

	Section	Page
Effective date:		
Act.....	607	94
Decisions of Commission.....	402(c)	70
Order of revocation.....	312(a)	48
Emergency, national.....	606(c)	92
Employees:		
Carrier: annual report to show.....	219(a)	23
Commission:		
Board of.....	5(d)(1)	11
Disclosure of confidential information prohibited.....	220(f)	25
Definition.....	222(a)(8)	28
.....	4(b)	6
Qualifications of.....	4(b)	6
Representatives of, entitled to notice of hearing on con- solidation of telegraph carriers.....	222(c)(1)	29
Rights of, in case of consolidation of telegraph carriers.....	222(f)	31
Transportation expenses.....	4(g)	8
Enforcement of Commission's orders, proceedings for.....	402	69
Engineers:		
Appointment of.....	4(f) et seq.	7
Extra compensation.....	4(f)(3)	7
Entries, accounting.....	220	24
Equitable distribution of radio facilities.....	307(b)	39
Evidence.....	409(f) et seq.	76
Orders of Commission, prima facie.....	407	74
Self incrimination; immunity provision.....	409(l)	77
Examiners, powers of.....	409	75
Exchange service:		
Defined.....	3(r)	3
Limitation of jurisdiction over.....	221(b)	26
Exemptions:		
Exemptions:		
For ships subject to part II of title III.....	352 (b), (c)	61
For ships subject to part III of title III.....	383	67
Existing Installations.....	3(ee)	5
Expediting Act of 1903, application of under Title II.....	401(d)	69
Expenditures of Commission, necessary.....	4(g)	8
Experimental use of frequencies.....	303(g)	36
Extension of lines of carriers.....	214	20
False distress signal.....	325(a)	57
False statements: application.....	312 (a), 325(c)	48 58
Federal Radio Commission: transfer of employees, records, and property.....	603 (a), (b), (c)	90
Federal Reserve Board: enforcement of Clayton Act.....	602(d)	89
Federal Trade Commission: enforcement of Clayton Act.....	602(d)	89
Proceedings of.....	313	50
Fees: in deposition proceedings.....	409(e)	76
Financial qualifications of applicants.....	308(b), 319(a)	41 54
Findings of fact by Commission: Basis of award of damages.....	404	72
Fines. (See Forfeiture, Violations.)		
Foreign Country:		
License for commercial communication with.....	308(c)	41
Transmission from, of programs originating in United States.....	325(b)	57
Use of naval stations to communicate with.....	327	58
Witness in, deposition of.....	409(j)	77
Foreign ship:		
Auto alarm defined.....	3(x)	4
Person sending signals on.....	306	39
Radio installation required.....	351(a)	59
Exemptions.....	352	60

	Section	Page
Forfeitures. (<i>See also</i> Violations):		
Provisions relating to.....	504	83
Rebates and offsets.....	503	81
Mitigation or remission by Commission.....	504(b)	83
Franchises, carriers:		
Annual report to show cost of.....	219(a)	23
Valuation of.....	213(d)	19
Franks and passes.....	210	17
Free speech: Right of, in radio and communication.....	326	58
Frequencies:		
Assignment of, by Commission.....	303(c)	36
Changes in.....	303(f)	36
Claim to the use of.....	304	38
Designated for distress signals.....	320	56
Equitable distribution of.....	307(b)	39
Experimental use of.....	303(g)	36
Government radio stations.....	305(a)	38
Transfer of.....	310(b)	46
General counsel.....	4(f)	7
General Powers of Commission.....	303	36
Gift enterprise. (<i>See</i> Lottery.)		
Government communications: Classification of.....	201(b)	13
Government stations:		
Call letters to be designated by Commission.....	305(c)	38
Construction permit not required for.....	319(d)	55
Not subject to sections 301 and 303.....	305(a)	38
On board Government ships at sea.....	305(a)	38
Private or commercial land station interference with.....	323(a)	57
Priority to be given by, to distress signals.....	321(b)	56
Transmissions not for Government business.....	305(a)	38
Use of minimum power applicable to.....	324	57
Governor of State:		
Notified of hearing on extension of line and discontinuance of service.....	214(b)	20
Notified of hearing on merger of telegraph carriers.....	222(c)(1)	29
Great Lakes Agreement:		
Definition of.....	3(gg)	6
Violation of.....	507	85
Harbor (<i>see</i> Port): Definition of.....	3(z)	5
Hearing:		
Certificate of public convenience and necessity, mandatory for.....	214(b)	20
Changes in operating power of licenses.....	303(f)	36
Charges, classification, practice, regulation.....	204	15
In violation of act.....	205(a)	16
Classification of property of telephone carriers.....	221(c)	27
Compelling carrier to furnish adequate facilities, extend line, or establish a public office.....	214(d)	21
Complaint against carrier.....	209	17
Commenced or pending before Commission's predecessors.....	604(b)	90
Consolidation of telephone companies.....	221(a)	26
Consolidation or merger of telegraph carriers.....	222(c)	29
Commissioner not to participate if he has pecuniary interest.....	4(j)	9
Compelling carrier to furnish adequate facilities and extend line.....	214(d)	21
Distribution of traffic and division of charges between consolidated carrier and international telegraph carriers.....	222(e)	30
District Court, before enforcing Commission orders.....	401(b)	69
Failure to grant license upon examining application.....	309(b)	42
Time and place of notice.....	309(b)	42
In general.....	409	75
Joint board appointed by Commission may hold.....	410(a)	78
Joint: held with State Commissions.....	410(b)	78

	Section	Page
Hearing—Continued		
Operator given, upon suspension of license	303(m) (2)	37
Order compelling physical connection between carriers	201(a)	13
Proposed revocation order	312(a)	48
Suspension of charges, practices, etc.	204	15
Valuation of property of carrier	213(a)	18
Hearing Examiner	409	75
Honorariums: Prohibition against receipt of, by Commissioners	4(b)	6
Immunity provision against self incrimination	409(l)	77
Initial Decision	409	75
Injunction:		
Against Commission orders	402(a)	69
Enforcement of Commission orders, by District Court	401(b)	69
Inquiries of Commission:		
Complaints arising under act	403	72
Management of carriers	218	23
Inspection, Commission:		
Accounts, records, etc., of carriers	220(c)	24
Equipment on ships subject to Part II of Title III	362(b)	66
Equipment on ships subject to Part III of Title III	385	67
Radio installations subject to act or treaty	303(n)	37
Inspection, public:		
Schedule of charges of carriers	203(a)	14
Records of Commission re carriers	213(f)	19
Interception of radio communications	605	91
Intercommunication in mobile service	322	56
Interested party: may intervene on appeal	402(e)	71
Interference:		
Between Government and private radio stations	323(a)	57
Prevention of	303(f)	36
Rules and regulations to prevent:		
Government stations must conform to, when transmitting non-Government business	305(a)	38
Foreign ships in United States must conform to	306	39
With distress signals	320, 321(a), (b)	56
Interlocking Directorates	212	18
International radio matters: Secretary of State to represent Canal Zone	328	59
International treaties signed by United States: rules and regulations under	303(r), 502	38, 81
Instate Commerce:		
Competition in, preservation of	314	50
Manufacture and sale of radio apparatus in	313	50
Interstate Commerce Act: amended	602(b)	89
Interstate Commerce Commission:		
Clayton Act, enforcement of	602(d)	89
Depreciation charges, determination by	604(c)	91
Duties of, vested in Commission	601(a)	89
Orders of, to continue in effect	604(a)	90
Proceedings of, pending when Commission organizes	604(b)	90
Records of, transferred to Commission	603(b)	90
Valuation of carrier properties subject to act	213(g)	19
Intervenor	309(b)	42
Intrastate communications: no jurisdiction over	2(b)	2
Inventions: Commission to keep informed on	218	23
Investigations:		
Complaint authorized by act	403	72
Contracts of carriers	215(c)	22
Expenditures	4(g)	8
Need for legislation to cooperate with State Commission	220(j)	26
Report of, by Commission	4(l), 404	10, 72
Telegraph and telephone companies transactions	215 (a), (b)	22
Joint boards, powers and functions	410(a)	78
Joinder of parties	411	78

