

# Federal Communications Commission Rules and Regulations

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## Definitions

### §73.14 AM broadcast definitions.

**AM broadcast band**—The band of frequencies extending from 535 to 1605 khz.

**AM broadcast channel**—The band of frequencies occupied by the carrier and the upper and lower sidebands of an AM broadcast signal with the carrier frequency at the center. Channels are designated by their assigned carrier frequencies. The 107 carrier frequencies assigned to AM broadcast stations begin at 540 khz and are in successive steps of 10 khz to 1600 khz. See §73.2 for the classification of AM broadcast channels.

**AM broadcast station**—A broadcast station licensed for the dissemination of radio communications intended to be received by the public and operated on a channel in the band 535-1605 kilohertz (khz). The term AM broadcast is synonymous with the term "standard broadcast" as may appear elsewhere in this chapter.

**Amplitude modulated stage**—The radio-frequency stage to which the modulator is coupled and in which the carrier wave is modulated in accordance with the system of amplitude modulation and the characteristics of the modulating wave.

**Amplitude modulator stage**—The last amplifier stage of the modulating wave in which amplitude modulates a radio-frequency stage.

**Antenna current**—The radio-frequency current in the antenna with no modulation.

**Antenna input power**—The product of the square of the antenna current and the antenna resistance at the point where the current is measured.

**Antenna resistance**—The total resistance of the transmitting antenna system at the operating frequency and at the point at which the antenna current is measured.

**Blanketing**—The interference which is caused by the presence of an AM broadcast signal of one volt per meter (v/m) or greater intensity in the area adjacent to the antenna of the transmitting station. The 1 v/m contour is referred to as the blanket contour and the area within this contour is referred to as the blanket area.

**Carrier-amplitude regulation**—The change in amplitude of the carrier wave in an amplitude-modulated transmitter when modulation is applied under conditions of symmetrical modulation.

**Combined audio harmonics**—The arithmetical sum of the amplitudes of all the separate harmonic com-

ponents. Root sum square harmonic readings may be accepted under conditions prescribed by the FCC.

**Critical directional antenna**—An AM broadcast directional antenna that is required, by the terms of a station authorization, to be operated with the relative currents and phases within the antenna elements at closer tolerances of deviation than those permitted under §73.62 and observed with a high precision monitor capable of measuring these parameters.

**Critical hours**—The two hour period immediately following local sunrise and the two hour period immediately preceding local sunset.

**Daytime**—The period of time between local sunrise and local sunset.

**Dominant station**—A Class I station, as defined in §73.21.

**Effective field; Effective field strength**—The root-mean-square (RMS) value of the inverse distance fields at a distance of 1 kilometer from the antenna in all directions in the horizontal plane. The term "field strength" is synonymous with the term "field intensity" as contained elsewhere in this Part.

**Equipment performance measurements**—The measurements performed to determine the overall performance characteristics of a broadcast transmission system from point of program origination at main studio to sampling of signal as radiated.

**Experimental period**—The time between 12 midnight local time and local sunrise, used by AM stations for tests, maintenance and experimentation.

**Frequency departure**—The amount of variation of a carrier frequency or center frequency from its assigned value.

**Incidental phase modulation**—The peak phase deviation (in radians) resulting from the process of amplitude modulation.

**Input power**—The product of the direct voltage applied to the last radio stage and the total direct current flowing to the last radio stage, measured without modulation.

**Intermittent service area**—The area receiving service from the groundwave of a broadcast station but beyond the primary service area and subject to some interference and fading.

**Last radio stage**—The radio-frequency power amplifier stage which supplies power to the antenna.

**Left (or right) signal**—The electrical output of a microphone, or combination of microphones, placed so as to convey the intensity, time, and location of sounds originated predominantly to the listener's left (or right) of the center of the performing area.

**Left (or right) stereophonic channel**—The left (or right) signal as electrically reproduced in reception of AM stereophonic broadcasts.

