
Third-class permit, either radiotelephone or radiotelegraph .....	3
Restricted radiotelephone permit.....	2
Application for renewal of operator license.....	2
Application for endorsement of operator license...	2
Application for duplicate license or for replacement license.....	2

(b) No fee need accompany an application for a verification card (FCC Form 758-F) or for a verified statement (FCC Form 759).

(c) Whenever an application requests both an operator license and an endorsement the required fee will be the fee prescribed for the license document involved.

【§ 1.1117 as amended eff. 1-3-66; I(63)-10】

§ 1.1119 Experimental Radio Services (other than Broadcast).

Fees are not required in the case of applications filed in the Experimental Radio Services (other than Broadcast).

SUBPART H—EX PARTE PRESENTATIONS

【Subpart H (§§ 1.201-1.251) as adopted eff. 8-16-65; I(63)-7】

GENERAL

§ 1.1201 Definitions.

- (a) *Restricted proceeding.* A proceeding in which the restrictions set forth in this subpart apply. See §§ 1.1203 and 1.1207.
- (b) *Commission personnel.* All members, officers and employees of the Commission.
- (c) *Decision-making Commission personnel.* Those Commission personnel listed in §§ 1.1205 and 1.1209.
- (d) *Non-decision-making Commission personnel.* All Commission personnel other than decision-making Commission personnel.
- (e) *Interested person.* Any person having a direct or indirect interest in the outcome of a restricted proceeding, including the following:
  - (1) Parties to the restricted proceeding.
  - (2) Any other person who might be aggrieved or adversely affected by the outcome of the restricted proceeding. See Sections 402(b)(6) and 405 of the Communications Act of 1934, as amended.

(3) Agents for persons who might be aggrieved or adversely affected by the outcome of the restricted proceeding, including attorneys and consulting engineers.

(f) *Presentation.* Any communication going to the merits or outcome of any aspect of a restricted proceeding.

NOTE: The term "presentation" is narrower than the general term "communication". For a discussion of the term "presentation", see 1 F.C.C. 2d 49 (1965), at paragraphs 19-25.

(g) *Ex parte presentation.* (1) Any written presentation, made to decision-making personnel by any other person, which is not served on the parties to the proceeding. See §§ 1.47 and 1.211.

(2) Any oral presentation, made to decision-making Commission personnel by any other person, without advance notice to the parties to the proceeding and opportunity for them to be present.

#### § 1.1203 Restricted adjudicative proceedings.

(a) All adjudicative proceedings, including the following, are "restricted" from the time they are designated for hearing until they are removed from hearing status, or have been decided by the Commission, and are no longer subject to reconsideration by the Commission or to review by any court:

(1) Any proceeding involving the issuance, renewal, modification or assignment of any instrument authorizing the construction or operation of radio facilities under Title III of the Communications Act of 1934, as amended.

(2) Any proceeding involving the transfer of control of a corporate licensee or permittee under section 310 of the Communications Act.

(3) Any revocation and/or cease and desist proceeding under section 312 of the Communications Act, unless and until the hearing is waived pursuant to the provisions of § 1.92.

(4) Any proceeding involving the issuance or suspension of an operator license or permit under section 303(1) or (m) of the Communications Act.

(5) Any proceeding conducted pursuant to the provisions of sections 206, 207, 212, 214(a), 221(a), or 222(b), (c) or (d), of the Communications Act.

(6) Any proceeding conducted pursuant to the provisions of section 201(c) (6), (7) or (9), or section 304(f), of the Communications Satellite Act of 1962.

(b) In the following circumstances, in addition, proceedings involving applications filed under section 308 of the Communications Act are "restricted", as to interested persons, prior to their designation for hearing:

(1) Application proceedings are restricted as to interested persons from the day on which a petition to deny is filed. (See section 309(d) of the Communications Act.) If the petition is denied, the proceeding is restricted until the order disposing of the petition is no longer subject to reconsideration by the Commission or to review by any court. If the proceeding is designated for hearing, paragraph (a) of this section applies.

(2) Application proceedings are restricted as to interested persons from the day on which public notice of the filing of a mutually exclusive application is given. Prior to the day on which public notice is given, such proceedings are restricted as to any interested person having actual knowledge that a mutually exclusive application has been filed. If action is taken by the applicants (or any of them) looking toward removal of the conflict between the applications, the restrictions continue until such action has been approved by the Commission and the Commission's order with respect thereto is no longer subject to reconsideration by the Commission or to review by any court. See § 1.525. If the proceeding is designated for hearing, paragraph (a) of this section applies.

(i) Except as provided in subdivision (ii) of this subparagraph, the "Public Notices" issued at regular intervals listing all applications and major amendments thereto which have been tendered (or, in non-broadcast services, accepted) for filing shall constitute public notice of the filing of a mutually exclusive application. See §§ 1.564(c), 1.962(e) and 21.27(b) of this chapter.

(ii) Where there is doubt as to whether two applications are in fact mutually exclusive, or where the conflict between the applications does not clearly appear from such regularly issued "Public Notices", the Commission will endeavor to issue specific public notices stating that there is a possibility of conflict between the applications. In such circumstances, the specific public notice, rather than the regularly issued "Public Notices" of applications tendered (or accepted) for filing, shall constitute public notice for purposes of this section. (Such public notices are based on a pre-

liminary review of the applications by the administrative staff and are accorded no significance in determining whether the applications should be designated for hearing.)

**§ 1.1205 Decision-making Commission personnel (restricted adjudicative proceedings).**

The following categories of persons are designated as decision-making Commission personnel in restricted adjudicative proceedings:

- (a) The Commissioners and their personal office staffs.
- (b) The Chief of the Office of Opinions and Review and his staff.
- (c) The Review Board and its staff.
- (d) The Chief Hearing Examiner, the hearing examiners, and the staff of the Office of Hearing Examiners.
- (e) The General Counsel and his staff.
- (f) The Chief Engineer and his staff.

**§ 1.1207 Restricted rule making proceedings.**

Rule making proceedings which are required by statute to be decided on the record after opportunity for hearing, including the following, are "restricted" from the time they are designated for hearing until they are removed from hearing status, or have been decided by the Commission, and are no longer subject to reconsideration by the Commission or to review by any court:

- (a) Any proceeding conducted pursuant to the provisions of Sections 201(a), 204, 205, 213(a), 214(d), 221(c), or 222(c) of the Communications Act.
- (b) Any proceeding involving the establishment of "charges, classifications, practices, regulations, and other terms and conditions", or the allocation of available facilities and stations among users, conducted pursuant to the provisions of Section 201(c)(2) of the Communications Satellite Act of 1962.
- (c) Any rate making proceeding conducted pursuant to the provisions of Section 201(c)(5) of the Communications Satellite Act of 1962.

**§ 1.1209 Decision-making Commission personnel (restricted rule making proceedings).**

The following categories of persons are designated as decision-making Commission personnel in restricted rule making proceedings:

- (a) The Commissioners and their personal office staffs.
- (b) The Chief of the Office of Opinions and Review and his staff.
- (c) The Chief Hearing Examiner, the hearing examiners, and the staff of the Office of Hearing Examiners.

(d) The Chief of the Common Carrier Bureau and his staff.

(e) The General Counsel and his staff.

(f) The Chief Engineer and his staff.

(g) The Chief of the CATV Task Force and his staff when participating in proceedings involving service by common carriers to community antenna television systems.

【§ 1.1209 (g) adopted eff. 3-22-67; I(63)-16】

**PROHIBITED PRESENTATIONS**

**§ 1.1221 Presentations prohibited in restricted proceedings which have been designated for hearing.**

Except as provided in § 1.1227, the following presentations are prohibited in restricted proceedings which have been designated for hearing:

(a) *Oral presentations.* Persons outside the Commission and non-decision-making Commission personnel shall not, directly or indirectly, make or attempt to make any oral ex parte presentation.

(b) *Written presentations.* Interested persons and non-decision-making Commission personnel shall not, directly or indirectly, make or attempt to make any written ex parte presentation.

**§ 1.1223 Presentations prohibited in restricted application proceedings prior to their designation for hearing.**

As provided in § 1.1203(b), certain application proceedings are "restricted" following the submission of a petition to deny or public notice of the filing of a mutually exclusive application. Except as provided in § 1.1227, no interested person shall, directly or indirectly, make or attempt to make any oral or written ex parte presentation to decision-making Commission personnel concerning such a proceeding. Nor, in the absence of public notice, shall such an ex parte presentation be made, directly or indirectly, by an interested person having actual knowledge that a mutually exclusive application has been filed.

**§ 1.1225 Solicitation of ex parte presentations.**

(a) No person shall solicit or encourage others to make any presentation which he is himself prohibited from making under the provisions of this subpart.

(b) Except as provided in § 1.1227, decision-making personnel shall not solicit or encourage ex parte presentations from any person, and shall not entertain ex parte presentations which are made to them.

**§ 1.1227 Permissible ex parte communications.**

The following communications shall not be considered to be ex parte presentations prohibited by the provisions of this subpart:

(a) *Ex parte* communications authorized by statute or by the Commission's rules. (See, for example, § 1.333(d).) However, pleadings which are required to be served but which may be ruled on *ex parte* do not fall within this category. (See, for example, §§ 1.296 and 1.298(a); such pleadings may not be submitted *ex parte*.)

(b) Such *ex parte* communications initiated by the staff of the Common Carrier Bureau or the CATV Task Force as may be necessary for the adduction of record evidence in restricted rule making proceedings.

(c) Any communication made by or to the General Counsel or his staff concerning judicial review of any matter which has been decided by the Commission.

(d) Any communication from an agency of the Federal Government involving classified security information.

(e) Any request for information solely with respect to the status of a restricted proceeding. (Interested persons, however, are prohibited from directly or indirectly soliciting *ex parte* status inquiries.)

(f) Any communication between decision-making and non-decision-making Commission personnel prior to the designation of a restricted proceeding for hearing.

【§ 1.1227(b) amended *eff.* 3-22-67; 1(63)-16】

PROCEDURES FOR HANDLING *EX PARTE* COMMUNICATIONS  
§ 1.1241 *Written ex parte communications.*

(a) To the extent possible, written *ex parte* communications not authorized under § 1.1227 will be forwarded to the Executive Director rather than to the addressee.

(b) Unauthorized written *ex parte* communications which reach decision-making Commission personnel will be forwarded by them to the Executive Director. If the circumstances in which an unauthorized written *ex parte* presentation is made are not apparent from the presentation itself, a statement describing those circumstances shall be submitted to the Executive Director with the presentation.

(c) Unauthorized written *ex parte* communications, and all statements and correspondence pertaining thereto, will be placed in a public file, which will be associated with, but not made a part of, the file or record of the restricted proceeding to which the communication pertains. Prior to designation for hearing, no such communication, statement or correspondence shall be considered, without disclosure, in determining the merits of a restricted proceeding. After designation for hearing, no such materials shall be considered in determining the merits of a restricted proceeding unless they are made a part of the record of that proceeding.

(d) (1) If, in the judgment of the Executive Director, any unauthorized written *ex parte* presentation forwarded to him is prohibited by § 1.1221(b) or § 1.1223; or if in his judgment the presentation was solicited or encouraged in violation of § 1.1225; or if in his judgment the presentation should, for any other reason, be brought specifically to the attention of the parties, the Executive Director will serve copies of the presentation, together with copies of any statement describing the circumstances in which it was made, upon the parties to the proceeding.

(2) If the written presentation is voluminous or the parties numerous, or if other circumstances satisfy the Executive Director that service of the presentation would be unduly burdensome, he may (in lieu of service) notify the parties to the proceeding that the presentation has been made and that it is available for public inspection.

(e) A copy of any statement describing the circumstances in which any unauthorized written *ex parte* presentation was submitted will be forwarded to the person who submitted the presentation. Within 10 days after the statement is mailed to him, the person who submitted the presentation may himself file with the Executive Director a notarized statement with regard to these circumstances, which the Executive Director (if he deems service appropriate) may serve upon parties to the proceeding.

§ 1.1243 *Oral ex parte communications.*

(a) If an unauthorized oral *ex parte* presentation is made to decision-making Commission personnel, they will advise the person making the presentation that it is prohibited and terminate the discussion of such matters.

(b) If an unauthorized *ex parte* presentation has in fact been made, the person to whom the presentation was made shall forward to the Executive Director a statement containing such of the following information as is known to him:

(1) The name of the restricted proceeding.

(2) The name and address of the person making the presentation and his relationship (if any) to the parties to the proceeding or their attorneys.

(3) The date and time of the presentation, its duration, and the circumstances (telephone, personal interview, casual meeting, etc.) under which it was made.

(4) A brief statement as to the substance of the matters discussed.

(5) Whether the person making the presentation persisted in doing so after having been advised that the presentation is prohibited.

(6) The date and time at which the statement was prepared.

(c) All statements submitted to the Executive Director pursuant to the provisions of this section, and



all correspondence pertaining thereto, will be placed in a public file, which will be associated with, but not made part of, the file or record of the restricted proceeding to which the presentation pertains. Prior to designation for hearing, no such presentation, statement or correspondence shall be considered, without disclosure, in determining the merits of a restricted proceeding. After designation for hearing, no such materials shall be considered in determining the merits of a restricted proceeding unless they are made a part of the record of that proceeding.

(d) All statements submitted to the Executive Director pursuant to the provisions of this section shall be served by the Executive Director on the parties to the proceeding. If the parties are numerous, or if other circumstances satisfy the Executive Director that service of the statement would be unduly burdensome, he may (in lieu of service) notify the parties to the proceeding that the presentation has been made and that a statement with respect to it is available for public inspection.

(e) The Executive Director will forward to the person who made the presentation a copy of the statement prepared by the person to whom the presentation was made. Within 10 days after that statement is mailed to him, the person who made the presentation may himself file with the Executive Director a notarized statement with respect to the substance of the presentation and the circumstances in which it was made, which the Executive Director (if he deems service appropriate) may serve upon parties to the proceeding.

#### § 1.1245 Disclosure of information concerning ex parte presentations.

Any party to a restricted proceeding who has substantial reason to believe that an unauthorized ex parte presentation has been solicited, attempted or made, or who has information regarding such a presentation, shall promptly advise the Executive Director in writing of all the facts and circumstances concerning that presentation which are known to him.

#### SANCTIONS

##### § 1.1251 Sanctions.

(a) *Parties.* Upon notice and hearing, any party to a restricted proceeding who directly or indirectly makes any unauthorized ex parte presentation, who encourages or solicits others to make any such presentation, or who fails to advise the Executive Director of the facts and circumstances concerning an unauthorized ex parte presentation (see § 1.1245), may be disqualified from further participation in that proceeding. Such alternative or additional sanctions as may be appropriate may be imposed.

(b) *Commission personnel.* Violations of the provisions of this subpart by Commission personnel will be disposed of in accordance with the procedures set forth in Administrative Order No. 10 and the penalties therein specified.

(c) *Other persons.* Such sanctions as may be appropriate under the circumstances will be imposed upon other persons who violate the provisions of this subpart.

⌈Subpart H (§§ 1.201-1.251) as adopted eff. 8-16-65; I(63)-7⌋

#### APPENDIX A

#### A PLAN OF COOPERATIVE PROCEDURE IN MATTERS AND CASES UNDER THE PROVISIONS OF SECTION 410 OF THE COMMUNICATIONS ACT OF 1934

(Approved by the Federal Communications Commission October 25, 1938, and approved by the National Association of Railroad and Utilities Commissioners on November 17, 1938.)

#### PRELIMINARY STATEMENT CONCERNING THE PURPOSE AND EFFECT OF THE PLAN

Sec. 410 of the Communications Act of 1934 authorizes cooperation between the Federal Communications Commission, hereinafter called the Federal Commission, and the State commissions of the several States, in the administration of said Act. Subsection (a) authorizes the reference of any matter arising in the administration of said Act to a board to be composed of a member or members from each of the States in which the wire, or radio communication affected by or involved in the proceeding takes place, or is proposed. Subsection (b) authorizes conferences by the Federal Commission with State commissions regarding the relationship between rate structures, accounts, charges, practices, classifications, and regulations of carriers subject to the jurisdiction of such State commissions and of said Federal Commission and joint hearings with State commissions in connection with any matter with respect to which the Federal Commission is authorized to act.

Obviously, it is impossible to determine in advance what matters should be the subject of a conference, what matters should be referred to a board, and what matters should be heard at a joint hearing of State commissions and the Federal Commission. It is understood, therefore, that the Federal Commission or any State commission will freely suggest cooperation with respect to any proceedings or matter affecting any carrier subject to the jurisdiction of said Federal Commission and of a State commission, and concerning which it is believed that cooperation will be in the public interest.

To enable this to be done, whenever a proceeding shall be instituted before any commission, Federal or State, in which another commission is believed to be interested, notice should be promptly given each such interested commission by the commission before which the proceeding has been instituted. Inasmuch, however, as failure to give notice as contemplated by the provisions of this plan will sometimes occur purely through inadvertence, any such failure should not operate to deter any commission from suggesting that any such proceeding be made the subject matter of cooperative action, if cooperation therein is deemed desirable.