	Section	Page
Judgment: Court of Appeals.....	402(e)	71
Judgments: suits begun prior to organization of Commission.....	604(d)	91
Judicial code:		
Section 238 (1): application of.....	401(d)	69
Section 145: application of.....	606(e)	93
Jurisdiction:		
Control of carrier as an element of.....	2(b)(2)	2
Enforcement of acts and orders of Commission.....	401	69
Foreign and interstate commerce.....	1	1
Limits of.....	2(b)	2
Suits for damages: District courts.....	207	16
Title III, radio.....	301	35
Wire communication.....	2	1
Jurisdiction: Telephone exchange service.....	221(b)	26
Land: Purchase of.....	4(g)	8
Land stations:		
Definition.....	3(m)	3
Exchange of radio communications required.....	322	56
Interference with Government stations.....	323(a)	57
Legal Assistant to Commissioners.....	4(f)(2)	7
Letter communications: Classification of.....	201(b)	13
Liability of carrier:		
For damages.....	206	16
For acts and omissions of agents.....	217	23
License:		
Action upon, Form of and conditions attached to.....	309	41
Alien may not be granted.....	310(a)(1)	46
Alien holding U.S. pilot certificate may be granted.....	310(a)	46
Alien holding certain foreign pilot certificate may be granted.....	310(a)	46
Assignment in violation of act prohibited.....	309(d)(2)	43
Assignment prohibited without Commission approval.....	310(b)	46
Construction permit holder to be issued.....	319(c)	55
Contents of.....	309(d)	42
Definition of.....	3(bb)	5
Distribution or allocation.....	307(b)	39
Expiration.....	307(d)	39
Foreign corporation may not be granted.....	310(a)(3)	46
Foreign government may not be granted.....	310(a)(2)	46
Grant of, in case of emergency.....	308(a)	40
Grant of, short term.....	307(d)	39
Issued by predecessors of Commission.....	604(a)	90
Issued subject to Section 606 of act.....	309(h)	44
Limitation on holding and transfer of.....	310	46
Modification of:		
Commission may order.....	316	52
Granted upon written application.....	308(a)	40
Notice of filing for.....	311	47
Operation of broadcasting station, term.....	307(d)	39
Persons ineligible to hold.....	311	47
Petition to deny.....	309(d)	42
Provisions of, compulsory.....	309(d)	42
Refusal of, in certain cases.....	311	47
Renewal:		
Not to be granted more than 30 days prior to expiration of original license.....	307(e)	40
Written application required.....	308(a)	40
Required for radio communication or transmission of energy.....	301	35
Revocation of.....	312, 313	48, 50
Stations intended for international commercial communication.....	308(c)	41
Temporary authorization of.....	309(f)	43
Waiver of claim to frequency.....	304	38

	Section	Page
Licensee:		
Broadcast, forfeiture provisions relating to.....	503	81
<i>De Novo</i> Trial.....	504	83
Notice of apparent liability. (<i>See</i> Licensees, Broadcast.)		
Operator:		
Alien holding U.S. or certain foreign pilot certificate may hold license to operate aircraft Radio Station.....	303(l)	36
Damaging radio apparatus.....	303(m), (C)	37
Definition of.....	3(c)	2
Failing to obey orders of master.....	303(m) (B)	37
Interfering with radio signals.....	303(m), (E)	37
Station: Consent of, to changes in assignment.....	303(f)	36
Qualification of.....	308(b)	41
Transmitting indecent language.....	303(m), (D)	37
Violating antitrust laws.....	313	50
Lifeboats, radio station on as required by treaty or statute..	357	63
Limitations as to actions of carriers.....	415	80
Lines: extension of carriers.....	214	20
Location of stations: Commission may fix.....	303(d)	36
Mandamus:		
By District court to enforce act.....	401 (a)	69
To compel carrier to furnish facilities.....	406	74
Management: Carriers, commission inquiry into.....	218	23
Master of a ship:		
Authorized person to whom messages may be divulged..	605	91
Supreme control over ships' radio.....	360	65
Merger: (Consolidated)		
Telegraph carriers.....	222	27
Telephone carriers.....	221 (a)	26
Mobile service:		
Defined.....	3(n)	3
Intercommunication in.....	322	56
No charge by ships in, for transmission of certain infor- mation.....	359(b)	64
Mobile station:		
Construction permit not required for.....	319(d)	55
Defined.....	3(l)	3
Foreign communication or transmission.....	3(f)	3
Interchange of messages.....	322	56
Radio communication with.....	3(m)	3
Modification, see license, construction permit.....	316	52
Monitoring stations.....	4(g)	8
National defense:		
Carriers rendering free service to Government on.....	210(b)	17
Commission may withhold secret information re.....	4(j)	9
Purpose of act.....	1	1
Preferential communications for.....	606(a)	92
National emergency: powers of President, suspension of rules, etc.....	606(c)	92
National Labor Relations Act: Employees of consolidated telegraph carrier intitled to remedies.....	222(f) (10)	33
Naval stations: use for commercial messages.....	327	58
Neutrality of United States, measures to preserve.....	606(c)	92
Night communications: classification of.....	201(b)	13
Oath:		
Application for construction permit.....	319(a)	54
Application for license.....	308(b)	41
In Alaska.....	308(b)	41
Obscene language: prohibited.....	326	58
Suspension of operator's license for transmission.....	303(m), (D)	37
Offenses: venue of.....	505	84
Office supplies: Necessary expenditure.....	4(g)	8
Officers:		
Annual report of carriers must show.....	219(a)	23
Commission: subject to civil service laws.....	4(f)	7

	Section	Page
Offset or rebate: forfeiture in case of	503	81
Operating expenses of carriers:		
Annual report to show	219(a)	23
Depreciation charges, classified as	220(b)	24
Operation of station:		
Construction permit must show commencement dates ..	319(b)	55
Failure to comply with license	312(a)	48
Operator, radio:		
Apparatus to be operated by	318	54
Exceptions	318	54
Number and experience	353 (a), (b)	61
Required on certain ships	351 (a) (1)	59
Suspension of	303(m) (2)	37
Watch to be kept by	353 (c), (d)	61
Operator, station:		
Classified by the Commission	303(l)	36
Qualifications fixed by Commission	303(l)	36
Opportunity for hearing. (See Hearing.)		
Oral argument: cases heard before examiner	409	75
Order:		
For investigation and hearing	205(a)	16
Of modification	316(a)	52
Of revocation	312(a)	48
Of the Commission:		
Duty of compliance with	416(c)	80
Jurisdiction to enforce	401	69
Modification	416(b)	80
Rehearing	405	72
Service upon agent of carrier in Washington	416(a)	80
Setting aside: provisions of 38 Stat. 219 applicable ..	402(a)	69
Orders:		
Cease and desist	205(a)	16
312 (b),		48
(c), (e)		49
Commission:		
Directing carrier to pay damages	209	17
Directing carrier to provide adequate facilities,		
extend line, or establish a public office	214(d)	21
Included in written report of investigation	404	72
Physical connection between carriers	201(a)	13
Prescribing formula for distribution of traffic and		
division of charges between consolidated carrier		
and international telegraph carriers	222(e)	30
Suspension of operator's license	303(m) (2)	37
Interstate Commerce Commission	604(c)	91
Of divisions	5(c)	11
Of other agencies continued in effect	604(a)	90
For payment of money:		
Commission may issue, after hearing	209	17
Failure of carrier to comply with	407	74
Petition for enforcement	415(f)	80
Suit for enforcement	411(b)	78
Other than for payment of money:		
District Court enforces by injunction or other		
process	401(b)	69
Effective date	408	75
Referring matters to division, Commission, board, or		
employee	5 (d) (1), (e)	11, 12
Overcharges: Limitations as to actions for	415 (b), (c),	80
(g)		80
Overtime pay for field office inspectors	4(f) (3)	7
Painting and lighting of radio towers: Commission may		
require	303(q)	38
Parties: joinder of	411	78

