

(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.

§ 0.456 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).

§ 0.457 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).

(h) *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

§ 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.

§ 1.26 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. (5 U.S.C. 555)

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 to a request for other temporary relief shall be filed within 7 days after the request is filed. Replies to oppositions should not be filed and will not be considered. The provisions of § 1.4(g) shall not apply in computing the filing date for oppositions to a request for stay or for other temporary relief.

(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).

[§ 1.45(d) amended eff. 5-17-68; I(68)-1]

§ 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.

(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)

§ 1.225 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 into 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 exclusive 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, except those involving Domestic Public Radio Services, 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 substan-

tially 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. In the Domestic Public Radio Services no application will be consolidated for hearing as mutually exclusive with a previously filed application or applications unless such application, or such application as amended so as to constitute a major change therein as defined in § 21.33 of this chapter, is substantially complete and tendered for filing by whichever date is earlier: (i) The close of business 1 business day preceding the day on which the Commission designates the earlier filed application for hearing; or (ii) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will, for the purpose of this section, be considered to be a newly filed application. Where major changes which do not relate to the mutually exclusive aspect of a proceeding are warranted, or in the case of multiple mutually exclusive issues where the warranted major changes serve to resolve one or more of the issues but do not relate to the mutually exclusive aspect of the proceeding, such changes or amendments will not serve to alter the existing mutually exclusive status so long as new conflicts are not created.

(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.

[§ 1.227(b)(3) amended eff. 7-29-68; I(68)-1]

§ 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 5 U.S.C. 556.

§ 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 thereof 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 with-

out 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.

PREHEARING PROCEDURES

§ 1.246 Admission of facts and genuineness of documents.

(a) Within 20 days after the time for filing a notice of appearance has expired; or within 20 days after the release of an order adding parties to the proceeding (see §§ 1.223 and 1.227) or changing the issues (see § 1.229); or within such shorter or longer time as the presiding officer may allow on motion or notice, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents identified in and exhibited by a clear copy with the request or of the truth of any relevant matters of fact set forth in the request.

(b) Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 10 days after service thereof, or within such shorter or longer time as the presiding officer may allow on motion or notice, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters, or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or a qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder.

§ 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.

§ 1.407 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 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) Reserved

(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.

[§ 1.502(c) *deleted eff. 5-17-68; I(68)-1*]

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(hb) 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 renewal, 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)

§ 1.513 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).

§ 1.525 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

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 approval 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 nonvoting), 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: *Provided, however*, That trust agreements are not required to be filed unless requested specifically by the Commission; in lieu of the trust agreement, the licensee or permittee may submit the following information concerning the trust: (1) Name of trust; (2) duration of trust; (3) number of shares of stock owned; (4) name of beneficial owner of stock; (5) name of record owner of stock; (6) name of the party or parties who have the power to vote or control the vote of the shares; and (7) any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(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, directors, 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.

【§ 1.613(b)(3) amended eff. 7-31-68; 1(68)-1】

§ 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 stock-holdings 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 paragraph (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 nonvoting stock of the corporation or voting rights in the association (regardless of whether the stockholder or member is an investment company as defined in Note 4 to §§ 73.35, 73.240, and 73.636 of this chapter): *Provided, however,* That such information with respect to stock held by stockbrokers need be filed only if the stock is held by the stockbroker in its name (either for itself or for customers) for a period exceeding 30 days.

(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 noncommercial 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(d) amended eff. 7-31-68; I(68)-1]

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.

(h) 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)

(Ed. 1/68)

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.

SCHEDULES 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 | 1 \$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 | 130 |
| 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 | 130 |
| Application for modification other than a major change..... | 30 | 30 | 30 | No fee | 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)..... | 1 \$30 for each application. | | | | |

¹ 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.

² 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.

§ 1.1113 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 SERVICE¹

| | |
|--|------|
| Application for initial construction permit or for relocation of a base station (including authority for mobile units, blanket dispatch station authority, ² and standby transmitters without independent radiating systems ^{3,4})..... | \$75 |
| Application for initial construction permit or for relocation of a dispatch station, ⁵ control station or repeater station..... | 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 ⁴ | 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 |

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 ⁴ | 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 ⁴ | 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 |

See footnotes at end of table.