It is understood that each commission, whether or not represented in the National Association of Railroad and Utilities Commissioners, must determine its own course of

action with respect to any proceeding in the light of the law under which, at any given time, it is called upon to act, and must be guided by its own views of public policy; and that no action taken by such Association can in any respect prejudice such freedom of action. The approval by the Association of this plan of cooperative procedure, which was jointly prepared by the Association's standing Committee on Cooperation between Federal and State commissions and said Federal Commission, is accordingly recommendatory only; but such plan is designed to be, and it is believed that it will be, a helpful step in the promotion of cooperative relations between the State commissions and said Federal Commission.

#### NOTICE OF INSTITUTION OF PROCEEDING

Whenever there shall be instituted before the Federal Commission any proceeding involving the rates of any telephone or telegraph carrier, the State commissions of the States affected thereby will be notified immediately thereof by the Federal Commission, and each notice given a State commission will advise such commission that, if it deems the proceeding one which should be considered under the cooperative provisions of the Act, it should either directly or through the National Association of Railroad and Utilities Commissioners, notify the Federal Commission as to the nature of its interest in said matter and request a conference, the creation of a joint board, or a joint hearing as may be desired, indicating its preference and the reasons therefor. Upon receipt of such request the Federal Commission will consider the same and may confer with the commission making the request and with other interested commission, or with representatives of the National Association of Railroad and Utilities Commissioners, in such manner as may be most suitable; and if cooperation shall appear to be practicable and desirable, shall so advise each interested State commission, directly, when such cooperation will be by joint conference or by reference to a joint board appointed under said Sec. 410(a), and, as hereinafter provided, when such cooperation will be by a joint hearing under said Sec. 410(b).

Each State commission should in like manner notify the Federal Commission of any proceeding instituted before it involving the toll telephone rates or the telegraph rates of any carrier subject to the jurisdiction of the Federal Commission.

#### PROCEDURE GOVERNING JOINT CONFERENCES

The Federal Commission, in accordance with the indicated procedure, will confer with any State commission regarding any matter relating to the regulation of public utilities subject to the jurisdiction of either commission. The commission desiring a conference upon any such matter should notify the other without delay, and thereupon the Federal Commission will promptly arrange for a conference in which all interested State commissions will be invited to be present.

#### PROCEDURE GOVERNING MATTERS REFERRED TO A BOARD

Whenever the Federal Commission, either upon its own motion or upon the suggestion of a State commission, or at the request of any interested party, shall determine that it is desirable to refer a matter arising in the administration of the Communications Act of 1934 to a board to be composed of a member or members from the State or States affected or to be affected by such matter, the procedure shall be as follows:

The Federal Commission will send a request to each interested State commission to nominate a specified number of members to serve on such board.

The representation of each State concerned shall be equal, unless one or more of the States affected chooses to waive such right of equal representation. When the member or

members of any board have been nominated and appointed, in accordance with the provisions of the Communications Act of 1934, the Federal Commission will make an order referring the particular matter to such board, and such order shall fix the time and place of hearing, define the force and effect the action of the board shall have, and the manner in which its proceedings shall be conducted. The rules of practice and procedure, as from time to time adopted or prescribed by the Federal Commission, shall govern such board, as far as applicable.

#### PROCEDURE GOVERNING JOINT HEARINGS

Whenever the Federal Commission, either upon its own motion or upon suggestions made by or on behalf of any interested State commission or commissions, shall determine that a joint hearing under said Sec. 410(b) is desirable in connection with any matter pending before said Federal Commission, the procedure shall be as follows:

(a) The Federal Commission will notify the general solicitor of the National Association of Railroad and Utilities Commissioners that said Association, or, if not more than eight States are within the territory affected by the proceeding, the State commissions interested, are invited to name Cooperating Commissioners to sit with the Federal Commission for the hearing and consideration of said proceeding.

(b) Upon receipt of any notice from said Federal Commission inviting cooperation, if not more than eight States are involved, the general solicitor shall at once advise the State commissions of said States, they being represented in the membership of the association, of the receipt of such notice, and shall request each such commission to give advice to him in writing, before a date to be indicated by him in his communication requesting such advice (1) whether such commission will cooperate in said proceeding, (2) if it will, by what commissioner it will be represented therein.

(c) Upon the basis of replies received, the general solicitor shall advise the Federal Commission what States, if any, are desirous of making the proceeding cooperative and by what commissioners they will be represented, and he shall give like advice to each State commission interested therein.

(d) If more than eight States are interested in the proceeding, because within territory for which rates will be under consideration therein, the general solicitor shall advise the president of the association that the association is invited to name a cooperating committee of State commissioners representing the States interested in said proceeding.

The president of the association shall thereupon advise the general solicitor in writing (1) whether the invitation is accepted on behalf of the association, and (2) the names of commissioners selected to sit as a cooperating committee. The president of the association shall have authority to accept or to decline said invitation for the association, and to determine the number of commissioners who shall be named on the cooperating committee, provided that his action shall be concurred in by the chairman of the association's executive committee. In the event of any failure of the president of the association and chairman of its executive committee to agree, the second vice president of the association (or the chairman of its committee on cooperation between State and Federal commissions, if there shall be no second vice president) shall be consulted, and the majority opinion of the three shall prevail. Consultations and expressions of opinion may be by mail or telegraph.

(e) If any proceeding, involving more than eight States, is pending before the Federal Commission, in which cooperation has not been invited by that Commission, which the association's president and the first and second vice presidents, or any two of them, consider should be made a cooperative proceeding, they may instruct the general solicitor

to suggest to the Federal Commission that the proceeding be made a cooperative proceeding; and any State commission considering that said proceeding should be made cooperative may request the president of the association or the chairman of its executive committee to make such suggestion after consideration with the executive officers above named. If said Federal Commission shall assent to the suggestion, made as aforesaid, the president of the association shall have the same authority to proceed, and shall proceed in the appointment of a cooperating committee, as is provided in other cases involving more than eight States, wherein the Federal Commission has invited cooperation, and the invitation has been accepted.

(f) Whenever any case is pending before the Federal Commission involving eight States or less, which a commission of any of said States considers should be made cooperative, such commission, either directly or through the general solicitor of the association, may suggest to the Federal Commission that the proceeding be made cooperative. If said Federal Commission accedes to such suggestion, it will notify the general solicitor of the association to that effect and thereupon the general solicitor shall proceed as is provided in such case when the invitation has been made by the Federal Commission without State commission suggestion.

APPOINTMENT OF COOPERATING COMMISSIONERS BY THE  
PRESIDENT

In the appointment of any cooperating committee, the president of the association shall make appointments only from commissions of the States interested in the particular proceeding in which the committee is to serve. He shall exercise his best judgment to select cooperating commissioners who are especially qualified to serve upon cooperating committees by reason of their ability and fitness; and in no case shall he appoint a commissioner upon a cooperating committee until he shall have been advised by such commissioner that it will be practical for him to attend the hearings in the proceeding in which the committee is to serve, including the arguments therein, and the cooperative conferences, which may be held following the submission of the proceeding, to an extent that will reasonably enable him to be informed upon the issues in the proceeding and to form a reasonable judgment in the matters to be determined.

TENURE OF COOPERATORS

(a) No State commissioner shall sit in a cooperative proceeding under this plan except a commissioner who has been selected by his commission to represent it in a proceeding involving eight States or less, or has been selected by the president of the association to sit in a case involving more than eight States, in the manner hereinbefore provided.

(b) A commissioner who has been selected, as hereinbefore provided, to serve as a member of a cooperating committee in any proceeding, shall without further appointment, and without regard to the duration of time involved, continue to serve in said proceeding until the final disposition thereof, including hearings and conferences after any order or reopening, provided that he shall continue to be a State commissioner.

(c) No member of a cooperating committee shall have any right or authority to designate another commissioner to serve in his place at any hearing or conference in any proceeding in which he has been appointed to serve.

(d) Should a vacancy occur upon any cooperating com-

mittee, in a proceeding involving more than eight States, by reason of the death of any cooperating commissioner, or of his ceasing to be a State commissioner, or of other inability to serve, it shall be the duty of the president of the association to fill the vacancy by appointment, if, after communication with the chairman of the cooperating committee, it be deemed necessary to fill such vacancy.

(e) In the event of any such vacancy occurring upon a cooperating committee involving not more than eight States, the vacancy shall be filled by the commission from which the vacancy occurs.

COOPERATING COMMITTEE TO DETERMINE RESPECTING ANY  
REPORT OF STATEMENT OF ITS ATTITUDE

(a) Whenever a cooperating committee shall have concluded its work, or shall deem such course advisable, the committee shall consider whether it is necessary and desirable to make a report to the interested State commissions, and, if it shall determine to make a report, it shall cause the same to be distributed through the secretary of the association, or through the general solicitor to all interested commissions.

(b) If a report of the Federal Commission will accompany any order to be made in said proceeding, the Federal Commission will state therein the concurrence or nonconcurrence of said cooperating committee in the decision or order of said Federal Commission.

CONSTRUCTION HEREOF IN CERTAIN RESPECTS EXPRESSLY  
PROVIDED

It is understood and provided that no State or States shall be deprived of the right of participation and cooperation as hereinbefore provided because of nonmembership in the association. With respect to any such State or States, all negotiations herein specified to be carried on between the Federal Commission and any officer of such association shall be conducted by the Federal Commission directly with the chairman of the commission of such State or States.

APPENDIX B

INTERPRETATIONS OF FEE RULES AND PROCEDURES

Implementation of the Commission's schedule of filing fees has resulted in a number of questions requiring interpretations of the rules and administrative procedures applicable to the fee schedule. In view of the fact that many of these interpretations should serve as useful guidance to the general public, periodic releases of such interpretations are being made. The questions and interpretations which have been released are set forth below. Further information relative to the fee schedule may be obtained by reference to the folder on fees maintained in the Broadcast and Docket Reference Room of the Commission's offices at Washington, D.C.

64-1. *Question.* An application is originally submitted before the effective date of the fees but is returned to the applicant as incomplete. If the corrected application is resubmitted after the effective date of the fee schedule, will the prescribed fee be required?

*Interpretation.* Applications which were originally submitted before the effective date of the fee schedule and returned for corrections etc., will not be required to be accompanied by the prescribed fee when resubmitted subsequent to

the effective date of the fee schedule. However, if the resubmission is made on a new form, the original application must be enclosed to verify that the original application was submitted before the effective date of the fee schedule.

64-2. *Question.* Will refunds be made to the applicant or to the attorney, manufacturer, or other representative who might have submitted payment?

*Interpretation.* All refunds will be made payable to the applicant, irrespective of the fact that payment of the fee may have been received from an attorney, manufacturer, or other representative.

64-3. *Question.* Will applications receive a preliminary screening to determine whether the appropriate fee has been paid, or will this determination be made only after the application has awaited its turn in the processing line?

*Interpretation.* Applications will be screened upon receipt in the processing division to determine whether the appropriate fee has been paid. The application will not take its place on the processing line until the full amount of the prescribed fee has been paid.

64-4. *Question.* When will fee credit be accorded to an applicant?

*Interpretation.* Fee credit will be accorded only in those instances where the application is returned for additional information or corrections, e.g., the application is undated or unsigned, applicable questions are unanswered, inconsistency in spelling of names, necessary frequency coordination committee letter has been omitted, etc. (However, the fact that a fee credit will be allowed upon the resubmission of an application which has been returned as incomplete will not be construed to mean that the original application was accepted for filing.) No credit will be accorded an applicant whose application has been dismissed, e.g., the applicant is not eligible for a license in the service in which he has applied, or the applicant has requested dismissal. See § 1.1103 (d) of the rules.

64-5. *Question.* An application for a radio license is returned to the applicant for correction after the fee has been paid. Applicant decides to abandon his application, and he either gives or sells his returned application bearing the fee payment stamp to a friend. The friend then applies for the same type of radio license enclosing the first applicant's returned application as credit towards the prescribed fee. Will the Commission accept this as payment?

*Interpretation.* The fee credit accorded to an applicant in connection with the resubmission of an application is a credit extended to the applicant of record and is not transferable to another party. Therefore, the application bearing the fee payment stamp is not acceptable as payment in this instance, and the second applicant must submit the appropriate fee with his application.

64-6. *Question.* Who must pay the fee required to accompany applications in the Broadcast Services for assignment of license or transfer of control?

*Interpretation.* The rules require only that such applications be accompanied by the prescribed fee. The parties involved in the assignment or transfer must determine amongst themselves how the fee should be paid. If both parties to the application are exempt under § 1.1111(b) of the rules, no fee will be required. However, where only one party may be

exempt under § 1.1111(b), the application must be accompanied by the full amount of the prescribed fee.

64-7. *Question.* A licensee in the Industrial Radio Services holds a license for a base mobile system in a particular area. He subsequently applies for an additional base station in the same area to communicate with the same mobile units. Commission procedures require that he also file one application for the existing base station and one for a license to cover the existing group of mobile units. Will the applicant be required to pay fees for each of the three applications which are required?

*Interpretation.* The applicant will be required to submit the prescribed fee with each of the three applications. By applying for an additional base station, the applicant is concurrently modifying his existing base station license and applying for a license to cover his group of mobile stations (where more than one base station serves a group of mobile stations, the mobile stations must be covered by a separate license).

64-8. *Question.* Will a fee be required to accompany an application to modify an aircraft station license to add crash beacon equipment?

*Interpretation.* Under §§ 1.1115(a) and 87.53(a) of the Commission's rules, all applications for modification of an aircraft station license must be accompanied by the prescribed fee. However, under the Commission's rules, an initial application for an aircraft station license can include crash beacon equipment even though the applicant may not plan to install the beacon equipment at the time the license is issued.

64-9. *Question.* Will the holder of a Novice, Technician, or Conditional Class Amateur license who is required to appear for an additional examination pursuant to § 97.35 of the rules be required to pay a fee?

*Interpretation.* No fee will be required with respect to examinations held pursuant to § 97.35 of the rules because no application is involved. Furthermore, in no event will the holder of a Novice Class license be required to pay an application filing fee. See §§ 1.1115(b)(6) and 97.55(b) of the rules, wherein Novice Class licensees are exempted from the payment of fees.

64-10. *Question.* Will fees be required for amendments to applications?

*Interpretation.* No fee will be required for an amendment to an application provided that the amendment does not constitute, in effect, a new application. However, if an application, as amended, would require a higher fee than originally paid, an amount equal to the difference must accompany the amendment. (E.g., an applicant files for a base mobile license in the Business Radio Service and pays the prescribed \$10 fee. He then submits an amendment to his application to request, instead, an authorization for an operational fixed microwave radio station in the same radio service. Therefore, he must accompany his amendment with a \$20 fee, the difference between the original fee paid and the \$30 fee prescribed for applications for operational fixed microwave station authorizations.)

64-11. *Question.* When will an amendment be considered as a new application for purposes of the fee schedule?

*Interpretation.* In determining when an amendment will be considered a new application for purposes of the fee schedule, the following guide lines will be used:

a. In the Common Carrier Services and the Public Safety, Industrial, and Land Transportation Services, an amendment will be considered a new application if it changes the original application to another radio service, e.g., from the Rural Radio Service to the Domestic Public Land Mobile Radio Service, or from the Special Industrial Radio Service to the Business Radio Service.

b. In the Citizens Radio Service, an amendment will be considered a new application if it changes an application from either a Class B, C, or D station to an application for a Class A station, or, conversely, if it changes an application for a Class A station to an application for either a Class B, C, or D station. Amendments involving only changes between Class B, C, or D stations will not be considered as new applications and no fees will be required.

c. In the Aviation and Marine Radio Services, an amendment will be considered a new application if it changes the application to a different class station requiring a different application form.

d. In the Broadcast Services, an amendment to an application for renewal, assignment and/or transfer of control will be considered as a new application if it amounts to a major amendment as set forth in § 1.578 (a) and (b) of the Commission's rules.

An amendment to a standard broadcast application will be considered as a new application if it requires the original application to receive a new file number pursuant to § 1.571 (j) of the Commission's rules.

An amendment to a television broadcast application will be considered as a new application if it effects a major change as defined in § 1.572(a) (1) of the Commission's rules.

An amendment to an FM broadcast application will be considered as a new application if it effects a major change as defined in § 1.573(a) (1) of the Commission's rules.

64-12 [Reserved]

64-13. *Question.* What fees will apply in the various services with respect to the filing of an application for additional time to construct a radio station?

*Interpretation.* Applications for additional time to construct a radio station fall within the category "all other applications" as used in the fee rules applicable to the Broadcast, Safety & Special, and Common Carrier Services, respectively. Thus, such applications must be accompanied by a fee of \$10 in the Safety and Special and Common Carrier Services, and a fee of \$30 in the Broadcast Services (under § 1.1111, no fee is required if the application is filed with respect to a television translator station).

64-14. *Question.* Applications filed for Civil Air Patrol stations are exempt from the payment of fees under §§ 1.1115(b) (8) and 87.53(b) of the rules. Does this exemption include applications filed in the Citizens Radio Service by Civil Air Patrol units?

*Interpretation.* The exemptions for Civil Air Patrol stations contained in §§ 1.1115(b) (8) and 87.53(b) of the rules relate to applications filed for Civil Air Patrol stations under Subpart 0 of Part 87 of the rules, and do not relate to applications which might be filed by Civil Air Patrol units under other provisions of the Commission's rules. It should be emphasized that an exemption which is provided for a specific

class of applicant filing in a particular service will not be accorded to that applicant if he should choose to apply in a service other than the one in which the exemption is provided.