INDEX

107

	Section	Page
Passenger(s):		
Defined.....	3(w) (4)	4
For hire, vessel carrying—Radiotelephone required.....	381	66
Ship: Defined.....	3(w) (3)	4
Radio installation, required on.....	351 (a)	59
Payments for the broadcast of any matter over broadcast station: Disclosure of.....	508	86
Pecuniary interest of Commission in proceeding.....	4(j)	9
Penalties. (See Forfeitures and Violations.)		
Perjury: prosecution for.....	409(l)	77
Permit:		
Construction. (See Construction.)		
For construction defined.....	3(dd)	5
For rebroadcasting by foreign stations.....	325(b)	57
For stations on vessels or aircraft of U.S.....	308(a)	40
Of other agencies continued in effect.....	604(a)	90
Person defined.....	3(i)	3
Personal services: necessary expenditures.....	4(g)	8
Petition:		
Complaining of failure of carrier to abide by act.....	208	16
Enforcement of an order for payment of money.....	407	74
Time limitation for filing.....	415(f)	80
Petrillo Amendment.....	506	84
Pictures, transmission of by wire or radio.....	3 (a), (b)	2
Political broadcasts.....	315	51
Port, Definition of.....	3(z)	5
Possessions of United States.....	3(g), 3(v), 3, 4, 301	3, 4 3, 6, 35
Administration of radio laws in.....	329	59
Postmaster General:		
Certain duties of, transferred to Commission.....	601(b)	89
Effect of transfer.....	604	90
Records of, transferred to Commission.....	603(b)	90
Power:		
Determination of by Commission.....	303(c)	36
Use of minimum.....	324	57
Practices of carriers. (See Charges.)		
Preference or prejudice by carriers, unreasonable or undue.....	202(a)	14
President:		
Appoints commissioners and designates chairman.....	4(a)	6
Assigns frequencies to government stations.....	305(a)	38
Designates term of service of commissioners.....	4(c)	6
Powers of, in war emergency:		
Amendment of Commission rules.....	606(g)	94
Compensation for use of communications.....	606(e)	93
Employ armed forces to prevent obstruction.....	606(b)	92
Establishment of priorities.....	606(a)	92
Suspension of rules, seizure of apparatus, etc.....	606 (c), (d)	92, 93
Press messages:		
Transmitted by naval radio.....	327	58
Classification of.....	201(b)	13
Printing and binding: expenditures for.....	4(g)	8
Privacy of communications.....	605	91
Prizes. (See Lottery.)		
Proceedings before Commission.....	4(j), 409	9, 75
Production of documents.....	409(j)	77
Profanity.....	326	58
Suspension of operator's license for transmission of.....	303 (m), (D)	37
Programs:		
Commission may require records of.....	303(j)	36
Rebroadcast without authority prohibited.....	325(a)	57
Property. (See Carriers.)		
Prosecution. (See Violations.)		
Protest, in case of grant without hearing.....	309(c)	42

	Section	Page
Public convenience, and necessity, certificate of, under Title II.....	214 (a), (b), (c)	20, 20, 21
Public convenience, interest, and necessity under title III:		
Requirement for.....	303, 309(a)	36, 41
Changes in operating power.....	303(f)	36
Public interest:		
As factor in foreign corporations holding station licenses.....	310(a)(5)	46
Consolidation of telegraph carriers.....	222	27
Consolidation of telephone companies.....	221	26
Distribution of traffic and division of charges between consolidated carrier and international telegraph carriers.....	222(e)	30
Exchange of service contracts of carriers, in.....	201(b)	13
Order requiring carrier to extend lines must be in.....	214(d)	21
Order requiring carrier to provide adequate facilities, extend line or establish a public office.....	214(d)	21
Orders requiring physical connection or through lines must be in.....	201(a)	13
Revocation of license.....	325(e)	58
Public records: Commission documents to be.....	412	79
Publication of:		
Announcements and data.....	303(p)	38
Call letters.....	303(p)	38
Decisions or records.....	4(m)	10
Proceedings affecting national defense.....	4(j)	9
Unauthorized.....	605	91
Purpose of act:		
Control channels of radio transmission, etc.....	301	35
General.....	1	1
Regulations for carrying out: Commission to make.....	303 (f), (r)	36, 38
Quorum: Four members of Commission to constitute.....	4(h)	3
Radiation: maximum permitted, when sending distress signals.....	321(a)	56
Radio:		
Act of 1927: Repealed.....	602(a)	89
Broadcast station defined.....	3(cc)	5
Installation and operations aboard ship.....	351, 381	59, 66
Laws: administration of, in possessions, etc.....	329	59
New uses for: Commission to study.....	303(g)	36
Ship: technical requirements for installation of.....	355	62
Commission approval of.....	358, 384 (2), (3)	64, 67
Radio communication: Definition of.....	3(b)	2
Signals:		
Interference between Government and commercial stations.....	323	57
Intercommunication of, in mobile service.....	322	56
Of Government stations not transmitting government business.....	305(a)	38
Radio station license.....	3(bb)	5
Relating to ships in distress.....	321	56
Use of minimum power not required.....	324	57
Superfluous, licensee transmitting.....	303 (m), (D)	37
Sent on foreign ships within United States.....	306	39
Wilfully interfering with by licensee.....	303 (m), (E)	37
Stations:		
Area to be served by, establishment of.....	303(h)	36
Assignment of frequencies of.....	303(c)	36
Broadcasting:		
License for operation, term of.....	307(d)	39
Programs not to be rebroadcast without authority.....	325(a)	57
Sponsored programs, announced as such.....	317	53

Radio Communication—Continued

Stations—Continued	Section	Page
Call letters, designated and published by Commission.....	303 (o), (p)	38
United States stations.....	305(c)	38
Chain:		
Defined.....	3(p)	3
Special regulations regarding.....	303(i)	36
Classified by Commission.....	303(a)	36
Defined.....	3(k)	3
Foreign communication or transmission Defined.....	3(f)	3
Interference between.....	303(f)	36
Interfering with distress signals.....	320, 321	56
Jurisdiction over.....	2, 301	1-35
Licensee, defined.....	3(c)	2
Location, determination of:		
By Commission.....	303(d)	36
By applicant.....	308(b)	41
Nature of service, prescribed.....	303(b)	36
On board certain vessels, subject to title III.....	305(b)	38
On board foreign vessels.....	321(b)	56
On board mobile vessels.....	319(d)	55
Operating time of, fixed by Commission.....	303(c)	36
Other than broadcasting: term of license.....	307(d)	39
Owned and operated by United States.....	305	38
Use of minimum, power applicable.....	324	57
Power, minimum, to be used.....	324	57
Determined by Commission.....	303(e)	36
Prevention of interference by Commission.....	303(f)	36
Programs: records to be kept.....	303(j)	36
Relay broadcasting, defined.....	3(o)	3
Suspension of operator's license.....	303(m)	37
Use of, during national emergency.....	606	92
Zones to be served by, established by Commission.....	303(h)	36
Railroad rolling stock, radio station on:		
Commission may modify rules re.....	303(k)	36
Construction permit not required for.....	319(d)	55
Rate structures: conferences with State Commissions re.....	410(b)	78
Rates: for commercial messages over naval radio.....	327	58
Rebate: forfeiture in case of.....	503	81
Rebroadcasts: prohibited without authority.....	325(a)	57
Receiver or trustee:		
Carrier: act applies to.....	216	22
Duty to comply with Commission orders.....	416(c)	80
Records:		
Destruction of carriers'.....	220(e),	24
.....	220(e)	25
Of carriers, on file with Commission.....	213(f)	19
Programs of stations.....	303(j)	36
Transferred to Commission under act.....	604(c)	91
Recovery of damages from common carriers.....	207	16
Refunds or remittances of carriers.....	203(e), 204	14, 15
Regulations of radio stations: jurisdiction over.....	2, 301	35
Regulations:		
Of carriers:		
Conferences with State Commissions re.....	410(b)	78
Changes made filed with Commission.....	203(b)	114
Must be just and reasonable.....	201(b)	13
New, suspension of and hearing on.....	204	15
Schedules of, shall show.....	203(a)	14
State commission.....	220(h)	25
Violative of act.....	205(a)	16