**Main channel**—The band of audio frequencies from 50 to 15,000 hz, in which amplitude modulates the carrier.

**Maximum percentage of modulation**—The greatest percentage of modulation that may be obtained by a transmitter without producing in its output harmonics of the modulating frequency in excess of those permitted by these regulations.

**Maximum rated carrier power**—The maximum power at which the transmitter can be operated satisfactorily and is determined by the design of the transmitter and the type and number of vacuum tubes or other amplifier devices used in the last radio stage.

**Modulated stage**—The radio frequency stage to which the modulator is coupled and in which the continuous wave (carrier wave) is modulated in accordance with the system of modulation and the characteristics of the modulating wave.

**Modulator stage**—The last amplifier stage of the modulating wave which modulates in a radio-frequency stage.

**Nighttime**—The period of time between local sunset and local sunrise.

**Nominal power**—The antenna input power less any power loss through a dissipative network and, for directional antennas, without consideration of adjustments specified in subparagraphs (b)(1) and (b)(2) of §73.51 of the rules. However, for AM broadcast appli-

cations granted or filed before June 3, 1985, nominal power is specified in a system of classifications which include the following values: 50 kW, 25 kW, 10kW, 5kW, 2.5 kW, 1 kW, 0.5 kW and 0.25 kW. The specified nominal power for any station in this group of stations will be retained until action is taken on or after June 3, 1985, which involves a change in the technical facilities of the station.

**Plate modulation**—The modulation produced by introduction of the modulating wave into the plate circuit of any tube in which the carrier frequency wave is present.

**Primary service area**—The service area of a broadcast station in which the groundwave is not subject to objectionable interference or objectionable fading.

**Proof of performance measurements or antenna proof of performance measurements**—The measurements of field strengths made to determine the radiation pattern or characteristics of an AM directional antenna system.

**Secondary service area**—The service area of a broadcast station served by the skywave and not subject to objectionable interference and in which the signal is subject to intermittent variations in strength.

**Secondary AM station**—Any AM station, except a Class I station, operating on a Class I frequency.

**Stereophonic channel**—The band of audio frequencies from 200 to 15,000 Hz containing the stereophonic information which modulates the radio frequency carrier.

**Stereophonic crosstalk**—An undesired signal occurring in the main channel from modulation of the stereophonic channel or that occurring in the stereophonic channel from modulation of the main channel.

**Stereophonic pilot tone**—An audio tone of fixed or variable frequency modulating the carrier during the transmission of stereophonic programs.

**Stereophonic separation**—The ratio of the electrical signal caused in the right (or left) stereophonic channel to the electrical signal caused in the left (or right) stereophonic channel by the transmission of only a right (or left) signal.

**Sunrise and sunset**—For each particular location and during any particular month, the time of sunrise and sunset as specified in the instrument of authorization (see §73.1209).

**White area**—The area or population which does not receive interference-free primary service from an authorized AM station or does not receive a signal strength of at least 1 mv/m from an authorized FM station.

### In AM, FM, TV rules ...

**§73.1530 Portable test stations.** A portable test station is one that is moved from place to place for making field strength and ground conductivity measurements, for selecting station transmitter sites, and conducting other specialized propagation tests. Portable test stations are not normally used while in motion, and may not be used for the transmission of programs intended to be received by the public.

**§73.1700 Broadcast day.** The term broadcast day means that period of time between the station's sign-on and its sign-off.

**§73.1720 Daytime.** Operation is permitted during the hours between average monthly local sunrise and average monthly local sunset.

(a) The controlling times for each month of the year are stated in the station's instrument of authorization. Uniform sunrise and sunset times are specified for all of the days of each month, based upon actual times of sunrise and sunset for the fifteenth day of the month adjusted to the nearest quarter hour. Sunrise and sunset times are derived by using the standardized procedure and tables in the 1946 American Nautical Almanac issued by the United States Naval Observatory.