64-15. *Question.* A Justice of the Peace applies for a Citizens license and requests that he be exempted from the payment of the prescribed fee because the license will be used in conjunction with his duties as a Justice of the Peace. Should a fee be required?

*Interpretation.* If the applicant is to be exempted, he must come within the provisions of §§ 1.1115(b) (2) and 95.23(b) which exempt applications filed in the Safety and Special Radio Services by governmental entities. To come within this exemption, a Justice of the Peace must show that the cost of his equipment, as well as any fee required, would be borne by the governmental entity from which he derives his authority, and that the station will be used solely in conjunction with his duties as a Justice of the Peace.

64-16. *Question.* Will an application filed in the Amateur Radio Service for a special call sign as well as for an initial license or the renewal of an existing license require the payment of two fees, or will the \$20 fee for special call sign suffice for both requests?

*Interpretation.* An application for an Amateur special call sign is a separate and distinct request and the \$20 fee prescribed will not cover an additional request for either an initial license or the renewal or modification of an existing license. In such cases both fees will be required. However, the \$20 fee will cover the incidental modification of an existing license to indicate a new call sign.

64-17. *Question.* Are fees required to accompany applications filed for remote pickup base and mobile stations participating in the Emergency Broadcast System?

*Interpretation.* Certain remote pickup base and mobile stations licensed in the Auxiliary Broadcast Services and participating in the Emergency Broadcast System are installed and operated by the applicant at the request and expense of the Office of Civil Defense, Department of Defense. Applicants for such stations would, therefore, be reimbursed by the Office of Civil Defense for any fees paid in obtaining authorization for the construction and operation of these stations. Accordingly, no fees are required if the station has been installed and operated at the request and expense of the Office of Civil Defense.

64-18. *Question.* Will a fee be required to accompany an application submitted by an amateur radio club located in a Veterans Administration Hospital?

*Interpretation.* If it may be shown that the amateur club is operated at the expense of the Veterans Administration, no fee will be required. An exemption from the payment of fees is provided in §§ 1.1115(b) (6) and 97.55(b) of the rules for applications filed for amateur stations under military auspices. In adopting these rules, the Commission stated that the charging of a fee for such applications would be inappropriate because the cost of establishing such stations, including the payment of any fees, is borne by the Armed Service involved. An amateur club operated at the expense of the Veterans Administration would, therefore, be so closely related to a military amateur club as to fall within the exemption provided in §§ 1.1115(b) (6) and 97.55(b).

64-19 [Reserved]

[Appendix B, adopted in I(63)-1, amended in I(63)-3, as further amended eff. 1-3-66; I(63)-10]



# RULES AND REGULATIONS

Part 13

*Commercial Radio Operators*

NOVEMBER 1963

FEDERAL COMMUNICATIONS COMMISSION







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## APPENDIX—FILING FEES—EXCERPT FROM PART 1 OF THIS CHAPTER OF GENERAL FEE SCHEDULE PERTAINING TO COMMERCIAL RADIO OPERATOR LICENSES.

AUTHORITY: §§ 13.1 to 13.94 issued under secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303.



## GENERAL

## § 13.1 Licensed operators required.

Unless otherwise specified by the Commission, the actual operation of any radio station for which a station license is required shall be carried on only by a licensed radio operator of the required class (see § 13.61).

NOTE A: Whenever the term "license" is used generally to denote an authorization from the Commission, it includes "license," "permit" and "authorization".

NOTE B: Provision is made in Parts 5, 21, 81, 83, 87, 89, 91, 93, and 95 of this chapter for operation of certain radio stations without licensed operators subject to limitations and conditions specified therein.

## § 13.2 Classes of operator licenses.

The classes of commercial radio operator licenses issued by the Commission are classified basically as radiotelegraph and radiotelephone licenses, and are further classified in accordance with international usage as follows:

- (a) General radio operator group:
  - (1) General radiotelegraph certificates:
    - (i) Radiotelegraph first class operator license.
    - (ii) Radiotelegraph second-class operator license.
    - (iii) Temporary limited radiotelegraph second-class operator license.

NOTE: This class of license will be issued until further order of the Commission or until September 15, 1969, whichever occurs first.

- (2) General radiotelephone certificates (classification by international usage):
  - (i) Radiotelephone first-class operator license.
  - (ii) Radiotelephone second-class operator license.
- (b) Restricted radio operator group:
  - (1) Special radiotelegraph certificate (classification by international usage):
    - (i) Radiotelegraph third-class operator permit.
    - (2) Restricted radiotelephone certificate (classification by international usage):
      - (i) Radiotelephone third-class operator permit.
  - (c) Limited radio operator group:
    - (1) Limited radiotelephone operator certificate:
      - (i) Restricted radiotelephone operator permit.

## § 13.3 Dual holding of licenses.

A person may not hold more than one radiotelegraph operator license or permit and one radiotelephone operator license or permit at the same time: *Provided, however,* That a person may at the same time hold both a temporary limited radiotelegraph second-class operator license and a radiotelegraph third-class operator permit.

## § 13.4 Term of licenses.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, commercial operator licenses will

normally be issued for a term of 5 years from the date of issuance.

(b) Restricted Radiotelephone Operator Permits issued to U.S. citizens or other U.S. nationals will normally be issued for the lifetime of the operator. The terms of all Restricted Radiotelephone Operator Permits issued prior to November 15, 1953, which were outstanding on that date were extended to encompass the lifetime of such operators.

(c) A commercial operator license, of any grade, granted to an alien aircraft pilot under a waiver of the U.S. nationality provisions of section 303(1) of the Communications Act, until such time as the question of a national security policy has been determined with respect to such persons will normally be issued for a period not in excess of one year from the date of issuance. An operator license issued to an alien shall be valid only if the operator continues to hold an Aircraft Pilot Certificate issued by the Civil Aeronautics Administration or the Federal Aviation Agency and is lawfully in the United States.

(d) Temporary limited radiotelegraph second-class operator licenses will normally be issued for a term of 2 years.

## § 13.5 Eligibility for new license.

(a) Commercial licenses are issued only to citizens and other nationals of the United States except, in the case of aliens who hold Aircraft Pilot Certificates issued by the Civil Aeronautics Administration or the Federal Aviation Agency, the Commission, if it finds that the public interest will be served thereby, may waive the requirement of United States nationality.

(b) Notwithstanding any other provisions of the Commission's rules, no person otherwise eligible shall be deemed to be eligible to be examined for or to receive a commercial radio operator license of any class, (1) whose commercial radio operator license is under suspension or is involved in a suspension proceeding, (2) who is involved in any pending litigation based on an alleged violation of the Communications Act of 1934, as amended, or (3) who is afflicted with complete deafness or complete muteness or complete inability for any other reason to transmit correctly and to receive correctly by telephone spoken messages in English.

(c) No applicant who is eligible to apply for any commercial radio operator license shall, by reason of any physical handicap, other than as set forth in paragraph (b) of this section, be denied the privilege of applying and being permitted to attempt to prove his qualifications (by examination if examination is required) for such commercial radio operator license in accordance with established procedure; nor, sub-

ject to the following conditions, shall such applicant be denied the issuance of any commercial radio operator license for which he is found qualified :

(1) If the applicant is afflicted with uncorrected physical handicap which would clearly prevent the performance of all or any part of the duties of a radio operator, under the license for which application is made, at a station under emergency conditions involving the safety of life or property, he may be issued the license for which he is found qualified: *Provided*, That any license so received, if of the diploma-form (as distinguished from such document of the card-form), shall bear a restrictive endorsement as follows :

This license is not valid for the performance of any operating duties other than installation, service and maintenance duties, at any station licensed by the Federal Communications Commission which is required, directly or indirectly, by any treaty, statute or rule or regulation pursuant to statute, to be provided for safety purposes.

*Provided further*, That in the case of a diploma-form license for which no examination in technical radio matters is required, the endorsement will be modified by deleting the reference therein to installation, service and maintenance duties.

(2) If an applicant afflicted with blindness is afforded a waiver of the written examination requirement and is found qualified for a radiotelephone third class operator permit, he may be issued the permit: *Provided*, That the license so received shall bear an endorsement as follows :

This license is not valid for the operation of any station licensed by the Commission unless the station has been adapted for operation by a blind person and the equipment to be used in such station for that purpose is capable of providing for operation in compliance with the Commission's rules.

(3) In any case where an applicant, who normally would receive or has received a commercial radio operator license bearing the endorsement prescribed by subparagraph (1) of this paragraph, indicates his desire to operate a station falling within the prohibitive terms of the endorsement, he may request in writing that such endorsement not be placed upon, or be removed from, his license, and may submit in support of his request any written comment or statement of himself or any interested party.

(4) An applicant who shows that he has theretofore performed satisfactorily (by means of the service record appearing on the appropriate license document of the applicant or such other proof as may be appropriate under the circumstances of the particular case) the duties of a radio operator at a station required, directly or indirectly, by any treaty, statute, or rule or regulation pursuant to statute to be provided for

safety purposes, during a period when he was afflicted by uncorrected physical handicaps of the same kind and to the same degree as the physical handicaps shown by his current application (this showing may be made by means of the applicant's written, sworn statement or such other documentary proof as may be appropriate under the circumstances of the particular case), shall not be deemed to be within the provisions of subparagraph (1) of this paragraph.

(d) Even though otherwise eligible to apply for an operator license, no person shall be eligible to apply for a temporary limited radiotelegraph second-class operator license except a person who on or after January 1, 1940, held, but does not hold at the time of filing application, a license which was valid and outstanding on its date of expiration in the following categories :

(1) A radiotelegraph first- or second-class operator license ;

(2) A temporary limited radiotelegraph second-class operator license issued after examination ;

(3) A temporary limited radiotelegraph second-class operator license issued on the basis of having previously held at any time a radiotelegraph first- or second-class operator license. When a temporary limited radiotelegraph operator license is sought under this third category, the applicant shall show that he has had at least 6 months' satisfactory service in the aggregate as a qualified radiotelegraph operator on board a ship or ships of the United States while holding a temporary limited radiotelegraph second-class operator license previously issued by the Commission.

¶§ 13.5 (c) (2) and (c) (3) redesignated (c) (3) and (c) (4) and a new (c) (2) adopted eff. 6-30-67; I(63)-17

#### § 13.6 Operator license, posting of.

The original license of each station operator shall be posted at the place where he is on duty, except as otherwise provided in this part or in the rules governing the class of station concerned.

#### § 13.7 Operators, place of duty.

(a) Except as may be provided in the rules governing a particular class of station, one or more licensed radio operators of the grade specified by this part shall be on duty at the place where the transmitting apparatus of each licensed radio station is located and in actual charge thereof whenever it is being operated: *Provided, however*, That (1) subject to the provisions of paragraph (b) of this section, where remote control of the transmitting apparatus has been authorized to be used, the Commission may modify the foregoing requirements upon proper application and showing being made so that such operator or operators may be on duty at the control point in lieu of the place where the

transmitting apparatus is located; (2) in the case of two or more stations, except amateur and broadcast, licensed in the name of the same person to use frequencies above 30 megacycles only, a licensed radio operator holding a valid radiotelegraph or radiotelephone first- or second-class license who has the station within his effective control may be on duty at any point within the communication range of such stations in lieu of the transmitter location or control point during the actual operation of the transmitting apparatus and shall supervise the emissions of all such stations so as to insure the proper operation in accordance with the station license.

(b) An operator may be on duty at a remote control point in lieu of the location of the transmitting apparatus in accordance with the provisions of paragraph (a) (1) of this section: *Provided*, That all of the following conditions are met: (1) The transmitter shall be so installed and protected that it is not accessible to other than duly authorized persons; (2) the emissions of the transmitter shall be continuously monitored at the control point by a licensed operator of the grade specified for the class of station involved; (3) provision shall be made so that the transmitter can quickly and without delay be placed in an inoperative condition by the operator at the control point in the event there is a deviation from the terms of the station license; (4) the radiation of the transmitter shall be suspended immediately when there is a deviation from the terms of the station license.

#### § 13.8 Provisional Radio Operator Certificate.

In circumstances requiring immediate authority to operate a radio station pending submission of proof of eligibility or of qualifications or pending a determination by the Commission as to these matters, an applicant for a radio operator license may request a Provisional Radio Operator Certificate. Any such request may be in letter form and shall be in addition to the formal application. If the Commission finds that the public interest will be served it may issue such certificate for a period not to exceed six months with such additional limitation as may be indicated. In no case will the Commission issue a Provisional Radio Operator Certificate if the applicant has not fulfilled examination or service requirements, if any, for the license applied for.

#### APPLICATIONS

#### § 13.11 Procedure.

(a) *General*. Applications shall be governed by applicable rules in force on the date when application is filed (see § 13.28). The application in the prescribed form and including all required subsidiary forms and documents, properly completed and signed, and accompanied by the prescribed fee (see Appendix, Part 13),

shall be submitted to the appropriate office as indicated in paragraph (b) of this section. If the application is for renewal of license, it may be filed at any time during the final year of the license term or during a 1-year period of grace after the date of expiration of the license sought to be renewed. During this 1-year period of grace, an expired license is not valid. A renewed license issued upon the basis of an application filed during the grace period will be dated currently and will not be backdated to the date of expiration of the license being renewed. A renewal application shall be accompanied by the license sought to be renewed. If the prescribed service requirements for renewal without examination (see § 13.28) are fulfilled, the renewed license may be issued by mail. If the service record on the reverse side of the license does not fully describe or cover the service desired by the applicant to be considered in connection with license renewal (as might occur in the case of service rendered at U.S. Government stations), the renewal application shall be supported by documentary evidence describing in detail the service performed and showing that the applicant actually performed such service in a satisfactory manner. A separate application must be submitted for each license involved, whether it requests renewal, new license, endorsement, duplicate, or replacement.

(b) *Place of filing*. (1) An application (FCC Form 753) for restricted radiotelephone operator permit shall be submitted to the Federal Communications Commission, Gettysburg, Pa. 17325, with the following exceptions:

(i) When the applicant is located in Alaska, Hawaii, Puerto Rico, or the Virgin Islands of the United States, the application may be submitted by mail or in person to the nearest engineering field office.

(ii) When the applicant is at any other location and the application is accompanied by a written showing by the applicant of immediate need for a permit for safety purposes and presented in person by the applicant or his agent, the application may be submitted to the nearest engineering field office.

(iii) When accompanied by a request (FCC Form 755) for a waiver of the U.S. nationality requirement, as in the case of an alien applicant who is an aircraft pilot (see § 13.4(c)), the application shall be submitted in person or by mail to the Federal Communications Commission, Washington, D.C. 20554.

(2) An application (FCC Form 756) for an operator license of any other class, for verification card (FCC Form 758-F) or for a verification of operator license (FCC Form 759) shall be submitted in person or by mail to the field office at which the applicant desires his application to be considered and acted upon, which office will make final arrangements for conducting any



required examination. Whenever an examination is to be taken at a designated examination point away from a field office, the application shall be submitted in advance of the examination to the field office having jurisdiction over the area in which the examination is to be taken.

(c) *Restricted radiotelephone operator permit.* No oral or written examination is required for this permit. If the application is properly completed and signed, and if the applicant is found to be qualified, the permit may be issued forthwith.

(d) *Short term license.* A license, other than a Restricted Radiotelephone Operator Permit, issued for a term of less than 5 years (see § 13.4(c)), may be extended for a period not exceeding the portion of the 5-year term remaining, without further examination, provided proper application for extension is filed prior to expiration of the license.

【§ 13.11 amended in I(63)-5 and I(63)-10; (b) (1) amended eff. 2-10-67; I(63)-15】

§ 13.12 Special provisions, radiotelegraph first class.

An applicant for a radiotelegraph first-class operator license must be at least 21 years of age at the time the license is issued and shall have had an aggregate of one year of satisfactory service as an operator manipulating the key of a manually operated public ship or coast station handling public correspondence by radiotelegraphy.

§ 13.13 Age limit, restricted radiotelephone operator permit.

An applicant for a restricted radiotelephone operator permit must be at least 14 years of age at the time the permit is issued.

§ 13.14 [Deleted]

【§ 13.14 deleted eff. 1-3-66; I(63)-10】

§ 13.15 [Deleted]

【§ 13.15 deleted eff. 1-3-66; I(63)-10】

EXAMINATIONS

§ 13.21 Examination elements.

Written examinations will comprise questions from one or more of the following examination elements:

1. *Basic law.* Provisions of laws, treaties and regulations with which every operator should be familiar.
2. *Basic operating practice.* Radio operating procedures and practices generally followed or required in communicating by means of radiotelephone stations.
3. *Basic radiotelephone.* Technical, legal and other matters applicable to the operation of radiotelephone stations other than broadcast.
4. *Advanced radiotelephone.* Advanced technical, legal and other matters particularly applicable to the operation of the various classes of broadcast stations.
5. *Radiotelegraph operating practice.* Radio operating procedures and practices generally followed or required in communicating by means of radiotelegraph stations primarily other than in the maritime mobile services of public correspondence.

6. *Advanced radiotelegraph.* Technical, legal and other matters applicable to the operation of all classes of radiotelegraph stations, including operating procedures and practices in the maritime mobile services of public correspondence, and associated matters such as radio navigational aids, message traffic routing and accounting, etc.