Regulations—Continued	Section	Page
Of Commission:		
Carrying out purpose of act.....	303(f)	36
Interference between radio stations.....	303(f)	36
Interfering with freedom of speech.....	326	58
Stations engaged in chain broadcasting.....	303(i)	36
Prescribed by President in national emergency.....	606(c)	92
Rehearing: In general.....	405	72
License to continue in effect during.....	309(c)	42
Of orders of board or division.....	5(d)(2)	11
Relay stations.....	3(o)	3
Remedies of act: not exclusive.....	414	80
Renewal of existing radio station license.....	307 (b), (d), (e)	39, 40
Repeals effected by act.....	602, 604	89, 90
Repeated communications: classification of.....	201(b)	13
Reports of investigations.....	404	72
Reports of ship positions, by common carriers.....	201(b)	13
Reports required of carriers.....	219	23
Annual reports.....	219(b)	24
By carriers.....	219	23
Monthly reports.....	219(b)	24
Special or periodic.....	219(b)	24
Restraint of trade or commerce.....	313, 314	50
Review, by Commission of orders, decisions, etc.....	5(d)(2)	11
Review by Supreme Court.....	402(j)	71
Review staff.....	5(c)	11
Revocation, order of.....	312(a)	48
Right:		
Granted by a license:		
Not to be transferred without Commission consent.....	310(b)	46
Subject to section 606.....	309(h)	44
Of appeal or review when license is revoked.....	313	50
Of free speech by radio communication.....	326	58
Rules and regulations: Power of Commission to make.....	4(i), 303(r)	9, 38
Suspension of, during national emergency.....	606 (c), (d)	92, 93
Safety convention: certificate of compliance with.....	361	65
Defined.....	3(aa)	5
Salary:		
Carrier employees and directors; annual report to show.....	219(a)	23
Commissioner.....	4(d)	7
Personnel of Commission, overtime.....	4(f)	7
Rates, subject to reduction.....	4(n)	10
Schedules of charges of carriers.....	203	14
Copies on file with Commission.....	412	79
Seal, official: judicial notice of.....	4(h)	9
Secretary of the Army:		
Notified of hearing on extension of lines and discontinuance of service.....	214(b)	20
Notified of hearing on merger of telegraph carriers.....	222(c)(1)	29
Secretary of Commission:		
As secretary of Commissioner, board, or division.....	5(d)(3)	12
Custodian of public records.....	412	79
Posting of notices in office of.....	413	79
Secretary of Navy:		
Notified of hearing on extension of lines and discontinuance of service.....	214(b)	20
Notified of hearing on merger of telegraph carriers.....	222(c)(1)	29
Secretary of State:		
Notified of hearing on merger of telegraph carriers.....	222(c)(1)	29
Participation in international radio matters.....	328	59
Secretary to Commissioner.....	4(f)	7
Section 301: inapplicable to foreign ships.....	306	39
Sections 301 and 303: inapplicable to Government owned stations.....	305(a)	38
Section 308: revocation for false statements of fact, required by.....	312(a)	48

	Section	Page
Section 313: revocation under, grounds for refusal of license	311	47
Section 606: all licenses issued subject to	309(h) (3)	44
Securities:		
Consolidation of telephone companies by purchase of	221(a)	26
Officials of carriers dealing in	212	18
Ownership by Commission employees	4(b)	6
Self-incrimination, privilege against	409(l)	77
Separability clause	608	94
Separation of functions	409(c)	75
Service:		
Communication:		
Carrier's duty to furnish	201(a)	13
Certificate required for discontinuance, reduction or impairment of	214	20
Discrimination and preferences in	202	14
Free, when relating to safety at sea	359(d)	64
Intrastate	2(b) (1)	2
Just and reasonable charges for	201(b)	13
Purpose of act to provide	1	1
Temporary or emergency discontinuance	214(a)	20
Emergency or temporary carrier may be authorized	214(a)	20
Exchange, defined	3(r)	3
Mobile, defined	3(n)	3
Nature of, fixed by Commission	303(b)	36
Given or promised in payment for matter broadcast	317	53
Toll defined	3(s)	4
Service of process:		
Against joint defendants	411(b)	78
On agent of carrier in District of Columbia	413	79
Ship Act, 1910: Repealed in part	602(e)	90
Ships:		
Authority of master of, over radio	360	65
Certificates concerning radio, required of	361	65
Control by Commission	363	66
Definition of	3(w)	4
In distress: signals of	321(b)	56
Inspection	362, 362(b), 385	66
Radio installations required on	351(a), 383	59, 67
Exemptions	352	60
Existing, defined	3(ee)	5
New, defined	3(ff)	5
Radio stations on:		
Equipment; adjustment of when sending distress signals	321(a)	56
Exchange of communications required	322	56
Payment of inspectors of, for overtime	4(f) (2)	7
Reports as to position of, by common carrier	201(b)	13
Under part II of title III:		
Annual inspection	362(b)	66
Exemptions	352 (a), (b)	60, 61
Technical requirements	355	62
Transmission of information by	359	64
Signals. (See Radio Signals.)		
Signs and sounds: transmission of	3 (a), (b)	2
Sponsored programs: announced as such	317	53
Staff. (See Commission.)		
State:		
Commission:		
Conferences with	410(b)	78
Complaints from	208	16
Cooperation with	410(b)	78
Defined	3(t)	4
Exclusive jurisdiction of	221(b)	26
Nomination of joint board members	410(a)	78
Notification as to hearing on extension of line and discontinuance of service	214(b)	20

State—Continued

Commission—Continued

	Section	Page
Notification of, re certain hearings.....	220(i), 221(a), (c)	25, 26, 27
Report to Congress re harmonization with.....	220(j)	26
Courts:		
Jurisdiction to enforce order for payment of money.....	407	74
Limitation of petition for.....	415(f)	80
Publications of Commission as evidence in.....	4(m)	10
Defined.....	3(v)	4
Laws of, effect of sec. 606 on.....	606(f)	93
Power to regulate telephone companies not restricted by section 221(a).....	221(a)	26
Suit to enjoin action contrary to section 214.....	214(c)	20
States: Distribution of radio facilities among.....	307(b)	39
Statement of fact required in application for license.....	308(b)	41
Revocation of license for falsification of.....	312(a)	48
Station license.....	3(bb)	5
Statutory remedies: Act does not exclude.....	414	80
Stockholders of carriers: information as to, in annual reports.....	219(a)	23
Submarine Cable Landing License Act, amended.....	602(c)	89
Restrictions under.....	308(c)	41
Subpenas, use of by Commission.....	409 (e), (f), (g), (l)	76, 77
Suits:		
Additional compensation for use during national emergency.....	606(e)	93
Against carriers failing to comply with terms of Commission certificate.....	214(c)	20
Commenced prior to organization of Commission.....	604(d)	91
Enforcing, annulling, suspending, etc. of orders of Commission.....	402(a)	69
In equity arising under title II.....	401(d)	69
Joinder of parties in enforcing order in.....	411(b)	78
Petitions for enforcement of order for payment of money.....	407	74
Recovery of forfeitures in.....	504	83
Supreme Court of United States: Review by.....	402(j)	71
Suspension of charges, etc., pending hearing.....	204	15
Suspension of rules during national emergency.....	606 (c), (d)	92, 93
Technical developments in radio; Commission to keep informed on.....	218	23
Telegraph Companies:		
Consolidation or merger.....	222	27
Furnishing telephone service: investigation of.....	215(b)	22
Provisions of ICC Act relating to, repealed.....	602(b)	89
Postmaster general duties re, vested in Commission.....	601(b)	89
Consolidation of.....	221(a)	26
Furnishing telegraph service: investigation of.....	215(b)	22
Property of, classification.....	221(c)	27
Provisions of ICC Act relating to, repealed.....	602(b)	89
Special provisions relating to.....	221	26
Telephone exchange and toll services: defined.....	3 (r), (s)	3, 4
Term of licenses.....	307(d)	39
Territories. (See Possessions.)		
Through routes:		
Carrier's charges.....	201(a)	13
Establishment of by carriers.....	201(a)	13
Time of operation:		
Application for license must set forth.....	308(b)	41
Government stations, where interference exists.....	323(b)	57
Traffic: Distribution of telegraph traffic between consolidated carrier and international telegraph carriers.....	222(e)	30
Transaction of carriers: Commission to investigate.....	215	22
Transfer of Duties under existing law.....	601	89
Transfer of employees, records, property and appropriations.....	603	90