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 ¹ ----- | \$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 ¹ ----- | 30 |
| 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 |

¹ 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.

² 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.

³ An application for a standby transmitter having its own independent radiating system requires the same fee as a base station application.

⁴ 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.

⁵ This fee applies to any request for dispatch station authority not made pursuant to § 21.519(a) of this chapter.

§ 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 |
|-------|---|

Applications for ship radio station license when accompanied by a request for an interim station license -----

| | |
|---|----|
| ----- | 13 |
| 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(a) amended eff. 4-22-68; I(68)-1】

§ 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 |
| Application for provisional certificate for a radiotelephone third-class operator permit endorsed for broadcast use | 3 |

(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(a) amended eff. 3-15-68; I(68)-1】

§ 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

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(l) 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 preliminary 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(e) 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.

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.

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) Except as provided by paragraph (b) of this section, a person may not hold more than one radiotelegraph operator license or permit and one radiotelephone operator license or permit at the same time.

(b) A person may at the same time hold (1) both a temporary limited radiotelegraph second-class operator license and a radiotelegraph third-class operator permit, (2) both a provisional certificate for radiotelephone third-class operator permit endorsed for broadcast use and a radiotelephone third-class operator permit not so endorsed, (3) both a provisional certificate for a radiotelephone third-class operator permit endorsed for broadcast use and a restricted radiotelephone operator permit.

[§ 13.3 amended eff. 3-15-68; I(68)-1]

§ 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 Federal Aviation Administration or one of its predecessor agencies 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 Federal Aviation Administration or one of its predecessor agencies, 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, subject 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 rec-

ord 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.

§ 13.6 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 ra-

diation 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.

(a) 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.

(b) Except as provided by paragraph (e) of this section, a request for a Provisional Radio Operator Certificate may be in letter form and shall be in addition to the formal application.

(c) Except as provided by paragraph (e) of this section, if the Commission finds that the public interest will be served, it may issue such certificates for a period not to exceed 6 months with such additional limitations as may be indicated.

(d) Except as provided by paragraph (e) of this section, a Provisional Radio Operator Certificate will not be issued if the applicant has not fulfilled examination or service requirements, if any, for the license applied for.

(e) A request for a Provisional Radio Operator Certificate for a radiotelephone third-class operator permit endorsed for broadcast use shall be made on FCC Form 756C, which provides for a certification by the holder of a radiotelephone first-class operator license that he is responsible for the technical maintenance of a radio broadcast station, and that he has instructed the applicant in the operation of a broadcast station and believes him to be capable of performing the duties expected of a person holding a radiotelephone third-class operator permit with broadcast endorsement. If the Commission finds that the public interest will be served, it may issue such certificates under the following conditions:

- (1) The certificate is valid for a period not to exceed 12 months.
- (2) The certificate is not renewable.
- (3) The certificate may be issued to a person only once.
- (4) Additional limitations may be specified, as necessary.

(5) The certificate may be issued prior to the fulfillment of examination requirements for the radiotelephone third-class operator permit endorsed for broadcast use.

[§ 13.8 amended eff. 3-15-68; I(68)-1]

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.

§ 13.12 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.

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 re-

ceive 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.

§ 13.23 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.

§ 13.26 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

§ 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.

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 (31 U.S.C. 483a).

(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 |
| Application for provisional certificate for a radiotelephone third-class operator permit endorsed for broadcast use | 3 |

(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(a) to the Appendix, Part 13, amended eff. 3-15-68; 1(68)-1】

(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 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.

§ 17.35 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, three-fourths, 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 (No. 100 A21/TS, No. 107 A21/TS, or No. 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(a)(3) corrected in I(68)-1】

§ 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.

§ 17.37 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 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 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.

§ 17.38 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.

§ 17.43 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 authorization 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 au-