7. *Aircraft radiotelegraph.* Basic theory and practice in the operation of radio communication and radio navigational systems in general use on aircraft.

8. *Ship radar techniques.* Specialized theory and practice applicable to the proper installation, servicing and maintenance of ship radar equipment in general use for marine navigational purposes.

9. *Basic broadcast.* Basic regulatory matters applicable to the operation of standard commercial FM, and noncommercial educational FM broadcast stations.

§ 13.22 Examination requirements.

Applicants for original licenses will be required to pass examinations as follows:

- (a) *Radiotelephone second-class operator license:*
  - (1) Ability to transmit and receive spoken messages in English.
  - (2) Written examination elements: 1, 2, and 3.
- (b) *Radiotelephone first-class operator license:*
  - (1) Ability to transmit and receive spoken messages in English.
  - (2) Written examination elements: 1, 2, 3, and 4.
- (c) *Radiotelegraph second-class operator license:*
  - (1) Ability to transmit and receive spoken messages in English.
  - (2) Transmitting and receiving code test of twenty (20) words per minute plain language and sixteen (16) code groups per minute.
  - (3) Written examination elements: 1, 2, 5, and 6.
- (d) *Temporary limited radiotelegraph second-class operator license:*
  - (1) Ability to transmit and receive spoken messages in English.
  - (2) Transmitting and receiving code test of twenty (20) words per minute plain language and sixteen (16) code groups per minute.
- (e) *Radiotelegraph first-class operator license:*
  - (1) Ability to transmit and receive spoken messages in English.
  - (2) Transmitting and receiving code test of twenty-five (25) words per minute plain language and twenty (20) code groups per minute.
  - (3) Written examination elements: 1, 2, 5, and 6.
- (f) *Radiotelephone third-class operator permit:*
  - (1) Ability to transmit and receive spoken messages in English.
  - (2) Written examination elements: 1 and 2.
- (g) *Radiotelegraph third-class operator permit:*
  - (1) Ability to transmit and receive spoken messages in English.
  - (2) Transmitting and receiving code test of twenty (20) words per minute plain language and sixteen (16) code groups per minute.

(3) Written examination elements: 1, 2, and 5.

(h) *Restricted radiotelephone operator permit:*

No oral or written examination is required for this permit. In lieu thereof, applicants will be required to certify in writing to a declaration which states that the applicant has need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language in general use that can be readily translated into English; is familiar with the provisions of treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understands that it is his responsibility to keep currently familiar with all such provisions.

¶ § 13.22 (d), (e), (f) and (g) redesignated as (e), (f), (g) and (h) and a new (d) adopted eff. 9-16-66; I (63)-13

### § 13.23 Form of writing.

Written examination shall be in English and shall be written by the applicant in longhand in ink, except that diagrams may be in pencil.

### § 13.24 Passing mark.

A passing mark of 75 percent of a possible 100 percent will be required on each element of a written examination.

### § 13.25 New class, additional requirements.

The holder of a license, who applies for another class of license, will be required to pass only the added examination requirements for the new class of license: *Provided*, That the holder of a radiotelegraph third-class operator permit who takes an examination for a radiotelegraph second-class operator license more than one year after the issuance date of the third-class permit will also be required to pass the code test prescribed therefor: *Provided further*, That no person holding a new, duplicate, or replacement restricted radiotelephone operator permit issued on the basis of a declaration, or a renewed restricted radiotelephone operator permit which renews a permit issued upon the basis of a declaration shall, by reason of the declaration or the holding of such permit, be relieved in any respect of qualifying by examination when applying for any other class of license. In addition, no person holding a temporary limited radiotelegraph second-class operator license will, by the holding of such license, be relieved of qualifying by examination when applying for any other class of license for which examination on any subject matter is required.

¶ § 13.25 amended eff. 9-16-66; I (63)-13

### § 13.26 Canceling and issuing new licenses.

If the holder of a license qualifies for a higher class in the same group, the license held will be canceled upon the issuance of the new license. Similarly, if the holder of a restricted operator permit qualifies for a first- or second-class operator license of the correspond-

ing type, the permit held will be canceled upon issuance of the new license.

### § 13.27 Eligibility for reexamination.

An applicant who fails an examination element will be ineligible for 2 months to take an examination for any class of license requiring that element. Examination elements will be graded in the order listed (see § 13.21), and an applicant may, without further application, be issued the class of license for which he qualifies.

NOTE: A month after date is the same day of the following month, or if there is no such day, the last day of such month. This principle applies for other periods. For example, in the case of the 2-month period to which this note refers, an applicant examined December 1 may be reexamined February 1, and an applicant examined December 29, 30, or 31 may be reexamined the last day of February while one examined February 28 may be reexamined April 28.

### § 13.28 Renewal service requirements, renewal examinations, and exceptions.

A restricted radiotelephone operator permit normally is issued for the lifetime of the holder and need not be renewed. A temporary limited radio telegraph second-class operator license is not renewable. A license of any other class may be renewed without examination provided that the service record on the reverse side of the license (see §§ 13.91 to 13.94) shows at least two years of satisfactory service in the aggregate during the license term and while actually employed as a radio operator under that license. If this two-year renewal service requirement is not fulfilled, but the service record shows at least one year of satisfactory service in the aggregate during the last three years of the license term and while actually employed as a radio operator under that license, the license may be renewed upon the successful completion of a renewal examination, which may be taken at any time during the final year of the license term or during a one-year period of grace after the date of expiration of the license sought to be renewed. The renewal examination will consist of the highest numbered examination element normally required for a new license of the class sought to be renewed, plus the code test (if any) required for such a new license. If the renewal examination is not successfully completed before expiration of the aforementioned one-year period of grace, the license will not be renewed on any basis.

NOTE: By order dated and effective April 4, 1951, the Commission temporarily waived the requirement of prior service as a radio operator or examination for renewal in the case of any applicant for renewal of his commercial radio operator license. This order is applicable to commercial radio operator licenses which expired after June 30, 1950 until further order of the Commission.

### CODE TESTS

#### § 13.41 Transmitting speed requirements.

An applicant is required to transmit correctly in the International Morse code for 1 minute at the rate of



speed prescribed in this part for the class of license desired.

#### § 13.42 Transmitting test procedure.

Transmitting tests shall be performed by the use of the conventional Morse key except that a semi-automatic key, if furnished by the applicant, may be used in transmitting code tests of 25 words per minute.

#### § 13.43 Receiving speed requirements.

An applicant is required to receive the International Morse code by ear, and legibly transcribe, consecutive words or code groups for a period of 1 minute without error at the rate of speed specified in the rules for the class of license for which the application is made.

#### § 13.44 Receiving test procedure.

Receiving code tests shall be written in longhand either in ink or pencil except that in the case of the 25 words per minute code test a typewriter may be used when furnished by the applicant.

#### § 13.45 Computing words or code groups.

Each five characters shall be counted as one word or code group. Punctuation marks or figures count as two characters.

#### SCOPE OF AUTHORITY

#### § 13.61 Operating authority.

The various classes of commercial radio operator licenses issued by the Commission authorize the holders thereof to operate radio stations, except amateur, as follows (See also § 13.62(c) for additional operating authority with respect to standard and FM broadcast stations):

(a) *Radiotelegraph first-class operator license.* Any station except:

- (1) Stations transmitting television, or
- (2) Any of the various classes of broadcast stations other than remote pickup and ST broadcast stations, or
- (3) On a cargo vessel (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be equipped with a radiotelegraph installation, the holder of this class of license may not act as chief or sole operator until he has had at least 6 months' satisfactory service in the aggregate as a qualified radiotelegraph operator in a station on board a ship or ships of the United States.

(4) On an aircraft employing radiotelegraphy, the holder of this class of license may not operate the radiotelegraph station during the course of normal rendition of service unless he has satisfactorily completed a supplementary examination qualifying him for that duty, or unless he has served satisfactorily as chief or sole radio operator on an aircraft employing radiotelegraphy prior to February 15, 1950. The supplementary examination shall consist of:

- (i) Written examination element: 7.
- (5) At a ship radar station, the holder of this class of license may not supervise or be responsible for the

performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy unless he has satisfactorily completed a supplementary examination qualifying him for that duty and received a ship radar endorsement on his license certifying to that fact: *Provided*, That nothing in this subparagraph shall be construed to prevent persons holding licenses not so endorsed from making replacements of fuses or of receiving-type tubes. The supplementary examination shall consist of:

- (i) Written examination element: 8.
- (b) *Radiotelegraph second-class operator license.* Any station except:

- (1) Stations transmitting television, or
- (2) Any of the various classes of broadcast stations other than remote pickup and ST broadcast stations, or
- (3) On a passenger vessel (a ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than 12 passengers; a cargo ship means any ship not a passenger ship) required by treaty or statute to maintain a continuous radio watch by operators or on a vessel having continuous hours of service for public correspondence, the holder of this class of license may not act as chief operator, or
- (4) On a vessel (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be equipped with a radiotelegraph installation, the holder of this class of license may not act as chief or sole operator until he has had at least 6 months' satisfactory service in the aggregate as a qualified radiotelegraph operator in a station on board a ship or ships of the United States.

(5) On an aircraft employing radiotelegraphy, the holder of this class of license may not operate the radiotelegraph station during the course of normal rendition of service unless he is at least eighteen (18) years of age and has satisfactorily completed a supplementary examination qualifying him for that duty, or unless he has served satisfactorily as chief or sole radio operator on an aircraft employing radiotelegraphy prior to February 15, 1950. The supplementary examination shall consist of:

- (i) Transmitting and receiving code test at twenty-five (25) words per minute plain language and twenty (20) code groups per minute.

(ii) Written examination element: 7.

(6) At a ship radar station, the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy unless he has satisfactorily completed a supplementary examination qualifying him for that duty and received a ship radar endorsement on his license certifying to that fact: *Provided*, That nothing in this subparagraph shall be construed to prevent persons holding licenses

not so endorsed from making replacements of fuses or of receiving-type tubes. The supplementary examination shall consist of:

(i) Written examination element: 8.

(c) *Temporary limited radiotelegraph operator license.* Any ship station or ship radar station, subject to the following conditions and limitations:

(1) On a passenger vessel required by treaty or statute to maintain a continuous watch by operators or on a vessel having continuous hours of service for public correspondence, the holder of this class of license may not act as chief operator.

(2) On a vessel (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be equipped with a radiotelegraph installation, the holder of this class of license may not act as chief or sole operator until he has had at least 6 months' satisfactory service in the aggregate as a qualified radiotelegraph operator in a ship or ships of the United States.

(3) At a ship radar station licensed in the ship service, the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy unless he has satisfactorily completed a supplementary examination qualifying him for that duty and received a ship radar endorsement on his license certifying to that fact: *Provided*, That nothing in this subparagraph shall be construed to prevent persons holding licenses not so endorsed from making replacements of fuses or of receiving type tubes. The supplementary examination shall consist of:

(i) Written examination element: 8.

⌈§ 13.61(c) adopted eff. 9-16-66; I(63)-13⌋

(d) *Radiotelegraph third-class operator permit.* Any station except:

(1) Stations transmitting television, or

(2) Any of the various classes of broadcast stations other than noncommercial educational FM broadcast stations using transmitters with power ratings of 10 watts or less, remote pickup broadcast stations and ST broadcast stations, or

(3) Class I-B coast stations (other than when transmitting manual radiotelegraphy for identification or for testing) at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts, or

(4) Class II-B or Class III-B coast stations (other than those in Alaska and other than when transmitting manual radiotelegraphy for identification or for testing) at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts, or

(5) Ship stations or aircraft stations other than those at which the installation is used solely for telephony and at which the power in the antenna of

the unmodulated carrier wave is not authorized to exceed 250 watts, or

(6) Ship stations and coast stations open to public correspondence by telegraphy, or

(7) Radiotelegraph stations on board a vessel required by treaty or statute to be equipped with a radio installation, or

(8) Aircraft stations while employing radiotelegraphy:

*Provided*, That (1) such operator is prohibited from making any adjustments that may result in improper transmitter operation, and (2) the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station license, and none of the operations necessary to be performed during the course of normal rendition of the service of the station may cause off-frequency operation or result in any unauthorized radiation, and (3) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph as may be appropriate for the class of station involved (as determined by the scope of the authority of the respective licenses as set forth in paragraphs (a), (b), (c), (e), and (f) of this section and § 13.62), who shall be responsible for the proper functioning of the station equipment, and (4) in the case of ship radio telephone or aircraft radiotelephone stations when the power in the antenna of the unmodulated carrier wave is authorized to exceed 100 watts, any needed adjustments of the transmitter that may affect the proper operation of the station are made only by or under the immediate supervision and responsibility of an operator holding a first- or second-class radiotelegraph license, who shall be responsible for the proper functioning of the station equipment.

(e) *Radiotelephone first-class operator license.* Any station except:

(1) Stations transmitting telegraphy by any type of the Morse code, or

(2) Ship stations licensed to use telephony and power in excess of 100 watts for communication with Class I-B coast stations.

(3) At a ship radar station, the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy unless he has satisfactorily completed a supplementary examination qualifying him for that duty and received a ship radar endorsement on his license certifying to that fact: *Provided*, That nothing in this subparagraph shall be construed to prevent persons holding licenses not so endorsed from making replace-

ments of fuses or of receiving-type tubes. The supplementary examination shall consist of:

(i) Written examination element: 8.

(f) *Radiotelephone second-class operator license.* Any station except:

(1) Stations transmitting telegraphy by any type of the Morse Code, or

(2) Standard broadcast stations, or

(3) International broadcast stations, or

(4) FM broadcast stations, or

(5) Non-commercial educational FM broadcast stations with transmitter power rating in excess of 1 kilowatt, or

(6) Television broadcast stations licensed for commercial operation, or

(7) Ship stations licensed to use telephony and power in excess of 100 watts for communication with Class I-B coast stations.

(8) At a ship radar station, the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy unless he has satisfactorily completed a supplementary examination qualifying him for that duty and received a ship radar endorsement on his license certifying to that fact: *Provided*, That nothing in this subparagraph shall be construed to prevent persons holding licenses not so endorsed from making replacements of fuses or of receiving-type tubes. The supplementary examination shall consist of:

(i) Written examination element: 8.

(g) *Radiotelephone third-class operator permit.* Any station except:

(1) Stations transmitting television, or

(2) Stations transmitting telegraphy by any type of the Morse Code, or

(3) Any of the various classes of broadcast stations other than noncommercial educational FM broadcast stations using transmitters with power ratings of 10 watts or less, remote pickup broadcast stations and ST broadcast stations, or

(4) Class I-B coast stations at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts, or

(5) Class II-B or Class III-B coast stations, other than those in Alaska, at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts, or

(6) Ship stations or aircraft stations other than those at which the installation is used solely for telephony and at which the power in the antenna of the unmodulated carrier wave is not authorized to exceed 250 watts:

*Provided*, That (1) such operator is prohibited from making any adjustments that may result in improper transmitter operation, and (2) the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station

license, and none of the operations necessary to be performed during the course of normal rendition of the service of the station may cause off-frequency operation or result in any unauthorized radiation, and (3) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph as may be appropriate for the class of station involved (as determined by the scope of the authority of the respective licenses as set forth in paragraphs (a), (b), (e), and (f) of this section and § 13.62), who shall be responsible for the proper functioning of the station equipment, and (4) in the case of ship radiotelephone or aircraft radiotelephone stations when the power in the antenna of the unmodulated carrier wave is authorized to exceed 100 watts, any needed adjustments of the transmitter that may affect the proper operation of the station are made only by or under the immediate supervision and responsibility of an operator holding a first- or second-class radiotelegraph license, who shall be responsible for the proper functioning of the station equipment.

(h) *Restricted radiotelephone operator permit.* any station except:

(1) Stations transmitting television, or

(2) Stations transmitting telegraphy by any type of the Morse Code, or

(3) Any of the various classes of broadcast stations other than remote pickup, broadcast STL, and FM intercity relay stations, or

(4) Ship stations licensed to use telephony for communication with Class I coast stations on frequencies between 4000 kc/s and 30 Mc/s, or

(5) Radio stations provided on board vessels for safety purposes pursuant to statute or treaty, or

(6) Coast stations, other than those in Alaska, while employing a frequency below 30 Mc/s, or

(7) Coast stations at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts;

(8) At a ship radar station the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy: *Provided*, That nothing in this subparagraph shall be construed to prevent any person holding such a license from making replacements of fuses or of receiving type tubes:

*Provided*, That, with respect to any station which the holder of this class of license may operate, such operator is prohibited from making any adjustments that may result in improper transmitter operation, and the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station license, and none of the oper-

ations necessary to be performed during the course of normal rendition of the service of the station may cause off-frequency operation or result in any unauthorized radiation, and any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment.

### § 13.62 Special privileges.

In addition to the operating authority granted under § 13.61, the following special privileges are granted the holders of commercial radio operator licenses:

(a) [Reserved]

(b) The holder of any class of radiotelephone operator's license, whose license authorizes him to operate a station while transmitting telephony, may operate the same station when transmitting on the same frequencies, any type of telegraphy under the following conditions:

(1) When transmitting telegraphy by automatic means for identification, for testing, or for actuating an automatic selective signaling device, or

(2) When properly serving as a relay station and for that purpose retransmitting by automatic means, solely on frequencies above 50 Mc/s, the signals of a radiotelegraph station, or

(3) When transmitting telegraphy as an incidental part of a program intended to be received by the general public, either directly or through the intermediary of a relay station or stations.