	Section	Page
Transmission:		
By radio: use of apparatus for, under license only.....	301	35
Foreign, defined.....	3(f)	3
Interstate, defined.....	3(e)	2
Of dangers to navigation.....	359	64
Of energy by radio: defined.....	3(d)	2
Jurisdiction over.....	2, 301	1, 35
Transportation expenses.....	4(g)	8
Treasury of United States: forfeitures payable into.....	504	83
Treaties:		
Cease and desist orders.....	312(b)	48
Violations of terms of.....	303 (m), (A), 37, 81 502	
Revocation of license for.....	312(a)	48
Trust companies: Federal Reserve Board jurisdiction over, in enforcement of Clayton Act.....	602(d)	89
Trustee or receiver: Carrier, Act applies to.....	216	22
Unauthorized publication of communications.....	605	91, 92
Undue preference or prejudice.....	602(a)	89
United States:		
Communication service to be made available to.....	1	1
Control of, over radio: purpose of act to maintain.....	301	35
Defined.....	3(g)	3
Unrepeated communications: classification of.....	201(b)	13
Use a minimum power by radio stations.....	324	57
Uses of radio: Commission to encourage and study.....	303(g)	36
Valuation of carrier property.....	213, 221(d)	18, 27
Venue:		
Offenses under act.....	505	84
Petition for enforcement of order for payment of money.....	407	74
Vessels:		
Auto alarm defined.....	3(x)	4
Definition of.....	3(w)	4
Emergency permit for operation of radio on.....	308(a)	40
In distress.....	321(b), 323(b)	56 57
Requirement of minimum power not applicable.....	324	57
Intercommunication in mobile service.....	322	56
Mobile: construction permit not required for stations on.....	319(d)	55
Of certain Government agencies: radio stations on board must conform to title III of act.....	305(b)	38
Of United States: licensing of radio apparatus on.....	310(a)	46
Transmission by radio from.....	301	35
Violations. (See also Forfeitures):		
Falsification, mutilation, etc., of records.....	220(e)	25
General penalty for.....	501	81
Proceedings for, punishment of.....	401(c)	69
Section 202, re discrimination and preferences.....	202(c)	14
Section 205: Forfeitures.....	205(b)	16
Section 214: Penalties.....	214(d)	21
Section 220: Penalties.....	220(d)	25
Section 502: Fine.....	502	81
Vouchers, itemized: approval necessary for payment.....	4(g)	8
War emergency—Powers of President.....	606	92
Waiver by licensee of claim to frequency.....	304	38
Watches by ship's radio operator.....	353(c), (d), (e)	61 61
Wire communication. (See also Communication):		
Definition of.....	3	2
Jurisdiction over.....	2	1
Wire communications—Use of in wartime emergency.....	606(d)	93
Purpose in regulating.....	1	1
Wire tapping.....	605	91
Witnesses: General provisions relating to.....	409	75
Writing: Transmission of, by cable, wire, radio.....	3(a), (b)	2
Zones, establishment of by Commission.....	303(h)	36

APPENDIX A

ADMINISTRATIVE PROCEDURE ACT

(60 Stat. 237, 5 USC 1001-1011)

NOTE: Sections 2-12 are 5 U.S.C. 1001-1011, respectively

[PUBLIC LAW 404—79TH CONGRESS]

[CHAPTER 324—2D SESSION]

[S. 7]

AN ACT

To improve the administration of justice by prescribing fair administrative procedure.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE

SECTION 1. This Act may be cited as the "Administrative Procedure Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) AGENCY.—"Agency" means each authority (whether or not within or subject to review by another agency) of the Government of the United States other than Congress, the courts, or the governments of the possessions, Territories, or the District of Columbia. Nothing in this Act shall be construed to repeal delegations of authority as provided by law. Except as to the requirements of section 3, there shall be excluded from the operation of this Act (1) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them, (2) courts martial and military commissions, (3) military or naval authority exercised in the field in time of war or in occupied territory, or (4) functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947, and the functions conferred by the following statutes: Selective Training and Service Act of 1940; Contract Settlement Act of 1944; Surplus Property Act of 1944.

(b) PERSON AND PARTY.—"Person" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies. "Party" includes any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any agency proceeding; but nothing herein shall be construed to pre-

vent an agency from admitting any person or agency as a party for limited purposes.

(c) **RULE AND RULE MAKING.**—"Rule" means the whole or any part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of any agency and includes the approval of prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing upon any of the foregoing. "Rule making" means agency process for the formulation, amendment, or repeal of a rule.

(d) **ORDER AND ADJUDICATION.**—"Order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency in any matter other than rule making but including licensing. "Adjudication" means agency process for the formulation of an order.

(e) **LICENSE AND LICENSING.**—"License" includes the whole or part of any agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission. "Licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation amendment, modification, or conditioning of a license.

(f) **SANCTION AND RELIEF.**—"Sanction" includes the whole or part of any agency (1) prohibition, requirement, limitation, or other condition affecting the freedom of any person; (2) withholding of relief; (3) imposition of any form of penalty or fine; (4) destruction, taking, seizure, or withholding of property; (5) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; (6) requirement, revocation, or suspension of a license; or (7) taking of other compulsory or restrictive action. "Relief" includes the whole or part of any agency (1) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy; (2) recognition of any claim, right, immunity, privilege, exemption, or exception; or (3) taking of any other action upon the application or petition of, and beneficial to, any person.

(g) **AGENCY PROCEEDING AND ACTION.**—"Agency proceeding" means any agency process as defined in subsections (c), (d), and (e) of this section. "Agency action" includes the whole or part of every agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

PUBLIC INFORMATION

SEC. 3. Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(a) **RULES.**—Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its func-

tions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) **OPINIONS AND ORDERS.**—Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(c) **PUBLIC RECORDS.**—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

RULE MAKING

SEC. 4. Except to the extent that there is involved (1) any military, naval, or foreign affairs function of the United States or (2) any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts—

(a) **NOTICE.**—General notice of proposed rule making shall be published in the Federal Register (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law) and shall include (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Except where notice or hearing is required by statute, this subsection shall not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice, or in any situation in which the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(b) **PROCEDURES.**—After notice required by this section, the agency shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner; and, after consideration of all relevant matter presented, the agency shall incorporate in any rules adopted a concise general statement of their basis and purpose. Where rules are required by statute to be made on the record after opportunity for an agency hearing, the requirements of sections 7 and 8 shall apply in place of the provisions of this subsection.

(c) **EFFECTIVE DATES.**—The required publication or service of any substantive rule (other than one granting or recognizing exemption or relieving restriction or interpretative rules and statements of policy) shall be made not less than thirty days prior to the effective

date thereof except as otherwise provided by the agency upon good cause found and published with the rule.

(d) **PETITIONS.**—Every agency shall accord any interested person the right to petition for the issuance, amendment, or repeal of a rule.

ADJUDICATION

SEC. 5. In every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved (1) any matter subject to a subsequent trial of the law and the facts *de novo* in any court; (2) the selection or tenure of an officer or employee of the United States other than examiners appointed pursuant to section 11; (3) proceedings in which decisions rest solely on inspections, tests, or elections; (4) the conduct of military, naval, or foreign affairs functions; (5) cases in which an agency is acting as an agent for a court; and (6) the certification of employee representatives—

(a) **NOTICE.**—Persons entitled to notice of an agency hearing shall be timely informed of (1) the time, place, and nature thereof; (2) the legal authority and jurisdiction under which the hearing is to be held; and (3) the matters of fact and law asserted. In instances in which private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the times and places for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(b) **PROCEDURE.**—The agency shall afford all interested parties opportunity for (1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment where time, the nature of the proceeding, and the public interest permit, and (2) to the extent that the parties are unable so to determine any controversy by consent, hearings, and decision upon notice and in conformity with sections 7 and 8.

(c) **SEPARATION OF FUNCTIONS.**—The same officers who preside at the reception of evidence pursuant to section 7 shall make the recommended decision or initial decision required by section 8 except where such officers become unavailable to the agency. Save to the extent required for the disposition of *ex parte* matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings. This subsection shall not apply in determining applications for initial licenses or to proceedings involving

the validity or application of rates, facilities, or practices of public utilities or carriers; nor shall it be applicable in any manner to the agency or any member or members of the body comprising the agency.