## Allocations

### In AM rules ...

**§73.21 Classes of AM broadcast channels and stations.** (a) Clear channel: A clear channel is one on which the dominant station or stations render service over wide areas, and which are cleared of objectionable

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interference within their primary service areas and over all or a substantial portion of their secondary service areas. Stations operating on these channels are classified as follows:

(1) Class I station: A Class I station is a dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Its primary service area is free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area free from interference except from stations on adjacent channels, and from stations on the same channel in accordance with the channel designation in §73.25 or §73.182. The operating power shall not be less than 10 kilowatts nor more than 50 kilowatts. (Also see §73.25 [a] for further power limitation.)

(2) Class II station: A Class II station is a secondary station which operates on a clear channel (see §73.25) and is designated to render service over a primary service area which is limited by, and subject to, such interference as may be received from Class I stations. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference with Class I stations and with other Class II stations, in accordance with §73.182 (and §73.22 in the case of Class II-A stations). Class II stations are divided into five groups:

(i) Class II-A station: A Class II-A station is an unlimited time Class II station operating on one of the clear channels listed in §73.22 and assigned to a community within a state specified in the Table contained in that section. A Class II-A station shall operate with power of not less than 10 kilowatts nighttime nor more than 40 kilowatts at any time.

(ii) Class II-B station: A Class II-B station is an unlimited time Class II station other than those included in Class II-A, II-C, and II-S. Except as subparagraphs (a) (2)(ii)(A) and (B) of this section provide otherwise, a Class II-B station shall operate with a power not less than 0.25 kW nor more than 50 kW.

(A) Class II-B stations authorized before June 1, 1985, to operate on any of the 25 Class I channels listed in §73.25(a) shall operate with the powers authorized as of June 1, 1980, or such other power as the Commission may subsequently authorize. Class II-B stations on these channels authorized after June 1, 1980, in the contiguous 48 states, must meet the requirements for primary service set out in §73.37(d)(2)(i).

(B) Class II-B stations authorized before June 3, 1985, to operate on any of the 14 channels listed in §73.25(c) shall operate with the powers authorized as of June 3, 1985, or such other power as the Commission may subsequently authorize during Stage 3 of the process described in §73.357(d)(4).

(C) The nighttime power of Class II-B stations which are authorized after June 1, 1980, to operate in any of the contiguous 48 states on any of the Class I channels listed in §73.25(a), and which do not meet the requirements for primary service set out in §73.37(e)(2)(i), shall not exceed 1 kW.

(D) Class II-B stations which are authorized after June 1, 1980, to operate in any of the contiguous 48 states on any of the Class I channels listed in §73.25(a), and which meet the requirements for primary service set out in §73.37(e)(2)(i), shall operate with power not less than 250 watts nor more than 50 kW.

(iii) Class II-C station: A Class II-C station is an unlimited time Class II station which operates with a daytime power of not less than 0.25 kW nor more than 50 kW and a nighttime power of not less than 0.25 kW nor more than 1 kW as follows:

(A) Class II-C stations authorized after June 1, 1980, on the 25 channels listed in §73.25(a) are those which do not meet the requirements for primary service set out in §73.37(e)(2)(i).

(B) Class II-C stations authorized after June 3, 1985, on the 14 channels listed in §73.25(c) or which operate for the first time on one of such channels after that date.

(iv) Class II-D station: A Class II-D station is a Class II station operating daytime or limited time. A Class II-D station shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts.

(v) Class II-S stations: Class II-S stations are former Class II-D stations which have been authorized limited power operation during nighttime on the 14 channels listed in §73.25(c). Class II-S stations operate with power less than 250 watts nighttime without protection from interference.

(b) Regional channel: A regional channel is one on which several stations may operate with powers set out in subparagraphs (1) and (2) of this paragraph. The service area of a station operating on a regional channel may be limited to a given field strength contour as a result of interference.