(c) The holder of a commercial radio operator license of any class may operate broadcast stations under the following conditions:

(1) A standard broadcast station with authorized operating power of 10 kw or less and employing a nondirectional antenna, an FM broadcast station with authorized transmitter output power of 10 kw or less, or a noncommercial educational FM broadcast station with authorized transmitter output power of more than 1 kw but not in excess of 10 kw: *Provided*, That adjustments of transmitting equipment by such operators, except when under the immediate supervision of a radiotelephone first-class operator, and except as provided in paragraph (d) of this section, shall be limited to the following:

(i) Those necessary to commence or terminate transmitter emissions as a routine matter.

(ii) Those external adjustments that may be required as a result of variations of primary power supply.

(iii) Those external adjustments which may be necessary to insure modulation within the limits required.

(iv) Those adjustments necessary to effect any changes in operating power which may be required by the station's instrument of authorization.

(2) A noncommercial educational FM broadcast station with authorized transmitter power output of more than 10 watts but not in excess of 1 kw: *Provided*, That adjustments of transmitting equipment by such operators, except under the immediate supervision of a radiotelephone first- or second-class operator, shall be limited to those adjustments set forth in subparagraph (1) (i), (ii), and (iii) of this paragraph.

(3) A noncommercial educational FM broadcast station with authorized transmitter power output of 10 watts or less: *Provided*, That adjustments of transmitting equipment by such operators, except under the immediate supervision of a radiotelephone first- or second-class operator or a radiotelegraph first- or second-class operator, shall be limited to those adjustments set forth in subparagraph (1), (i), (ii), and (iii) of this paragraph.

(4) Should the broadcast transmitting apparatus be observed to be operating in a manner inconsistent with the station's instrument of authorization and none of the adjustments specifically described under subparagraph (1), (2), or (3) of this paragraph are effective in bringing it into proper operation, an operator holding a lesser grade license than that which authorizes unlimited adjustment, with respect to the class of broadcast station involved, and not acting under the supervision of a person holding the higher grade license permitting such unlimited adjustment, shall terminate the station's emissions.

(5) Except in the case of noncommercial educational FM broadcast stations with authorized transmitter output power of 10 watts or less, the special operating authority granted in this section with respect to broadcast stations is subject to the condition that there shall be in regular full-time employment at the station one or more operators of a class authorized to make or supervise all adjustments, whose primary duty shall be to effect and insure the proper functioning of the transmitting equipment. In the case of a noncommercial educational FM broadcast station with authorized transmitter output power of 10 watts or less such operator(s) shall nevertheless be available on call to make or supervise any needed adjustments.

(d) When an emergency action condition is declared, a person holding any class of radio operator license or permit who is authorized thereunder to perform limited operation of a standard broadcast station may make any adjustments necessary to effect operation in the emergency broadcast system in accordance with the station's National Defense Emergency Authorization: *Provided*, That the station's responsible first-class radiotelephone operator(s) shall have previously instructed such person in the adjustments to the transmitter which are necessary to accomplish operation in the Emergency Broadcast System.

**§ 13.63 Operator's responsibility.**

The licensed operator responsible for the maintenance of a transmitter may permit other persons to adjust a transmitter in his presence for the purpose of carrying out tests or making adjustments requiring specialized knowledge or skill, provided that he shall not be relieved thereby from responsibility for the proper operation of the equipment.

**§ 13.64 Obedience to lawful orders.**

All licensed radio operators shall obey and carry out the lawful orders of the master or person lawfully in charge of the ship or aircraft on which they are employed.

**§ 13.65 Damage to apparatus.**

No licensed radio operator shall willfully damage, or cause or permit to be damaged, any radio apparatus or installation in any licensed radio station.

**§ 13.66 Unnecessary, unidentified, or superfluous communications.**

No licensed radio operator shall transmit unnecessary, unidentified, or superfluous radio communications or signals.

**§ 13.67 Obscenity, indecency, profanity.**

No licensed radio operator or other person shall transmit communications containing obscene, indecent, or profane words, language, or meaning.

**§ 13.68 False signals.**

No licensed radio operator shall transmit false or deceptive signals or communications by radio, or any call letter or signal which has not been assigned by proper authority to the radio station he is operating.

**§ 13.69 Interference.**

No licensed radio operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal.

**§ 13.70 Fraudulent licenses.**

No licensed radio operator or other person shall alter, duplicate, or fraudulently obtain, or assist another to alter, duplicate, or fraudulently obtain an operator license. Nor shall any person use a license issued to another or a license which he knows to have been altered, duplicated, or fraudulently obtained.

## MISCELLANEOUS

**§ 13.71 Issue of duplicate or replacement licenses.**

(a) An operator whose license or permit has been lost, mutilated, or destroyed shall immediately notify the Commission. If the authorization is of the diploma form, a properly executed application for duplicate should be submitted to the office of issue. If the authorization is of the card form (Restricted Radiotele-

phone Operator Permit), a properly executed application for replacement should be submitted to the Federal Communications Commission, Gettysburg, Pa., 17325. In either case the application shall embody a statement of the circumstances involved in the loss, mutilation, or destruction of the license or permit. If the authorization has been lost, the applicant must state that reasonable search has been made for it, and, further, that in the event it be found, either the original or the duplicate (or replacement) will be returned for cancellation. If the authorization is of the diploma form, the applicant should also submit documentary evidence of the service that has been obtained under the original authorization, or a statement embodying that information.

(b) The holder of any license or permit whose name is legally changed may make application for a replacement document to indicate the new legal name by submitting a properly executed application accompanied by the license or permit affected. If the authorization is of the diploma form, the application should be submitted to the office where it was issued. If the authorization is of the card form (Restricted Radiotelephone Operator Permit) it should be submitted to the Federal Communications Commission, Gettysburg, Pa., 17325.

⌈§ 13.71, amended in I(63)-2, as further amended eff. 1-1-65; I(63)-5⌋

**§ 13.72 Exhibiting signed copy of application.**

When a duplicate or replacement operator license or permit has been requested, or request has been made for renewal upon service or for an endorsement or a verification card, the operator shall exhibit in lieu of the original document a signed copy of the application which has been submitted by him.

**§ 13.73 Verification card.**

The holder of an operator license or permit of the diploma form (as distinguished from such document of the card form) may, by filing a properly executed application accompanied by his license or permit, obtain a verification card (Form 758-F). This card may be carried on the person of the operator in lieu of the original license or permit when operating any station at which posting of an operator license is not required: *Provided*, That the license is readily accessible within a reasonable time for inspection upon demand by an authorized Government representative.

**§ 13.74 Posting requirements for operator.**

(a) Performing duties other than, or in addition to, service or maintenance, at two or more stations. The holder of any class of radio operator license or permit of the diploma form (as distinguished from the card form) who performs any radio operating

duties, as contrasted with but not necessarily exclusive of service or maintenance duties, at two or more stations at which posting of his license or permit is required shall post at one such station his operator license or permit and shall post at all other such stations a duly issued verified statement (Form 759).

(b) Performing service or maintenance duties at one or more stations. The holder of a radiotelephone or radiotelegraph first- or second-class radio operator license who performs, or supervises, and is responsible for service or maintenance work on any transmitter of any station for which a station license is required, shall post his license at the transmitter involved whenever the transmitter is in actual operation while service or maintenance work is being performed: *Provided*, That in lieu of posting his license, he may have on his person either his license or a verification card (Form 758-F): *And provided further*, That if he performs operating duties in addition to service or maintenance duties he shall, in lieu of complying with the foregoing provisions of this paragraph, comply with the posting requirements applicable to persons performing such operating duties, as set forth in paragraph (a) of this section, and in the rules and regulations applicable to each service.

(c) One or more verified statements (Form 759), as necessary, will be issued to the holder of a restricted radiotelephone operator permit (card form license) who because of an operator license posting requirement at one station would not otherwise be able to comply with a license posting requirement or to carry his permit on his person when so required at another station or stations.

#### § 13.75 Record of service and maintenance duties performed.

In every case where a station log or service and maintenance records are required to be kept, and where service or maintenance duties are performed which may affect the proper operation of a station, the responsible operator shall sign and date an entry in the log of the station concerned, or in the station maintenance records if no log is required, giving:

(a) Pertinent details of all service and maintenance work performed by him or under his supervision;

(b) His name and address; and

(c) The class, serial number and expiration date of his license:

*Provided*, That the responsible operator shall not be subject to requirements of paragraphs (b) and (c) of this section in relation to a station, or stations of one licensee at a single location, at which he is regularly employed as an operator on a full time basis and at which his license is properly posted.

#### § 13.76 Limitation on aircraft pilots.

Notwithstanding any other provisions of this part, a license issued to an alien aircraft pilot pursuant to section 303(1) of the Communications Act shall be valid only for such operation of radio stations on aircraft as is complementary to his functions and duties as a pilot.

#### SERVICE

#### § 13.91 Endorsement of service record.

A station licensee, or his duly authorized agent, or the master of a vessel acting as the agent of a licensee, shall endorse the service record appearing on said operator license, showing the call letters and types of emission of the station operated, the nature and period of employment, and quality of performance of duty.

#### § 13.92 Aviation service endorsement.

If the operator has operated more than three stations in the aviation service, the service may be shown by giving the name of the aviation chain or company in lieu of listing the call letters of the several stations.

#### § 13.93 Service acceptability.

Credit will be allowed only for satisfactory service obtained under conditions that required the employment of licensed operators, or when obtained at United States Government stations.

#### § 13.94 Statement in lieu of service endorsement.

The holder of a radiotelegraph first- or second-class operator license, or a temporary limited radiotelegraph second-class operator license desiring an endorsement to be placed thereon attesting to an aggregate of at least 6 months' satisfactory service as a qualified operator on a vessel of the United States or an applicant for a temporary limited radiotelegraph second-class operator license under § 13.5(d)(3) may, in the event documentary evidence cannot be produced, submit to any office of the Commission a statement under oath accompanied by the license to be endorsed, embodying the following:

(a) Names of ships at which employed;

(b) Call letters of stations;

(c) Types of emission used;

(d) Type of service performed as follows:

(1) Manual radiotelegraph operation only; and

(2) Transmitter control only; or

(3) Combination of (1) and (2) running concurrently;

(e) Whether service was satisfactory or unsatisfactory;

(f) Period of employment;

(g) Name of master, employer, licensee, or his duly authorized agent.

【§ 13.94 Intro text amended eff. 9-16-66; I(63)-13】

APPENDIX

FILING FEES

(NOTE: The Commission's general fee schedule is set forth in Subpart G, Part I of this Chapter. The text of that portion of the general fee schedule which is pertinent to applications filed for commercial radio operator licenses is reprinted below.)

§ 1.1103 *Payment of fees.*

(a) Each application, filed on or after January 1, 1964, for which a fee is prescribed in this subpart, must be accompanied by a remittance in the full amount of the fee. In no case will an application be accepted for filing or processed prior to payment of the full amount specified. Applications for which no remittance is received, or for which an insufficient amount is received, may be returned to the applicant.

(b) Fee payments accompanying applications received in the Commission's offices in Washington, D.C., or in any of the Commission's field offices, should be in the form of a check or money order payable to the Federal Communications Commission. The Commission will not be responsible for cash sent through the mails. All fees collected will be paid into the U.S. Treasury as miscellaneous receipts in accordance with the provisions of Title V of the Independent Offices Appropriations Act of 1952 (5 U.S.C. 140).

(c) Receipts will be furnished upon request in the case of payments made in person, but no receipts will be issued for payments sent through the mails.

(d) Except as provided in §§ 1.1104 and 1.1105, all fees will be charged irrespective of the Commission's disposition of the application. Applications returned to applicants for additional information or corrections will not require an additional fee when resubmitted.

§ 1.1104 *Return or refund of fees.*

(a) The full amount of any fee submitted will be returned or refunded, as appropriate, in the following instances:

- (1) Where no fee is required for the application filed.
- (2) Where the application is filed by an applicant who cannot fulfill a prescribed age requirement.
- (3) Where the application is filed for renewal without reexamination of an amateur or commercial radio operator license after the grace period has expired.
- (4) Where the applicant is precluded from obtaining a license by the provisions of section 303 (1) or 310(a) of the Communications Act.
- (5) Where circumstances beyond the control of the applicant, arising after the application is filed, would render a grant useless.

(b) payments in excess of an applicable fee will be refunded only if the overpayment exceeds \$2.

§ 1.1117 *Schedule of fees for commercial radio operator examinations and licensing.*

(a) Except as provided in paragraphs (b) and (c) of this section, applications filed for commercial radio operator examinations and licensing shall be accompanied by the fees prescribed below:

Applications for new operator license:

First-class license, either radiotelephone or radiotelegraph .....	\$5
Second-class license, either radiotelephone or radiotelegraph.....	4
Third-class permit, either radiotelephone or radiotelegraph.....	3
Restricted radiotelephone permit.....	2
Application for renewal of operator license.....	2
Application for endorsement of operator license..	2
Application for duplicate license or for replacement license.....	2

(b) No fee need accompany an application for a verification card (FCC Form 758-F) or for a verified statement (FCC Form 759).

(c) Whenever an application requests both an operator license and an endorsement the required fee will be the fee prescribed for the license document involved.

⌈Appendix to Part 13 adopted eff. 1-7-66; I (63)-10⌋





# RULES AND REGULATIONS

## Part 17

### *Construction, Marking, and Lighting of Antenna Structures*

NOVEMBER 1963

FEDERAL COMMUNICATIONS COMMISSION





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AUTHORITY: §§ 17.1 to 17.58 issued under secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 309, 48 Stat. 1081, 1085 as amended; 47 U.S.C. 301, 309.



## SUBPART A—GENERAL INFORMATION

### § 17.1 Basis and purpose.

(a) The rules in this part are issued pursuant to the authority contained in Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to issue licenses for radio stations when it is found that the public interest, convenience, and necessity would be served thereby, and to require the painting, and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation.

(b) The purpose of the rules in this part is to prescribe certain procedures and standards with respect to the Commission's consideration of proposed antenna structures which will serve as a guide to persons intending to apply for radio station licenses. The standards were developed in conjunction with the Federal Aviation Administration (FAA).

☐§ 17.1 amended eff. 9-5-67; I(63)-17☐

### § 17.2 Definitions.

(a) *Antenna structures.* The term antenna structures includes the radiating system, its supporting structures and any appurtenances mounted thereon.

(b) An antenna farm area is defined as a geographical location, with established boundaries, designated by the Federal Communications Commission, in which antenna towers with a common impact on aviation may be grouped.

☐§ 17.2(o) adopted eff. 7-24-67; par. (b) amended and redesignated (a), par. (o) redesignated (b), par. (c) through (n) deleted eff. 9-5-67; I(63)-17☐

### § 17.3 [Deleted]

☐§ 17.3 deleted eff. 9-5-67; I(63)-17☐

### § 17.4 Commission consideration of proposed antenna structure with respect to possible hazard to air navigation.

(a) All applications are reviewed to determine whether there is a requirement that the applicant file a Notice of Proposed Construction or Alteration (Form FAA-117) with the Federal Aviation Administration.

(b) Whenever applications require the filing of "Notice of Proposed Construction or Alteration", Form FAA-117, the applicant will be advised to do so unless the application includes an FCC Form 714 certifying that notification has been submitted to FAA or the application form itself specifically supplies all of the information which would be provided on the FCC Form 714.

(c) All applications which do not require the filing of Form FAA-117 with the FAA will be deemed not

to involve a hazard to air navigation and will be considered by the Commission without further reference to the FAA.

(d) Whenever a "no hazard determination" is received from the FAA concerning any proposed antenna structure, the antenna structure is deemed not to involve a hazard to air navigation and the antenna aspect of the application for radio station authorization will be processed accordingly; provided that the FAA "no hazard determination" has not expired.

(e) Whenever a report is received from the FAA indicating that a proposed antenna structure is a hazard, the Commission will take further appropriate action.

(f) Applications which show on their face that the antenna structure will extend more than 20 feet above the ground or natural formation or more than 20 feet above an existing manmade structure (other than an antenna structure) shall be accompanied by FCC Form 714 indicating that notification has or has not been submitted to FAA or the application form itself shall specifically supply all of the information which would be provided on the FCC Form 714.

(g) In addition to the other requirements of this part of the rules, each application for a radio station authorization shall include such information regarding proposed antenna construction as may be required by the FCC. Such information is to be supplied on the FCC application form specified in the rules pertaining to the radio service in which application is being made or as may otherwise be required.

☐§ 17.4 amended eff. 9-5-67; I(63)-17☐

## SUBPART B—CRITERIA FOR DETERMINING WHETHER APPLICATIONS FOR RADIO TOWERS REQUIRE NOTIFICATION OF PROPOSED CONSTRUCTION TO FEDERAL AVIATION ADMINISTRATION

### § 17.7 Antenna structures requiring notification to the FAA.

A notification to the Federal Aviation Administration is required, except as set forth in § 17.14, for any of the following construction or alteration:

(a) Any construction or alteration of more than 200 feet in height above ground level at its site.