(d) **DECLARATORY ORDERS.**—The agency is authorized in its sound discretion, with like effect as in the case of other orders, to issue a declaratory order to terminate a controversy or remove uncertainty.

ANCILLARY MATTERS

SEC. 6. Except as otherwise provided in this Act—

(a) **APPEARANCE.**—Any person compelled to appear in person before any agency or representative thereof shall be accorded the right to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. Every party shall be accorded the right to appear in person or by or with counsel or other duly qualified representative in any agency proceeding. So far as the orderly conduct of public business permits, any interested person may appear before any agency or its responsible officers or employees for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding (interlocutory, summary, or otherwise) or in connection with any agency function. Every agency shall proceed with reasonable dispatch to conclude any matter presented to it except that due regard shall be had for the convenience and necessity of the parties or their representatives. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others before any agency or in any agency proceeding.

(b) **INVESTIGATIONS.**—No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made, or enforced in any manner or for any purpose except as authorized by law. Every person compelled to submit data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(c) **SUBPENAS.**—Agency subpoenas authorized by law shall be issued to any party upon request and, as may be required by rules of procedure, upon a statement or showing of general relevance and reasonable scope of the evidence sought. Upon contest the court shall sustain any such subpoena or similar process or demand to the extent that it is found to be in accordance with law and, in any proceeding for enforcement, shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(d) **DENIALS.**—Prompt notice shall be given of the denial in whole or in part of any written application, petition, or other request of any interested person made in connection with any agency proceeding. Except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of procedural or other grounds.

HEARINGS

SEC. 7. In hearings which section 4 or 5 requires to be conducted pursuant to this section—

(a) **PRESIDING OFFICERS.**—There shall preside at the taking of evidence (1) the agency, (2) one or more members of the body which comprises the agency, or (3) one or more examiners appointed as provided in this Act; but nothing in this Act shall be deemed to supersede the conduct of specified classes of proceedings in whole or part by or before boards or other officers specially provided for by or designated pursuant to statute. The functions of all presiding officers and of officers participating in decisions in conformity with section 8 shall be conducted in an impartial manner. Any such officer may at any time withdraw if he deems himself disqualified; and, upon the filing in good faith of a timely and sufficient affidavit of personal bias or disqualification of any such officer, the agency shall determine the matter as a part of the record and decision in the case.

(b) **HEARING POWERS.**—Officers presiding at hearings shall have authority, subject to the published rules of the agency and within its powers, to (1) administer oaths and affirmations, (2) issue subpoenas authorized by law, (3) rule upon offers of proof and receive relevant evidence, (4) take or cause depositions to be taken whenever the ends of justice would be served thereby, (5) regulate the course of the hearing, (6) hold conferences for the settlement or simplification of the issues by consent of the parties, (7) dispose of procedural requests or similar matters, (8) make decisions or recommend decisions in conformity with section 8, and (9) take any other action authorized by agency rule consistent with this Act.

(c) **EVIDENCE.**—Except as statutes otherwise provide, the proponent of a rule or order shall have the burden of proof. Any oral or documentary evidence may be received, but every agency shall as a matter of policy provide for the exclusion of irrelevant immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses any agency may, where the interest of any party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(d) **RECORD.**—The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision in accordance with section 8 and, upon payment of lawfully prescribed costs, shall be made available to the parties. Where any agency decision rests on official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary.

DECISIONS

SEC. 8. In cases in which a hearing is required to be conducted in conformity with section 7—

(a) **ACTION BY SUBORDINATES.**—In cases in which the agency has not presided at the reception of the evidence, the officer who presided (or, in cases not subject to subsection (c) of section 5, any other officer or officers qualified to preside at hearings pursuant to section 7) shall initially decide the case or the agency shall require (in specific cases or by general rule) the entire record to be certified to it for initial decision. Whenever such officers make the initial decision and in the absence of either an appeal to the agency or review upon motion of the agency within time provided by rule, such decision shall without further proceedings then become the decision of the agency. On appeal from or review of the initial decisions of such officers the agency shall, except as it may limit the issues upon notice or by rule, have all the powers which it would have in making the initial decision. Whenever the agency makes the initial decision without having presided at the reception of the evidence, such officers shall first recommend a decision except that in rule making or determining applications for initial licenses (1) in lieu thereof the agency may issue a tentative decision or any of its responsible officers may recommend a decision or (2) any such procedure may be omitted in any case in which the agency finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires.

(b) **SUBMITTALS AND DECISIONS.**—Prior to each recommended, initial, or tentative decision, or decision upon agency review of the decision of subordinate officers the parties shall be afforded a reasonable opportunity to submit for the consideration of the officers participating in such decisions (1) proposed findings and conclusions, or (2) exceptions to the decisions or recommended decisions of subordinate officers or to tentative agency decisions, and (3) supporting reasons for such exceptions or proposed findings or conclusions. The record shall show the ruling upon each such finding, conclusion, or exception presented. All decisions (including initial, recommended, or tentative decisions) shall become a part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) the appropriate rule, order, sanction, relief, or denial thereof.

SANCTIONS AND POWERS

SEC. 9. In the exercise of any power or authority—

(a) **IN GENERAL.**—No sanction shall be imposed or substantive rule or order be issued except within jurisdiction delegated to the agency and as authorized by law.

(b) **LICENSES.**—In any case in which application is made for a license required by law the agency, with due regard to the rights or privileges of all the interested parties or adversely affected persons and with reasonable dispatch, shall set and complete any pro-

cedings required to be conducted pursuant to sections 7 and 8 of this Act or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, no withdrawal, suspension, revocation, or annulment of any license shall be lawful unless, prior to the institution of agency proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee by the agency in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements. In any case in which the licensee has, in accordance with agency rules, made timely and sufficient application for a renewal or a new license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined by the agency.

JUDICIAL REVIEW

SEC. 10. Except so far as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion—

(a) **RIGHT OF REVIEW.**—Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) **FORM AND VENUE OF ACTION.**—The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action (including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus) in any court of competent jurisdiction. Agency action shall be subject to judicial review in civil or criminal proceedings for judicial enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.

(c) **REVIEWABLE ACTS.**—Every agency action made reviewable by statute and every final agency action for which there is no other adequate remedy in any court shall be subject to judicial review. Any preliminary, procedural, or intermediate agency action or ruling not directly reviewable shall be subject to review upon the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final shall be final for the purposes of this subsection whether or not there has been presented or determined any application for a declaratory order, for any form of reconsideration, or (unless the agency otherwise requires by rule and provides that the action meanwhile shall be inoperative) for an appeal to superior agency authority.

(d) **INTERIM RELIEF.**—Pending judicial review any agency is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, every reviewing court (including every court to which a case may be taken on appeal from or upon application for certiorari or other writ to a reviewing court) is authorized to issue all necessary and appropriate process to postpone the effective date of any agency action

or to preserve status or rights pending conclusion of the review proceedings.

(e) **SCOPE OF REVIEW.**—So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or unreasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portions thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error.

EXAMINERS

SEC. 11. Subject to the civil-service and other laws to the extent not inconsistent with this Act, there shall be appointed by and for each agency as many qualified and competent examiners as may be necessary for proceedings pursuant to sections 7 and 8, who shall be assigned to cases in rotation so far as practicable and shall perform no duties inconsistent with their duties and responsibilities as examiners. Examiners shall be removable by the agency in which they are employed only for good cause established and determined by the Civil Service Commission (hereinafter called the Commission) after opportunity for hearing and upon the record thereof. Examiners shall receive compensation prescribed by the Commission independently of agency recommendations or ratings and in accordance with the Classification Act of 1923, as amended, except that the provisions of paragraphs (2) and (3) of subsection (b) of section 7 of said Act, as amended and the provisions of section 9 of said Act, as amended, shall not be applicable. Agencies occasionally or temporarily insufficiently staffed may utilize examiners selected by the Commission from and with the consent of other agencies. For the purposes of this section, the Commission is authorized to make investigations, require reports by agencies, issue reports, including an annual report to the Congress, promulgate rules, appoint such advisory committees as may be deemed necessary, recommend legislation, subpoena witnesses or records, and pay witness fees as established for the United States courts.