(b) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(1) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each

airport with at least one runway more than 3,200 feet in length, excluding heliports and seaplane bases without specified boundaries, if that airport is either listed in the Airport Directory of the current Airman's Information Manual or is operated by a Federal military agency.

(2) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport with its longest runway no more than 3,200 feet in length, excluding heliports and seaplane bases without specified boundaries, if that airport is either listed in the Airport Directory or is operated by a Federal military agency.

(3) 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and take-off area of each heliport listed in the Airport Directory or operated by a Federal military agency.

(c) Any construction or alteration on an airport listed in the Airport Directory of the current Airman's Information Manual.

(d) When requested by the FAA, any construction or alteration that would be in an instrument approach area (defined in the FAA standards governing instrument approach procedures) and available information indicates it might exceed an obstruction standard of the FAA.

**NOTE:** Consideration to aeronautical facilities not in existence at the time of the filing of the application for radio facilities will be given only when proposed airport construction or improvement plans are on file with the Federal Aviation Administration as of the filing date of the application for such radio facilities.

【§ 17.7 adopted eff. 9-5-67; I(63)-17】

#### § 17.8 Establishment of antenna farm areas.

(a) Each antenna farm area will be established by an appropriate rule making proceeding, which may be commenced by the Commission on its own motion after consultation with the FAA, upon request of the FAA, or as a result of a petition filed by any interested person. After receipt of a petition from an interested person disclosing sufficient reasons to justify institution of a rule making proceeding, the Commission will request the advice of the FAA with respect to the considerations of menace to air navigation in terms of air safety which may be presented by the proposal. The written communication received from the FAA in response to the Commission's request shall be placed in the Commission's public rule making file containing the petition, and interested persons shall be allowed a period of 30 days within which to file statements with respect thereto. Such statements shall also be filed with the Administrator of the FAA with proof of such filing to be established in accordance with § 1.47 of this chapter. The Administrator of the FAA shall have a period of 15 days within which to file responses to such statements. If the Commission, upon consideration of the matters presented to it in accordance with the above procedure, is satisfied that establishment of the proposed antenna farm would constitute a menace to air navigation for reasons of air safety, rule making proceedings will not be instituted. If rule making proceedings are instituted, any person filing comments therein which concern the question of whether the pro-

posed antenna farm will constitute a menace to air navigation shall file a copy of the comments with the Administrator of the FAA. Proof of such filing shall be established in accordance with § 1.47 of this chapter.

(b) Nothing in this subpart shall be construed to mean that only one antenna farm area will be designated for a community. The Commission will consider on a case-by-case basis whether or not more than one antenna farm area shall be designated for a particular community.

【§ 17.8(a) amended eff. 10-30-67; I(63)-18】

#### § 17.9 Designated antenna farm areas.

The areas described in the following paragraphs of this section are established as antenna farm areas: [appropriate paragraphs will be added as necessary].

【§ 17.9 adopted eff. 7-24-67; I(63)-17】

#### § 17.10 Antenna structures over 1,000 feet in height.

Where one or more antenna farm areas have been designated for a community or communities (see § 17.9), the Commission will not accept for filing an application for a construction permit to construct a new station or to increase height or change antenna location of an existing station proposing the erection of an antenna structure over 1,000 feet above ground unless:

(a) It is proposed to locate the antenna structure in a designated antenna farm area, or

(b) It is accompanied by a statement from the Federal Aviation Administration that the proposed structure will not constitute a menace to air navigation, or

(c) It is accompanied by a request for waiver setting forth reasons sufficient, if true, to justify such a waiver.

【§ 17.10 adopted eff. 7-24-67; I(63)-17】

§ 17.11 [Deleted]

【§ 17.11 deleted eff. 9-5-67; I(63)-17】

§ 17.12 [Deleted]

【§ 17.12 deleted eff. 9-5-67; I(63)-17】

§ 17.13 [Deleted]

【§ 17.13 deleted eff. 9-5-67; I(63)-17】

#### § 17.14 Certain antenna structures exempt from notification to the FAA.

A notification to the Federal Aviation Administration is not required for any of the following construction or alteration:

(a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. Applicants claiming such exemption under § 17.14(a) shall submit a statement with their application to the FCC explaining basis in detail for their finding.

(b) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.





(c) Any electronic facility, the signal of which is used primarily for navigational guidance by aircraft, any airport visual approach or landing aid, or any airport ceiling or visibility indicator device, or other meteorological facility or instrument, approved by the Administrator, the location and height of which would be fixed by its functional purpose.

ⓘ § 17.14 *Headnote and text amended eff. 9-5-67; I(63)-17*】

§ 17.15 [Deleted]

ⓘ § 17.15 *deleted eff. 9-5-67; I(63)-17*】

§ 17.16 [Deleted]

ⓘ § 17.16 *deleted eff. 9-5-67; I(63)-17*】

§ 17.17 Existing structures.

(a) Nothing in the criteria in this subpart concerning antenna structures or locations shall apply to those structures authorized prior to September 5, 1967.

(b) No change in any of these criteria or relocation of airports shall at any time impose a new restriction upon any then existing or authorized antenna structure or structures.

ⓘ § 17.17 *amended eff. 9-5-67; I(63)-17*】

## SUBPART C—SPECIFICATIONS FOR OBSTRUCTION MARKING AND LIGHTING OF ANTENNA STRUCTURES

§ 17.21 Painting and lighting, when required.

Antenna structures shall be painted and lighted when:

(a) They exceed 200 feet in height above the ground or they require special aeronautical study.

(b) The Commission may modify the above requirement for painting and/or lighting of antenna structures, when it is shown by the applicant that the absence of such marking would not impair the safety of air navigation, or that a lesser marking requirement would insure the safety thereof.

ⓘ § 17.21 *amended eff. 9-5-67; I(63)-17*】

§ 17.22 Particular specifications to be used.

Whenever painting and lighting are required, the Commission will assign painting and lighting specifications pursuant to the provisions of this subpart. If an antenna installation is of such a nature that its painting and lighting in accordance with these specifications are confusing, or endanger rather than assist airmen, or are otherwise inadequate, the Commission will specify the type of painting and lighting or other marking to be used in the individual situation.

ⓘ § 17.22 *amended eff. 9-5-67; I(63)-17*】

§ 17.23 Specifications for the painting of antenna structures in accordance with § 17.21.

Antenna structures shall be painted throughout their height with alternate bands of aviation surface orange and white, terminating with aviation surface orange bands at both top and bottom. The width of the bands shall be equal and approximately one-seventh the height of the structure, provided however, that the bands shall not be more than 40 feet nor less than 1½ feet in width.

§ 17.24 Specifications for the lighting of antenna structures up to and including 150 feet in height.

Antenna structures up to and including 150 feet in height above ground, which are required to be lighted as a result of notification to the FAA under § 17.7, shall be lighted as follows:

(a) There shall be installed at the top of the tower at least two 100-, 107-, or 116-watt lamps (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in aviation red obstruction light globes. The two lights shall burn simultaneously from sunset to sunrise and shall be positioned so as to insure unobstructed visibility of at least one of the lights from aircraft at any normal angle of approach. A light sensitive control device or an astronomic dial clock and time switch may be used to control the obstruction lighting in lieu of manual control. When a light sensitive device is used, it should be adjusted so that the lights will be turned on at a north sky light intensity level of about 35-foot candles and turned off at a north sky light intensity level of about 58-foot candles.

ⓘ § 17.24 *amended eff. 9-5-67; I(63)-17*】

§ 17.25 Specifications for the lighting of antenna structures over 150 feet up to and including 300 feet in height.

(a) Antenna structures over 150 feet, up to and including 200 feet in height above ground, which are required to be lighted as a result of notification to the FAA under § 17.7 and antenna structures over 200 feet, up to and including 300 feet in height above ground, shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visi-

bility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) At the approximate mid point of the overall height of the tower there shall be installed at least two 100-, 107-, or 116-watt lamps (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in aviation red obstruction light globes. Each light shall be mounted so as to insure unobstructed visibility of at least one light at each level from aircraft at any normal angle of approach.

(3) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

【§ 17.25(a), (a)(1) and (a)(2) amended 9-5-67; I(63)-17】

**§ 17.26 Specifications for the lighting of antenna structures over 300 feet up to and including 450 feet in height.**

(a) Antenna structures over 300 feet up to and including 450 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute, nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately two-thirds and one-third of the overall height of the tower, there shall be installed at least two 100-, 107-, or 116-watt lamps (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in aviation red obstruction light globes. Each light shall be mounted so as to insure unobstructed visibility of at least one light at each level from aircraft at any normal angle of approach.

(3) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that

the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

【§ 17.26(a) (1) and (2) amended eff. 9-5-67; I(63)-17】

**§ 17.27 Specifications for the lighting of antenna structures over 450 feet up to and including 600 feet in height.**

(a) Antenna structures over 450 feet up to and including 600 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) At approximately one-half of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event this beacon cannot be installed in a manner to insure unobstructed visibility of it from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately three-fourths and one-fourth of the over-all height of the tower, at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the tower at each level.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

【§ 17.27(a) (1) and (2) amended eff. 9-5-67; I(63)-17】

**§ 17.28 Specifications for the lighting of antenna structures over 600 feet up to and including 750 feet in height.**

(a) Antenna structures over 600 feet up to and including 750 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) At approximately two-fifths of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event this beacon cannot be installed in a manner to insure unobstructed visibility of it from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately four-fifths, three-fifths and one-fifth of the overall height of the tower, at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the tower at each level.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

☐ § 17.28(a) (1) and (2) amended eff. 9-5-67; I(63)-17 ☐

**§ 17.29 Specifications for the lighting of antenna structures over 750 feet up to and including 900 feet in height.**

(a) Antenna structures over 750 feet up to and

including 900 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately two-thirds and one-third of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately five-sixths, one-half, and one-sixth of the over-all height of the tower, at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the tower at each level.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

☐ § 17.29(a) (1) and (2) amended eff. 9-5-67; I(63)-17 ☐

**§ 17.30 Specifications for the lighting of antenna structures over 900 feet up to and including 1,050 feet in height.**

(a) Antenna structures over 900 feet up to and including 1,050 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately four-sevenths and two-sevenths of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately six-sevenths, five-sevenths, three-sevenths and one-seventh of the overall height of the tower at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

【§ 17.30(a) (1) and (2) amended eff. 9-5-67; I(63)-17】

**§ 17.31 Specifications for the lighting of antenna structures over 1,050 feet up to and including 1,200 feet in height.**

(a) Antenna structures over 1,050 feet up to and including 1,200 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with

two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately three-fourths, one-half and one-fourth of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately seven-eighths, five-eighths, three-eighths, and one-eighth of the overall height of the tower, at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

【§ 17.31(a) (1) and (2) amended eff. 9-5-67; I(63)-17】

**§ 17.32 Specifications for the lighting of antenna structures over 1,200 feet up to and including 1,350 feet in height.**

(a) Antenna structures over 1,200 feet up to and including 1,350 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and

equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately two-thirds, four-ninths, and two-ninths of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately eight-ninths, seven-ninths, five-ninths, one-third and one-ninth of the overall height of the tower, at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the tower at each level.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

¶§ 17.32(a) (1) and (2) amended eff. 9-5-67; I(63)-17

### § 17.33 Specifications for the lighting of antenna structures over 1,350 feet up to and including 1,500 feet in height.

(a) Antenna structures over 1,350 feet up to and including 1,500 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and

incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately four-fifths, three-fifths, two-fifths, and one-fifth of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angles of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately nine-tenths, seven-tenths, one-half, three-tenths, and one-tenth of the over-all height of the tower, at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the tower at each level.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

¶§ 17.33(a) (1) and (2) amended eff. 9-5-67; I(63)-17

### § 17.34 Specifications for the lighting of antenna structures over 1,500 feet up to and including 1,650 feet in height above the ground.

(a) Antenna structures over 1,500 feet up to and including 1,650 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional

construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately eight-elevenths, six-elevenths, four-elevenths, and two-elevenths of the overall height of the tower, one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from the aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately ten-elevenths, nine-elevenths, seven-elevenths, five-elevenths, three-elevenths, and one-eleventh of the overall height of the tower at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

¶§ 17.34 adopted new eff. 9-5-67; I(63)-17

#### § 17.35 Specifications for the lighting of antenna structures over 1,650 feet up to and including 1,800 feet in height.

(a) Antenna structures over 1,650 feet up to and including 1,800 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of

the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately five-sixths, two-thirds, one-half, one-third, and one-sixth of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately eleven-twelfths, two-thirds, seven-twelfths, five-twelfths, one-fourth, and one-twelfth of the overall height of the tower at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

¶§ 17.35 adopted new eff. 9-5-67; I(63)-17

#### § 17.36 Specifications for the lighting of antenna structures over 1,800 feet up to and including 1,950 feet in height.

(a) Antenna structures over 1,800 feet up to and including 1,950 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620-, or 700-watt lamps (PS-40 Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons

positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately ten-thirteenths, eight-thirteenths, six-thirteenths, four-thirteenths, and two-thirteenths of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately twelve-thirteenths, eleven-thirteenths, nine-thirteenths, seven-thirteenths, five-thirteenths, three-thirteenths, and one-thirteenth of the overall height of the tower at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

【§ 17.36 adopted new eff. 9-5-67; I (63)-17】

**§ 17.37 Specifications for the lighting of antenna structures over 1,950 feet up to and including 2,100 feet in height.**

(a) Antenna structures over 1,950 feet up to and including 2,100 feet in height above the ground shall be lighted as follows:

(1) There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 500-, 620- or 700-watt lamps (PS-40, Code Beacon type) both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed vis-

ibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute, with a period of darkness equal to approximately one-half of the luminous period.

(2) On levels at approximately six-sevenths, five-sevenths, four-sevenths, three-sevenths, two-sevenths, and one-seventh of the overall height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event these beacons cannot be installed in a manner to insure unobstructed visibility of the beacons from aircraft at any normal angle of approach, there shall be installed two such beacons at each level. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

(3) On levels at approximately thirteen-fourteenths, eleven-fourteenths, nine-fourteenths, one half, five-fourteenths, three-fourteenths, and one-fourteenth of the overall height of the tower at least one 100-, 107-, or 116-watt lamp (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

【§ 17.37 adopted new eff. 9-5-67; I (63)-17】

**§ 17.38 Specifications for the lighting of antenna structures over 2,100 feet in height.**

Antenna structures over 2,100 feet in height above the ground shall be lighted in accordance with specifications to be determined by the Commission after aeronautical study which will include lighting recommendations.

【§ 17.38 adopted new eff. 9-5-67; I (63)-17】

**§ 17.43 Painting and lighting of new and existing structures.**

(a) The provisions of this part of the rules shall be effective with respect to antenna structures required to be lighted and/or painted in accordance with the terms of an authorization for a new station or a change in the height or location of an antenna structure issued on or after September 5, 1967.

(b) All antenna structures required to be painted and lighted in accordance with a radio station author-

ization valid on September 5, 1967, shall be brought into conformity with this subpart within 6 months after September 5, 1970, at any station for which the authorization is renewable on or prior to that date and within 3 months following the renewal of any authorization renewable after September 5, 1970.

(c) Nothing in the notification criteria concerning antenna structures or locations, as set forth in Subpart B of this part, shall apply to painting and lighting those structures authorized prior to September 5, 1967, except where lighting and painting requirements are reduced, in which case the lesser requirements may apply upon approval of an application to Commission for such reduction.

☐§ 17.43 adopted new eff. 9-5-67; I(63)-17☐

#### § 17.45 Temporary warning lights.

During construction of an antenna structure, for which obstruction lighting is required, at least two 100-, 107-, or 116-watt lamps (#100 A21/TS, #107 A21/TS, or #116 A21/TS, respectively) enclosed in aviation red obstruction light globes, shall be installed at the uppermost point of the structure. In addition, as the height of the structure exceeds each level at which permanent obstruction lights will be required, two similar lights shall be installed at each such level. These temporary warning lights shall be displayed nightly from sunset to sunrise until the permanent obstruction lights have been installed and placed in operation, and shall be positioned so as to insure unobstructed visibility of at least one of the lights at any normal angle of approach. In lieu of the above temporary warning lights, the permanent obstruction lighting fixtures may be installed and operated at each required level as each such level is exceeded in height during construction.

☐§ 17.45 adopted new eff. 9-5-67; I(63)-17☐

#### § 17.47 Inspection of tower lights and associated control equipment.

The licensee of any radio station which has an antenna structure requiring illumination pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, as outlined elsewhere in this part:

(a) (1) Shall make an observation of the tower lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or alternatively,

(2) Shall provide and properly maintain an automatic alarm system designed to detect any failure of such lights and to provide indication of such failure to the licensee.

(b) Shall inspect at intervals not to exceed 3 months all automatic or mechanical control devices, indicators, and alarm systems associated with the tower lighting to insure that such apparatus is functioning properly.

☐§ 17.47 adopted new eff. 9-5-67; I(63)-17☐

#### § 17.48 Notification of extinguishment or improper functioning of lights.

The licensee of any radio station which has an antenna structure requiring illumination pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, as outlined elsewhere in this part:

(a) Shall report immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration any observed or otherwise known extinguishment or improper functioning of a code or rotating beacon light or top light not corrected within 30 minutes. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

(b) An extinguishment or improper functioning of a steady burning side or intermediate light or lights, shall be corrected as soon as possible, but notification to the FAA of such extinguishment or improper functioning is not required.

☐§ 17.48 adopted new eff. 9-5-67; I(63)-17☐

#### § 17.49 Recording of tower light inspections in the station record.

The licensee of any radio station which has an antenna structure requiring illumination shall make the following entries in the station record of the inspections required by § 17.47.

(a) The time the tower lights are turned on and off each day if manually controlled.

(b) The time the daily check of proper operation of the tower lights was made, if automatic alarm system is not provided.

(c) In the event of any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) Nature of such extinguishment or improper functioning.

(2) Date and time the extinguishment or improper functioning was observed, or otherwise noted.

(3) Date, time, and nature of the adjustments, repairs, or replacements made.

(4) Identification of Flight Service Station (Federal Aviation Administration) notified of the extinguishment or improper functioning of any code or rotating beacon light or top light not corrected within 30 minutes, and the date and time such notice was given.

(5) Date and time notice was given to the Flight



Service Station (Federal Aviation Administration) that the required illumination was resumed.

(d) Upon completion of the periodic inspection required at least once each 3 months:

(1) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators and alarm systems.

(2) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements or repairs were made.

§ 17.49 adopted new eff. 9-5-67; I (63)-17

§ 17.50 Cleaning and repainting.

All towers shall be cleaned or repainted as often as necessary to maintain good visibility.

§ 17.50 adopted new eff. 9-5-67; I (63)-17

Outside white.....	Federal Specifications.....	TT-P-102 <sup>1</sup>	
Aviation surface orange.....	do.....	TT-P-50 <sup>1</sup> (Color No. 12197 of Federal Standard 595).	
Aviation surface orange, enamel.....	do.....	TT-E-189 <sup>1</sup> (Color No. 12197 of Federal Standard 595).	
Code beacon.....	FAA specifications.....	446 (Sec. II-d-Style 4). <sup>3</sup>	
Obstruction light globe, prismatic.....	Army-Navy drawing.....	AN-L-10A <sup>2</sup> or FAA Specification L-810. <sup>3</sup>	
Obstruction light globe, Fresnel.....	do.....		
Single multiple obstruction light fitting assembly.....	do.....	#100 A21/TS. <sup>4</sup>	
Obstruction light fitting assembly.....	do.....		
100-watt lamp.....			#107 A21/TS (3,000 hours).
107-watt lamp.....			#116 A21/TS (6,000 hours).
116-watt lamp.....			#500 PS-40/0 (1,000 hours). <sup>4</sup>
500-watt lamp.....			#620 PS-40 (3,000 hours).
620-watt lamp.....			#700 PS-40/0 (6,000 hours).
700-watt lamp.....			

<sup>1</sup> Copies of this specification can be obtained from the Specification Activity, Room 1643, Federal Supply Service Center, General Services Administration, 7th and D Sts SW., Washington, D.C. 20407 (Outside white, 5 cents; aviation surface orange, paint 5 cents, enamel, 10 cents).

<sup>2</sup> Copies of Army-Navy specifications or drawings can be obtained by contacting the Commanding General, Air Materiel Command, Wright Field, Dayton, Ohio 45433, or the Naval Air Systems Command, Navy Department, Washington, D.C. 20360. Information concerning Army-Navy specifications or drawings can also be obtained from the Federal Aviation Administration, Washington, D.C. 20553.

<sup>3</sup> Copies of this specification can be obtained from the Federal Aviation Administration, Washington, D.C. 20553.

<sup>4</sup> The 116-watt, 6,000-hour lamp and the 700-watt, 6,000-hour lamp may be used instead of the 100-watt and the 500-watt lamps whenever possible in view of the extended life, lower maintenance cost, and greater safety which they provide.

§ 17.53 adopted new eff. 9-5-67; I (63)-17

§ 17.54 Rated lamp voltage.

To provide satisfactory output by obstruction lights, the rated voltage of the lamp used should, in each case, correspond to or be within 3 percent higher than the average voltage across the lamp during the normal hours of operation.

§ 17.54 adopted eff. 9-5-67; I (63)-17

§ 17.56 Maintenance of lighting equipment.

Replacing or repairing of lights, automatic indicators or automatic alarm systems shall be accomplished as soon as practicable.

§ 17.56 adopted new eff. 9-5-67; I (63)-17

§ 17.57 Report of radio transmitting antenna construction, alteration and/or removal.

Any permittee or licensee who, pursuant to any instrument of authorization from the Commission to erect or make changes affecting antenna height or location of an antenna tower for which obstruction mark-

§ 17.51 Time when lights shall be exhibited.

All lighting shall be exhibited from sunset to sunrise unless otherwise specified.

§ 17.51 adopted new eff. 9-5-67; I (63)-17

§ 17.52 Spare lamps.

A sufficient supply of spare lamps shall be maintained for immediate replacement purposes at all times.

§ 17.52 adopted new eff. 9-5-67; I (63)-17

§ 17.53 Lighting equipment and paint.

The lighting equipment, color of filters, and shade of paint referred to in the specifications are further defined in the following government and/or Army-Navy Aeronautical Specifications, Bulletins, and Drawings: (Lamps are referred to by standard numbers).

ing is required, shall, prior to start of tower construction and upon completion of such construction or changes, fill out and file with the Director, U.S. Coast and Geodetic Survey, C & GS Form 844 (Report of Radio Transmitting Antenna Construction, Alteration and/or Removal) in order than antenna tower information may be provided promptly for use on aeronautical charts and related publications in the interest of safety of air navigation.

§ 17.57 adopted new eff. 9-5-67; I (63)-17

§ 17.58 Facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management.

Any application proposing new or modified transmitting facilities to be located on land under the jurisdiction of the U.S. Forest Service or the Bureau of Land Management shall include a statement that the facilities will be so located, and the applicant shall comply with the requirements of § 1.70 of this chapter.

§ 17.58 adopted new eff. 9-5-67; I (63)-17



# RULES AND REGULATIONS

## Part 19

## *Employee Responsibilities and Conduct*

NEW PART ISSUED FEBRUARY 1966

FEDERAL COMMUNICATIONS COMMISSION



## INTRODUCTION

For the purpose of setting forth the delegations of authority under this Part of the Rules, the Commission's Order of December 15, 1965, which promulgated Part 19, is reproduced:

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 15th day of December 1965:

*It is ordered.* Under the authority of the Communications Act, as amended, and pursuant to Executive Order No. 11222, dated May 8, 1965, and in accordance with the requirements of Part 735 of the Civil Service Regulations issued on October 1, 1965, and Administrative Order No. 10, dated September 17, 1954, amended September 7, 1961, and March 8, 1963, that:

A. Subject to the provisions of paragraphs B, C, and D of this order, the Chairman shall have primary responsibility for the administration of the Commission's Review and Inspection Program concerning the conduct of all Commission employees except the Commissioners with respect to acts of impropriety, unethical conduct, and acts short of criminal violation which could bring discredit upon the Commission and the Federal service, or which could appear to benefit the employee personally to the detriment of the public good.

B. In carrying out these responsibilities and functions the Chairman shall be governed by new Part 19, which will be set forth in Chapter 735 of the Federal Communications Commission Personnel Manual, and by such additional policies and procedures as may from time to time be adopted by the Commission.

C. Personnel employed regularly and full time in the immediate offices of Commissioners shall be subject to the standards of conduct and the procedural provisions set forth herein. Each Commissioner shall be responsible for his own conduct and the conduct of the employees in his immediate office and for the review of financial statements submitted by them, and shall take whatever disciplinary action he deems appropriate in individual cases of misconduct by said employees. He may, if he so desires, refer any cases arising among his immediate staff to the Chairman to be administered in accordance with this order and any policies or procedures adopted pursuant thereto.

D. There is hereby reserved to the Commission authority to take formal disciplinary action against any employee under this order. Any instance of misconduct on the part of a Commission employee which, in the Chairman's opinion, requires formal disciplinary action shall be referred to the Commission for action.

E. The Chairman is authorized to designate an official or employee of the Commission to assist him in the administration of the Commission's Review and Inspection Program.

F. The Chairman is also authorized, when in his opinion circumstances warrant, to establish a special review board to investigate the facts in a case and to make a full report thereon, including recommended action.

G. The General Counsel is designated Counselor for the Commission and to serve as its designee to the Civil Service Commission on matters covered by Chapter 735 of the Federal Communications Commission Personnel Manual.

H. Authority for the review of the financial statements and for the approval of waivers of the applicability of the conflicts of interest statutes in accordance with sections 205 and 208(b) of Title 18, United States Code, is delegated as follows:

1. In the case of employees generally, to the Executive Director:

2. In the case of Heads of Offices and Bureaus, to the Chairman; and

3. In the case of an employee in the immediate office of a Commissioner, to the individual Commissioners, respectively.

New Part 19 reads as set forth below. This Part 19 was approved by the Civil Service Commission on January 20, 1966.

*Effective date.* This Part 19, effective February 15, 1966, supersedes Administrative Order No. 10, and the standards of conduct contained therein, as revised March 8, 1963.

FEDERAL COMMUNICATIONS  
COMMISSION,  
BEN F. WAPLE,  
*Secretary.*

[SEAL]

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19.735-413 Specific reporting requirements for special Government employees.

AUTHORITY: The provisions of this Part 19 issued under E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.: CFR 735.104.



⌈Part 19, §§ 19.735-101—19.735-413) as adopted eff. 2-15-66; I(63)-11⌋

## SUBPART A—GENERAL PROVISIONS

### § 19.735-101 Purpose.

The effectiveness of the Commission in serving the public interest depends upon the extent to which the Commission holds the confidence and esteem of the Nation's citizens. To hold the public confidence, unusually high standards of honesty, integrity, impartiality, and conduct must be maintained within the Commission and all officers and employees must not only obey the literal requirements of the Federal laws and orders governing official conduct, but also show by their conduct that they support the ethical principles which underlie these laws and regulations. The avoidance of misconduct and conflicts of interest on the part of Commission employees through informed judgment is indispensable to the maintenance of these standards. To again call the attention of Federal employees to the importance of maintaining these high moral and ethical standards, the President has issued Executive Order 11222 to codify, clarify, and strengthen the standards of ethical conduct and to set forth a new program assigning central responsibility to the Civil Service Commission for supervising agency action in this regard. In consequence thereof, the Commission has revised its long standing regulations promulgating standards of conduct for all Commission employees and has delegated to the Chairman responsibility for the detection and prevention of acts, short of criminal violations, which could bring discredit upon the Commission and the Federal service.

### § 19.735-102 Definitions.

(a) "Commission" means the Federal Communications Commission.

(b) "Employee" means an officer or employee of the Commission including the Commissioners, but does not include a special Government employee or member of the uniformed services.

(c) "Executive order" means Executive Order 11222 of May 8, 1965.

(d) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(e) "Special Government employee" means a "special Government employee," as defined in section 202 of title 18 of the United States Code, that is, one appointed to serve with or without compensation, for not more than 130 days during any period of 365 days on a full-time or intermittent basis, who is employed in

the Commission, but does not include a member of the uniformed services.

(f) "Uniformed services" has the meaning given that term by section 101(3) of title 37 of the United States Code.

(g) "Civil Service Regulations" mean the regulations (5 CFR Part 735) on employee responsibilities and conduct issued by the Civil Service Commission on October 1, 1965, in implementation of Executive Order 11222.

(h) "Communications Act" means the Federal Communications Act of 1934, as amended, 47 U.S.C. 151 et seq.

### § 19.735-104 Issuance, approval, and publication of Commission's regulations.

(a) The regulations in this part have been prepared in accordance with 5 CFR Part 735 of the Civil Service Regulations to:

(1) Implement the requirements of law, the Executive order, and Part 735 of the Civil Service Regulations; and to

(2) Prescribe additional standards of ethical and other conduct and reporting requirements that are appropriate to the particular functions and activities of the Commission and are not inconsistent with law, the Executive order, and Part 735 of the Civil Service Regulations.

(b) After Civil Service Commission approval, the Chairman shall:

(1) Submit the Commission's regulations in this part to the Federal Register for publication;

(2) Furnish each employee and special Government employee with a copy of Administrative Order No. 10, and the Commission's regulations in this part, as revised, within 90 days after approval by the Civil Service Commission;

(3) Furnish each new employee and special Government employee with a copy of Administrative Order No. 10 and the Commission's regulations in this part, as revised, at the time of his entrance on duty;

(4) Within 60 days after receipt of Administrative Order No. 10 and the Commission's regulations in this part, it shall be the responsibility of the Head of each Office and Bureau to secure from every person subject to his administrative supervision a statement indicating that the individual has read and is familiar with the contents of the revised order and regulations in this part, and to advise the Executive Director of the Commission that all persons are familiar with the revised order and regulations in this part. Each new employee shall execute a similar statement at the time of entrance on duty. Periodically, and at least once a year, the Executive Director shall take appropriate

action to insure that the Head of each Office and Bureau shall remind employees subject to his administrative supervision of the content of Administrative Order No. 10 and the regulations in this part.

(5) In order to assure the availability of counseling to each employee and special Government employee as provided in § 19.735-105, the General Counsel shall be the counselor for the Commission and the designee to the Civil Service Commission on matters covered by the regulations in this part.

(6) Copies of laws, the Executive order, the Civil Service Commission Regulations, and this agency's regulations and instructions relating to ethical and other conduct shall be available in the offices of the Executive Director and the Bureau and Office chiefs for review by employees and special Government employees.

(c) The Commission's regulations contained in this part are effective only after approval by the Civil Service Commission and publication in the FEDERAL REGISTER.

(d) This section applies to any amendment of the regulations contained in this part.

#### § 19.735-105 Interpretation and advisory service.

(a) The General Counsel is designated as counselor for the Commission to provide guidance on matters relating to ethical conduct and to serve as the Commission's designee to the Civil Service Commission on matters covered by this part. The Office of the General Counsel is responsible for coordination of the Commission's counseling services provided under paragraph (b) of this section and for assuring that counseling and interpretation on questions of conflict of interest and other matters covered by this part are available.

(b) The counseling services provided by the Office of the General Counsel include the giving of advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and other matters covered by this part.

(c) If an employee is in doubt about any matter covered by this part, or if he has a question as to the propriety of a past or contemplated line of conduct, he should discuss his problem with his immediate supervisor, or the Office of General Counsel.

(d) Requests for interpretative rulings concerning the applicability of the new order and regulations in this part in implementation thereof may be submitted through the employee's supervisor to the Office of the General Counsel.

(e) Within 90 days after approval of the Commission's regulations in this part by the Civil Service Commission, and periodically thereafter, the Commis-

sion's employees and special Government employees shall be notified of the availability of counseling services and of how and where these services are available. In the case of a new employee or special Government employee appointed after this notification, the notification shall be made at the time of his entrance on duty.

#### § 19.735-106 Reviewing statements and reporting conflicts of interest.

(a) Statements of employment and financial interests submitted under Subpart D of this part shall in the case of employees generally, be reviewed by the Executive Director, in the case of Heads of Offices and Bureaus, be reviewed by the Chairman; and in the case of an employee in the immediate office of a Commissioner, be reviewed by the individual Commissioner. Financial statements of all employees shall be filed in the office of the Executive Director.

(b) When a statement submitted under Subpart D of this part or information from other sources indicates a conflict between the interests of an employee or special Government employee and the performance of his services for the Government, the information concerning the conflict or appearance of conflict shall be reported to the Executive Director and the employee or special Government employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(c) When after explanation by the employee or special Government employee involved, the conflict or appearance of conflict is not resolved, the information concerning the conflict or appearance of conflict shall be reported to the Chairman through the counselor for appropriate administrative action.

#### § 19.735-107 Disciplinary and other remedial action.

(a) A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) In carrying out the Commission's Review and Inspection Program with respect to employee conduct, the Chairman will designate an officer or employee of the Commission who will promptly investigate all incidents or situations in which it appears that employees may have engaged in improper conduct. Such investigation will be initiated in all cases where complaints are brought to the attention of the Chairman, including: Adverse comment appearing in publications; complaints from members of Congress, private citizens, organizations, other Government employees or agencies; and formal complaints referred to the Chairman by the counselor for the Commission.



(c) When, after consideration of the explanation of the employee or special Government employee provided by § 19.735-106(b), the Chairman decides that remedial action is required, he shall take immediate action to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

- (1) Changes in assigned duties;
- (2) Divestment by the employee or special Government employee of his conflicting interest;
- (3) Action under the Commission's Review and Inspection Program resulting in one of the following actions:

(i) When investigation reveals that the charges are groundless the person designated by the Chairman to assist in administration of the program may give a letter of clearance to the employee concerned, and the case will not be recorded in his official personnel folder.

(ii) If, after investigation, the case investigator deems the act to be merely a minor indiscretion, he may resolve the situation by discussing it with the employee. The case will not be recorded in the employee's official personnel folder.