CONSTRUCTION AND EFFECT

SEC. 12. Nothing in this Act shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as

otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. If any provision of this Act or the application thereof is held invalid, the remainder of this Act or other applications of such provision shall not be affected. Every agency is granted all authority necessary to comply with the requirements of this Act through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of this Act except to the extent that such legislation shall do so expressly. This Act shall take effect three months after its approval except that sections 7 and 8 shall take effect six months after such approval, the requirement of the selection of examiners pursuant to section 11 shall not become effective until one year after such approval, and no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement.

Approved June 11, 1946.

ADMINISTRATIVE PROCEDURE ACT INDEX

	Section	Page
Action for judicial review.....	10	122
Adjudication.....	5	118
Defined.....	2	115
Affidavit of bias or disqualification, filing.....	7	120
Agency action defined.....	2	115
Agency defined.....	2	115
Agency proceeding defined.....	2	116
Ancillary matters.....	6	119
Appeal to:		
Agency for decision of officer.....	8	121
Superior agency authority.....	10	122
Appearance.....	6	119
Certification of entire record to agency for decision.....	8	121
Certiorari, review of decision of agency.....	10	122
Claims for money or benefits, procedure for submission of evidence.....	7	120
Compelling agency action by reviewing court.....	10	122
Conduct of:		
Business by agency.....	6	119
Officers participating in decisions.....	7	120
Conference for settlement or simplification of issuance, power of presiding officer.....	7	120
Construction and operation.....	12	123
Contempt, punishment for failure to appear as witness or produce evidence.....	6	119
Contest of subpoena.....	6	119
Copy of submitted data or evidence, right to procure.....	6	119
Counsel, right to representation by.....	6	119
Court martial, exemption from Act.....	2	115
Cross-examinations, right of party to conduct.....	7	120
Decisions.....	8	121
Judicial review.....	10	122
Presiding officer.....	7	120
Declaratory orders, authority of agency to issue.....	5	119
Definitions.....	2	115
Denials.....	6	119
Record.....	8	121
Deposition, power of presiding officers to take.....	7	120
Evidence.....	7	120
Initial decision by agency without presiding at taking of evi- dence.....	8	121
Judicial review of agency action.....	10	122
Order for production.....	6	119
Right to retain submitted data or procure copy.....	6	119
Subpoenas, post.....		
Examiners:		
Appointment, assignment, etc.....	11	123
Presiding at taking of evidence.....	7	120
Utilization by agencies.....	11	123
Exceptions to decisions, submission before decision upon agency reviewed.....	8	118
Exemptions, agencies or bodies exempt from Act.....	2	115
Exhibits, record for decision.....	7	120
Federal Register:		
Publication of notice of proposed rule making.....	4	117
Publication of rules by agencies.....	3	116
Finality of agency action.....	10	122
Form of action for judicial review.....	10	122

	Section	Page
Habeas corpus, action for judicial review	10	122
Hearing	7	120
Adjudication	5	119
Removal of examiners	11	123
Rule making	4	117
Initial decision by agency without presiding at taking of evidence	8	121
Injunction, action for judicial review	10	122
Inspection:		
Official transcript of testimony by witness	6	119
Opinions and orders of agencies by public	3	116
Investigation	6	119
Civil Service Commission	11	123
Judicial review	10	122
Licenses:		
Application for initial license	9	121
Procedure for submission of evidence	7	120
Tentative decision by agency	8	121
Application for renewal or new license	9	121
Defined	2	116
Withdrawal, suspension or revocation	9	121
Notice:		
Agency hearing	5	119
Decision resting on notice of fact not appearing in evidence in record	7	120
Denials	6	119
Proposed rule making	4	117
Withdrawal, suspension or revocation of license	9	121
Oaths and affirmations, authority of presiding officers to administer	7	120
Opinions of agency available to public inspection	3	116
Orders:		
Appearance of witness	6	119
Availability to public inspection	3	116
Burden of proof by proponent	7	120
Declaratory orders	5	119
Defined	2	115
Evidence	7	120
Jurisdiction for issuance	9	121
Production of evidence	6	119
Record	8	121
Partial invalidity	12	123
Party defined	2	115
Pendency of judicial review	10	122
Person defined	2	115
Petition or request		
Denials	6	119
Issuance, amendment or repeal of rule	4	117
Postponment of effective date of action by agency pending judicial review	10	122
Presiding officers	7, 8	120, 121
Process:		
Contest	6	119
Postponment of effective date of agency action pending review	10	122
Proposed findings and conclusions, submission	8	121
Public information	3	116
Publication or service of rule	4	117
Recommendations: Decision by officers	8	121
Records	8	121
Affidavit of bias or disqualification of officer	7	120
Available to public	3	116
Evidence	7	120
Judicial review	10	122
Subpoena by Civil Service Commission	11	123
Relief defined	2	115
Review of initial decision of officer by agency	8	121

	Section	Page
Rule making.....	4	117
Defined.....	2	115
Tentative decision by agency.....	8	121
Rules:		
Authority granted agencies.....	12	123
Burden of proof by proponent.....	7	120
Civil Service Commission, promulgation by.....	11	123
Defined.....	2	115
Jurisdiction for issuance of substantive rule.....	9	121
Open to inspection by public.....	3	116
Petition for issuance, amendment or repeal.....	4	117
Publication by agency in Federal Register.....	3	116
Record.....	8	121
Submission of evidence.....	7	120
Sanctions.....	9	121
Defined 2.....	2	115
Evidence.....	7	120
Record.....	8	121
Separation of functions.....	5	119
Subordinates, action by.....	8	121
Subpoenas.....	6	119
Authority of presiding officers to issue.....	7	120
Time of becoming effective.....	12	123
Transcript of testimony:		
Record for decision.....	7	120
Right to procure.....	6	119
Trial de novo by reviewing court.....	10	122
Venue of action for judicial review.....	10	122
Withdrawal of officer deeming himself disqualified.....	7	120

APPENDIX B
"THE JUDICIAL REVIEW ACT"
(64 Stat. 1129, 5 U.S.C. 1031-1042)

NOTE.—Sections 1-12 of the Judicial Review Act are 5 U.S.C. 1031-1042, respectively.

[PUBLIC LAW 901—81ST CONGRESS]

[CHAPTER 1189—2D SESSION]

[H.R. 5487]

AN ACT

To provide for the review of orders of the Federal Communications Commission under the Communications Act of 1934, as amended, and of certain orders of the Secretary of Agriculture made under the Packers and Stockyards Act, 1921, as amended, and the Perishable Agricultural Commodities Act, 1930, as amended, and of orders of the United States Maritime Commission or the Federal Maritime Board or the Maritime Administration under the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. As used in this Act—

(a) "Court of appeals" means a court of appeals of the United States.

(b) "Clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this Act, is filed.

(c) "Petitioner" means the party or parties by whom a petition to review an order, reviewable under this Act, is filed.

(d) When the order sought to be reviewed was entered by the Federal Communications Commission, "agency" means the Commission; when such order was entered by the Secretary of Agriculture, "agency" means the Secretary; when such order was entered by the United States Maritime Commission, or the Federal Maritime Board, or the Maritime Administration, "agency" means that Commission or Board, or Administration, as the case may require.

JURISDICTION

SEC. 2. The court of appeals shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of, all final orders (a) of the Federal Communications Commission made reviewable in accordance with the provisions of section 402 (a) of the Communications Act of 1934, as amended, and (b) of the Secretary of Agriculture made under the Packers and Stockyards Act, 1921, as amended, and under the Perishable Agricultural Com-

modities Act, 1930, as amended, except orders issued under sections 309 (e) and 317 of the Packers and Stockyards Act and section 7 (a) of the Perishable Agricultural Commodities Act, and (c) such final orders of the United States Maritime Commission or the Federal Maritime Board or the Maritime Administration entered under authority of the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, as are now subject to judicial review pursuant to the provisions of section 31, Shipping Act, 1916, as amended.

Such jurisdiction shall be invoked by the filing of a petition as provided in section 4 hereof.

VENUE

SEC. 3. The venue of any proceeding under this Act shall be in the judicial circuit wherein is the residence of the party or any of the parties filing the petition for review, or wherein such party or any of such parties has its principal office, or in the United States Court of Appeals for the District of Columbia.