(iii) If the case administrator considers the problem to be of sufficient importance, he may call it to the attention of the Chairman, who in turn may notify the employee of the seriousness of his act and warn him of the consequences of a repetition. The case will not be recorded in the employee's official personnel folder, unless the employee requests it.

(iv) The Chairman may, when in his opinion circumstances warrant, establish a special review board to investigate the facts in a case and to make a full report thereon, including recommended action.

(v) If the Chairman decides that formal disciplinary action should be taken, he may prepare for Commission consideration a statement of facts and recommend one of the following:

(a) *Written reprimand.* A formal letter containing a complete statement of the offense and official censure;

(b) *Suspension.* A temporary nonpay status and suspension from duty;

(c) *Removal for cause.* Separation for cause in case of a serious offense.

Only after a majority of the Commission approves formal disciplinary action will any record resulting from the administration of this program be placed in the employee's official personnel folder.

- (4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

## SUBPART B—ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

### § 19.735-201 Specific provisions.

The regulations issued under this subpart contain provisions covering the standards of and governing the ethical and other conduct of FCC employees set forth in §§ 735.201a through 735.210 of the Civil Service Regulations (5 CFR 735.201a-735.210), as well as those set forth in the Executive order and the Federal Conflicts of Interest statutes and the Federal Communications Act of 1934, as amended. They are not meant to restrict unduly a Commission employee's social activities. Each employee must judge for himself whether his social activities may or may not compromise or appear to compromise his position as a public servant.

§ 19.735-201 amended eff. 9-26-67; I(63)-18

### § 19.735-201a Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (a) Using public office for private gain;
- (b) Giving preferential treatment to any person;
- (c) Impeding Government efficiency or economy;
- (d) Losing complete independence or impartiality;
- (e) Making a Government decision outside official channels; or
- (f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 19.735-201a adopted eff. 9-26-67; I(63)-18

### § 19.735-202 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

- (1) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
- (2) Conducts operations or activities that are regulated by the Commission; or
- (3) Has interests that may be substantially affected by the performance or non-performance of his (the employee's) official duty; or
- (4) Is in any way attempting to affect the employee's official actions at the Commission.

(b) The prohibitions enumerated in paragraph (a) of this section do not apply in the situations enumerated below:

- (1) Where obvious family (such as those between

the parents, children, or spouse of the employee and the employee) or other personal relationships make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Food and refreshments of nominal value may be accepted on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Loans may be obtained from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(4) Unsolicited advertising or promotional material such as pens, pencils, note pads, calendars and other items of nominal intrinsic value may be accepted, as well as literature relating to the communications field.

(c) [Reserved]

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Public Law 89-673, 80 Stat. 952.

(f) Neither this section nor § 19.735-203 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

【§ 19.735-202(a), (d) and (e) amended; (c) deleted and (f) adopted *eff.* 9-26-67; I(63)-18】

#### § 19.735-203 Outside employment and other activity.

(a) The Commissioners are prohibited from engaging in any other business, vocation, profession, or employment. (47 U.S.C. 154(b)) No Commissioner or employee of the Commission is permitted to be in the

employ of or hold any official relation to any person subject to any of the provisions of the Communications Act. (47 U.S.C. 154(b)) In addition, no Commissioner or employee of the Commission may engage in outside employment or other outside activity, with or without compensation, which is in conflict with or otherwise not compatible with the full and proper discharge of his duties and responsibilities as a Commission employee. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expenses, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of a conflicts of interest situation: or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Commission duties and responsibilities in an acceptable manner; or

(3) Outside employment or activities which reasonably might be regarded as official Commission actions, or which will bring discredit upon, or cause unfavorable and reasonable criticism of, the Commission or the Government.

(b) No professional employee of the Commission shall engage in the private practice of his profession unless specifically authorized by the Commission. Requests for such authorizations shall, in the case of employees generally, be submitted to the Head of the Office or Bureau to which the employee is assigned; in the case of Heads of Offices and Bureaus to the Chairman; and in the case of an employee in the immediate office of a Commissioner to the Commissioner. All pertinent facts regarding the proposed employment, such as the name of the employer, the nature of the work to be performed, and the amount of time involved shall be set forth.

(c) Employees of the Commission are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, the Civil Service Regulations, or this part. However, an employee of the Commission shall not, either with or without compensation engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Chairman gives written authorization for the use of non-public information on the basis that the use is in the public interest. Articles shall not identify the author with the Commission or the Federal Government unless prior approval has been obtained from the Commission

nor shall documents prepared in the course of official duties be used for private gain by any Commission employee. In addition, the Commissioners shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission, or which draws substantially on official data or ideas which have not become part of the body of public information. (See also 47 U.S.C. 154(b).)

(d) An employee of the Commission shall not engage in outside employment under a State or local government, except in accordance with 5 CFR Part 734 of the Civil Service Regulations and this part.

(e) This section does not preclude a Commission employee from:

(1) [Reserved]

(2) Participation in the activities of national or State political parties not proscribed by law.

(3) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

【§ 19.735-203 the heading amended and (e) (1) deleted eff. 9-26-67; I (63)-18】

#### § 19.735-204 Financial interests.

(a) An employee of the Commission shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities.

(b) An employee of the Commission shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(c) An employee of the Commission is expected to comply with section 4(b) of the Communications Act and to support its underlying ethical principles.

(1) Section 4(b) of the Communications Act provides in pertinent part as follows:

No member of the Commission or person in its employ shall be financially interested in the manufacture or sale of radio apparatus or of apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for communication by wire or radio; or in any company owning stocks, bonds, or other securities of any such company; \* \* \* nor own stocks, bonds, or other securities of any corporation subject to any of the provisions of this Act \* \* \*.

(2) Section 4(b) has been construed in the past not to prohibit financial interests in enterprises whose activities are not subject, in any significant sense, to regulation by the Commission. However, any employee would be disqualified from acting in any matter involving his investments and would be required to seek a waiver under the provisions of 18 U.S.C. 208(b). (See paragraph (e) (2) of this section.)

(d) No Commissioner shall have a pecuniary interest in any hearing or proceeding in which he participates. (47 U.S.C. 154(j).)

(e) An employee of the Commission is also subject to the provisions of Federal conflicts of interest statutes, which are generally applicable to Government employees, but which do not supersede the provisions of section 4(b) of the Communications Act. In summary, the main conflict of interest provisions applying to financial interests are:

(1) An employee may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

(i) This prohibition does not extend to (a) representation of another person, without compensation, in a disciplinary, loyalty, or other personnel matter; or (b) the giving of testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(ii) This prohibition may be waived under the express approval of the Government official responsible for his appointment in the case of an employee who represents, with or without compensation, his own parents, spouse or child, or a person or estate he serves as a fiduciary, but only as to matters in which the employee has not participated personally and substantially as a Government employee and which are not the subject of his official responsibility.

(2) An employee may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

(i) This prohibition shall not apply if the employee advises the Government official responsible for his appointment of the nature of the matter, makes full disclosure of the financial interest, and receives in advance a written determination that the interest is not so substantial as to be deemed likely to affect the integrity of the employee's services.

(ii) With respect to financial interests of the em-

ployee himself, the prohibition of this subparagraph overlaps the prohibitions of section 4(b) of the Communications Act. When the prohibitions of section 4(b) are applicable, the provisions for waiver in subdivision (i) of this subparagraph are not applicable with respect to the interest of the employee himself.

(3) An employee may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209).

(i) This prohibition will not prevent an employee from continuing to participate in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer.

(ii) This prohibition is not applicable to anyone serving the Government without compensation or to contributions, awards, or other expenses under the terms of the Government Employees Training Act (5 U.S.C. 2301-2319).

#### § 19.735-205 Use of Government property.

An employee of the Commission shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

#### § 19.735-206 Misuse of information.

For the purpose of furthering a private interest, an employee shall not except as provided in § 19.735-203 (c), directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

#### § 19.735-207 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Commission determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Commission to determine the validity or amount of the disputed debt.

#### § 19.735-208 Gambling, betting, and lotteries.

An employee of the Commission shall not participate, while on Government-owned or leased property or while on duty for the Commission, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

#### § 19.735-209 General conduct prejudicial to the Government.

An employee of the Commission shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Commission or to the Government.

#### § 19.735-210 Miscellaneous statutory provisions.

In addition to the statutes referred to in § 19.735-204, each employee shall acquaint himself with the following provisions that relate to his ethical and other conduct as an employee of the Commission.

(a) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, the "Code of Ethics for Government Service."

(b) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a (e)).

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code, 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

¶§ 19.735-210(d), (g), (h), (j) and (p) amended and (q) adopted *eff. 9-26-67; I(63)-18*¶

## SUBPART C—ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF SPECIAL GOVERNMENT EMPLOYEES

### § 19.735-301 Specific provisions.

The regulations issued under this subpart contain provisions covering the standards of and governing the ethical and other conduct of special Government employees of the Commission as set forth in §§ 735.302 through 735.306 of the Civil Service Regulations (5 CFR 735.302-735.306) as well as those set forth in the Executive order and the Federal Conflicts of Interest Statutes and the Federal Communications Act of 1934, as amended.

### § 19.735-302 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

### § 19.735-303 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or

by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) A special Government employee may teach, lecture, or write in a manner not inconsistent with § 19.735-203(c) in regard to employees.

### § 19.735-304 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

### § 19.735-305 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with his agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person particularly one with whom he has family, business, or financial ties.

(b) The same exceptions applying to the acceptance of gifts, entertainment, and favors by Government employees which are set forth under § 19.735-202(b) apply to special Government employees of the Commission.

### § 19.735-306 Miscellaneous statutory provisions.

Each special Government employee of the Commission shall acquaint himself with the following major statutory prohibitions relating to his ethical and other conduct as well as those set forth in § 19.735-210 in this part.

(a) Section 4(b) of the Communications Act which provides that no employee of the Commission "shall be financially interested in the manufacture or sale of radio apparatus or of apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for communication by wire or radio; or in any company owning stocks, bonds, or other securities of any such company; nor be in the employ of or hold any official relation to any person subject to any of the provisions of this Act, nor own stocks, bonds, or other securities of any corporation subject to any of the provisions of this Act. \* \* \*

(b) Sections 203 and 205 of Title 18 of the United States Code which provide that a special Government employee

(1) May not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government.

(2) May not, except in the discharge of his official duties, represent anyone else in a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365. He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

(3) These prohibitions do not extend to

(i) Representation of another person without compensation in a disciplinary, loyalty, or other personnel matter; or

(ii) The giving of testimony under oath or from making statements required to be made under penalty for perjury or contempt; or

(iii) Representation, with the approval of the Government official responsible for his appointment, of his own parents, spouse, or child, in matters in which he has not participated personally and substantially and which are not the subject of his official responsibility.

(c) Section 208 of Title 18 of the United States Code which provides that a special Government employee may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest.

(1) This prohibition shall not apply if the employee advises the Government officials responsible for his appointment of the nature of the matter, makes full disclosure of the financial interest, and receives in advance a written determination that the interest is not so substantial as to be deemed likely to affect the integrity of the employee's services.

(2) With respect to the financial interests of the employee himself, the prohibition of this section 208 overlaps the prohibitions of section 4(b) of the Communications Act. When the prohibitions of section 4(b) are applicable, the provision for waiver in subparagraph (1) of this paragraph is not applicable with respect to the interest of the employee himself.

(d) Section 207(a) of Title 18 of the United States Code which provides that a special Government employee may not, after his Government employment has ended, represent anyone other than the United States

in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government.

(e) Section 207(b) of Title 18 of the United States Code which provides that a special Government employee may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service. This temporary restraint of course gives way to the permanent restriction described in paragraph (d) of this section if the matter is one in which he participated personally and substantially.

## SUBPART D—STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

### § 19.735-401 Form and content of statements.

The statements of employment and financial interests required under this subpart for use by employees and special Government employees of the Commission are in accordance with the formats prescribed by the Civil Service Commission in the Federal Personnel Manual.

### § 19.735-402 Specific provisions of agency regulations for employees.

The regulations issued under this subpart are in accordance with the reporting requirements set forth in §§ 735.403 through 735.411 of the Civil Service Regulations (5 CFR 735.403-735.411).

### § 19.735-403 Employees required to submit statements.

Except as provided in § 19.735-404, statements of employment and financial interests shall be required from the following employees of the Commission:

- (a) Employees who are Hearing Examiners.
- (b) Employees who are Members of the Review Board.
- (c) Employees who are in grade GS-13 or above and who are Heads or Assistant Heads of Offices, Bureaus, Divisions, or Branches or comparable units.
- (d) Employees who are in grade GS-13 or above and who are in the immediate offices of the Office or Bureau Chiefs.
- (e) Employees who are in grade GS-13 or above and who are legal, engineering, or other professional assistants to the Commissioners.

(f) Employees in GS-11 or above who are Heads or Supervisors of field offices.

【§ 19.735-403 amended eff. 9-26-67; I(63)-18】

**§ 19.735-403a Employee's complaint on filing requirement.**

An employee who believes that his position has been improperly included under the Commission's regulations requiring the filing of a statement of employment and financial interests is entitled to seek review of his complaint under the Commission's grievance procedure.

【§ 19.735-403a adopted eff. 9-26-67; I(63)-18】

**§ 19.735-404 Commissioners not required to submit statements.**

A statement of employment and financial interests is not required by this subpart from the Commissioners who are subject to separate reporting requirements under section 401 of the Executive order.

**§ 19.735-405 Time and place for submission of employees' statements.**

(a) An employee required to submit a statement of employment and financial interests pursuant to § 19.735-403, shall submit that statement on the prescribed form not later than:

(1) Ninety days after the effective date of the Commission's regulations issued under this part if employed on or before that effective date.

(2) Thirty days after his entrance on duty, but not earlier than ninety days after the effective date, if appointed after that effective date.

(b) An employee required to submit a statement of employment and financial interests shall submit that statement as follows:

(1) In the case of employees generally, to the office of the Executive Director:

(2) In the case of Heads of Offices and Bureaus, to the office of the Chairman; and

(3) In the case of an employee in the immediate office of a Commissioner, to the individual Commissioners, respectively.

(c) An employee required to submit a statement of employment and financial interests will be individually notified of his obligation to file.

【§ 19.735-405(c) adopted eff. 9-26-67; I(63)-18】

**§ 19.735-406 Supplementary statements.**

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or

additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or take an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or Subpart B of this part.

【§ 19.735-406 amended eff. 9-26-67; I(63)-18】

**§ 19.735-407 Interests of employees' relatives.**

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

**§ 19.735-408 Information not known by employees.**

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

**§ 19.735-409 Information prohibited.**

This subpart does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

**§ 19.735-410 Confidentiality of employees' statements.**

Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence and shall be retained in the Office of the Executive Director. Each employee charged with reviewing a statement is responsible for maintaining the statements in confidence and shall not allow access to or allow information to be disclosed from a statement except to carry out the purpose of this part. Information from these statements shall not be disclosed





except as the Civil Service Commission or the Chairman may determine for good cause shown.

【§ 19.735-410 amended eff. 9-26-67; I(63)-18】

**§ 19.735-411 Effect of employees' statements on other requirements.**

The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order or regulation.

**§ 19.735-412 Procedure for obtaining waivers of the applicability of the Federal conflicts of interest statutes.**

(a) As indicated in § 19.735-204, an employee may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. (18 U.S.C. 203 and 205) Nor may an employee participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest. (18 U.S.C. 208)

(b) Requests for waivers of the applicability of the above Federal conflicts of interest statutes may be submitted as follows:

(1) In the case of employees generally, to the Head of the Office or Bureau to which the employee is assigned;

(2) In the case of Heads of Offices and Bureaus, to the Chairman; and

(3) In the case of employees in the immediate offices of a Commissioner, to the Commissioner.

(c) All requests for waivers shall be in writing and in the required detail. Before any waiver is granted, the General Counsel shall be furnished a copy of all relevant documents and shall be afforded an opportunity to comment thereon.

(d) Copies of all requests for waivers and the action taken thereon shall be maintained in the Office of the Executive Director.

(e) An employee who deems himself disqualified from participating in any matter pending before the Commission and who does not request a waiver shall file a statement as to his disqualification and nonparticipation with the Head of the Bureau or Office to which he is assigned and with the Executive Director.

**§ 19.735-413 Specific reporting requirements for special Government employees.**

(a) The reporting requirements for special Government employees are the same as those applying to Government employees which are also set forth in this subpart.

(b) Except as provided in paragraph (c) of this section, special Government employees shall be required to submit a statement of employment and financial interests which reports:

(1) All other employment; and

(2) The financial interests of the special Government employee which relate either directly or indirectly to the duties and responsibilities of the special Government employee.

(c) The Chairman may waive the requirement in paragraph (b) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or an expert when the Commission finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(d) A statement of employment and financial interests required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee as provided in the Commission's regulations. Each special Government employee shall keep his statement current throughout his employment with the Commission by the submission of supplementary statements.

(e) As indicated in § 19.735-306, a special Government employee is subject to certain prohibitions of the Federal conflicts of interest statutes contained in sections 203, 205, and 208 of Title 18 of the United States Code. The procedures for obtaining a waiver of these statutes are the same as those applying to Government employees which are set forth in § 19.735-412.

【Part 19, (§§ 19.735-101-19.735-413) as adopted eff. 2-15-66; I(63)-11】