REVIEW OF ORDERS

SEC. 4. Any party aggrieved by a final order reviewable under this Act may, within sixty days after entry of such order, file in the court of appeals, wherein the venue as prescribed by section 3 hereof lies, a petition to review such order. Upon the entry of such an order, notice thereof shall be given promptly by the agency by service or publication in accordance with the rules of such agency. The action in court shall be brought against the United States. The petition shall contain a concise statement of (a) the nature of the proceedings as to which review is sought, (b) the facts upon which venue is based, (c) the grounds on which relief is sought, and (d) the relief prayed. The petitioner shall attach to the petition, as exhibits, copies of the order, report, or decision of the agency. The clerk shall serve a true copy of the petition upon the agency and upon the Attorney General of the United States by mailing by registered mail, with request for return receipt, a true copy to the agency and a true copy to the Attorney General.

PREHEARING CONFERENCE

SEC. 5. The court of appeals may hold a prehearing conference or direct a judge of such court to hold a prehearing conference.

RECORD TO BE CERTIFIED

SEC. 6. Within the time prescribed by, and in accordance with the requirements of, rules promulgated by the court of appeals in which the proceeding is pending, unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk the record on review, duly certified, consisting of the pleadings, evidence, and proceedings before the agency, or such portions thereof as such rules shall require to be included in such record, or such portions thereof as the petitioner and the agency, with the approval of the court of appeals, shall agree upon in writing.

PETITIONS HEARD ON RECORD BEFORE RESPONDENT

SEC. 7. (a) Petitions to review orders reviewable under this Act, unless determined on a motion to dismiss the petition, shall be heard in the court of appeals upon the record of the pleadings, evidence adduced, and proceedings before the agency where the agency has in fact held a hearing whether or not required to do so by law.

PROCEDURE WHERE NO HEARING HELD

(b) Where the agency has held no hearing prior to the taking of the action of which review is sought by the petition, the court of appeals shall determine whether a hearing is required by law. After such determination, the court shall (1) where a hearing is required by law, remand the proceedings to the agency for the purpose of holding a hearing; (2) where a hearing is not required by law, pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; and (3) where a hearing is not required by law, and a genuine issue of material fact is presented, transfer the proceedings to a United States district court for the district where the petitioner or any petitioner resides or has its principal office for hearing and determination as if such proceedings were originally initiated in the district court. The procedure in such cases in the United States district courts shall be governed by the Federal Rules of Civil Procedure.

ADDITIONAL EVIDENCE

(c) If a party to a proceeding to review shall apply to the court of appeals, in which the proceeding is pending, for leave to adduce additional evidence and shall show to the satisfaction of such court (1) that such additional evidence is material, and (2) that there were reasonable grounds for failure to adduce such evidence before the agency, such court may order such additional evidence and any counterevidence the opposite party desires to offer to be taken by the agency. The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken and may modify or set aside its order and shall file a certified transcript of such additional evidence, such modified findings or new findings, and such modified order or the order setting aside the original order.

REPRESENTATION IN PROCEEDING—INTERVENTION

SEC. 8. The Attorney General shall be responsible for and have charge and control of the interests of the Government in all court proceedings authorized by this Act. The agency, and any party or parties in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended, may appear as parties thereto of their own motion and as of right, and be represented by counsel in any proceeding to review such order. Communities, associations, corporations, firms, and individuals, whose interests are affected by the agency's order, may intervene in any proceeding to review such order. The Attorney General

shall not dispose of or discontinue said proceeding to review over the objection of such party or intervenors aforesaid, but said intervenor or intervenors may prosecute, defend, or continue said proceeding unaffected by the action or nonaction of the Attorney General therein.

JURISDICTION OF PROCEEDING

SEC. 9. (a) Upon the filing and service of a petition to review, the court of appeals shall have jurisdiction of the proceeding. The court of appeals in which the record on review is filed, on such filing, shall have jurisdiction to vacate stay orders or interlocutory injunctions theretofore granted by any court, and shall have exclusive jurisdiction to make and enter, upon the petition, evidence, and proceedings set forth in the record on review, a judgment determining the validity of, and enjoining, setting aside, or suspending, in whole or in part, the order of the agency.

STAY OR SUSPENSION OF ORDERS; INTERLOCUTORY INJUNCTIONS

(b) The filing of the petition to review shall not of itself stay or suspend the operation of the order of the agency, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. Where the petitioner makes application for an interlocutory injunction suspending or restraining the enforcement, operation, or execution of, or setting aside, in whole or in part, any order reviewable under this Act, at least five days' notice of the hearing thereon shall be given to the agency and to the Attorney General of the United States. In cases where irreparable damage would otherwise ensue to the petitioner, the court of appeals may, on hearing, after not less than five days' notice to the agency and to the Attorney General, order a temporary stay or suspension, in whole or in part, of the operation of the order of the agency for not more than sixty days from the date of such order pending the hearing on the application for such interlocutory injunction, in which case such order of the court of appeals shall contain a specific finding, based on evidence submitted to the court of appeals, and identified by reference thereto, that such irreparable damage would result to petitioner and specifying the nature of such damage. The court of appeals, at the time of hearing the application for an interlocutory injunction, upon a like finding, may continue the temporary stay or suspension, in whole or in part, until decision on the application.

The hearing upon such an application for an interlocutory injunction shall be given preference and expedited and shall be heard at the earliest practicable date after the expiration of the notice of hearing on the application provided for above.

Upon the final hearing of any proceeding to review any order under this Act, the same requirements as to precedence and expedition shall apply.

REVIEW IN THE SUPREME COURT ON CERTIORARI OR CERTIFICATION

SEC. 10. An order granting or denying an interlocutory injunction under section 9(b) of this Act shall be subject to review by the Supreme Court of the United States upon writ of certiorari as pro-

vided in title 28, United States Code, section 1254 (1) : *Provided*, That application therefor be duly made within forty-five days after the entry of such order. The final judgment of the court of appeals in a proceeding to review under this Act shall be subject to review by the Supreme Court of the United States upon a writ of certiorari in accordance with the provisions of title 28, United States Code, section 1254(1) : *Provided further*, That application therefor be duly made within ninety days after the entry of such judgment. Either the United States or the agency or an aggrieved party may file such petition for a writ of certiorari. The provisions of title 28, United States Code, section 1254 (3), regarding certification, and of title 28, United States Code, section 2101 (e), regarding stays, shall also apply to proceedings under this Act.

RULES

SEC. 11. The several courts of appeals shall adopt and promulgate rules governing the practice and procedure, including prehearing conference procedure, in proceedings to review orders under this Act: *Provided, however*, That such rules shall be approved by the Judicial Conference of the United States.

ENFORCEMENT

SEC. 12. The several United States district courts are hereby vested with jurisdiction specifically to enforce, and to enjoin and restrain any person from violating any order heretofore or hereafter issued under section 203 of the Packers and Stockyards Act, 1921 (42 Stat. 161).

REPEALS

SEC. 13. All laws or parts of laws inconsistent with the provisions of this Act are repealed.

EFFECTIVE DATE

SEC. 14. This Act shall take effect on the thirtieth day after the date of its approval. However, actions to enjoin, set aside, or suspend orders of the Federal Communications Commission or the Secretary of Agriculture, or the United States Maritime Commission, the Federal Maritime Board, and the Maritime Administration which are pending when this Act becomes effective, shall not be affected thereby, but shall proceed to final disposition under the existing law.

Approved December 29, 1950.

APPENDIX C

SELECTED SECTIONS OF CRIMINAL CODE PERTAINING TO BROADCASTING

TITLE 18 U.S.C. (1958 EDITION)

§ 1304. BROADCASTING LOTTERY INFORMATION

Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Each day's broadcasting shall constitute a separate offense.

(Codified June 25, 1948, Ch. 645, 62 stat. 763.)

§ 1343. FRAUD BY WIRE, RADIO, OR TELEVISION

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

(Added July 16, 1952, Ch. 879, sec. 18(a), 66 stat. 722, amended July 11, 1956, Ch. 561, 70 stat. 523.)

§ 1464. BROADCASTING OBSCENE LANGUAGE

Whoever utters any obscene, indecent, or profane language by means of radio communications shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

(Codified June 25, 1948, Ch. 645, 62 stat. 769.)