(1) Class III station: A Class III station operates on a

regional channel and is designed to render service primarily to a principal center of population and the rural area contiguous thereto. Except as provided in subparagraph (b)(2) of this section, a Class III station operates with a power not less than 0.5 kW and not more than 5 kW.

(2) Class III stations in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands are permitted a maximum power of 50 kW day or night. Until the North American Regional Broadcasting Agreement (NARBA) is terminated with respect to the Bahama Islands and the Dominican Republic, radiation toward those countries, respectively, from a Class III station in Puerto Rico or the Virgin Islands may not exceed the level that would be produced by an omnidirectional antenna with a transmitter power of 5 kW, or such lower level as will comply with NARBA requirements for protection of stations in the Bahama Islands and the Dominican Republic against objectionable interference.

(c) Local channel: A local channel is one on which several stations operate unlimited time with powers no greater than provided in this paragraph. The primary service area of a station operating on a such channel may be reduced as a consequence of interference. Such stations operate with power no greater than 1 kW daytime or nighttime.

(1) Class IV station: A Class IV station is a station operating on a local channel and designed to render service primarily to a community and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.25 kilowatt, nor more than 1 kilowatt, and its primary service area is subject to interference in accordance with §73.182. Stations which are licensed to operate with 0.1 kilowatt may continue to do so.

NOTE 1: All authorizations of new or changed Class I-B, Class II-B, Class II-D, Class III or Class IV facilities after October 30, 1961, are subject to whatever interference may be received from, or whatever overlap of 2.0 mv/m and 25 mv/m groundwave contours may be involved with previously or subsequently authorized Class II-A facilities.

NOTE 2: The following table indicates the international classes of AM broadcasting stations with which the domestic classes of stations set out in the previous paragraphs of this section correspond:

International Classes of AM Stations	Corresponding U.S. Classes of AM Stations	Classes of Chan. Avail. in U.S. for Each Station Class
Class A	I-A	Clear Channels
	I-B	Clear Channels
	I-C	Clear Channels
Class B	II	Clear Channels
	II-A	Clear Channels
	II-B	Clear Channels
	II-C	Clear Channels
	II-D	Clear Channels
Class C	II-S	Clear Channels
	III	Regional Channels
	IV	Local Channels

## §73.22 Assignment of Class II-A stations.

(a) Table of assignments. One Class II-A station may be assigned on each channel listed in the following table within the designated state or states:

Channel (khz)	Location of Existing Class I Station	State(s) in Which Class II-A Assignment May Be Applied For
670	Chicago	Idaho
720	Chicago	Nev. or Idaho
770	New York	N.M.
780	Chicago	Nev.
880	New York	N.D., S.D., Neb.
890	Chicago	Utah
1020	Pittsburgh	N.M.
1030	Boston	Wyo.
1100	Cleveland	Colo.
1120	St. Louis	Calif. or Ore.
1180	Rochester	Mont.
1210	Philadelphia	Kan., Neb. or Okla.

(b) Minimum service to "white" areas. No Class II-A station shall be assigned unless at least 25% of its nighttime interference-free service area, or at least

25% of the population residing therein, receives no other interference-free nighttime primary service.

(c) Power. Class II-A stations shall operate with not less than 10 kw power nighttime.

(d) Protection: (1) Protection by Class II-A stations to other stations. The co-channel Class I-A station shall be protected by the Class II-A station to its 0.1 mv/m contour daytime and its 0.5 mv/m 50% skywave contour nighttime. The 0.1 mv/m groundwave the Class I-N station does not develop a 0.1 mv/m 50% skywave signal. All other stations of any class contour of a Class I-N station is to be protected in those azimuths in which authorized on or before October 30, 1961, shall normally receive protection from objectionable interference from Class II-A stations as provided in §73.182.

(2) Protection to Class II-A stations. A Class II-A station shall normally receive daytime protection to its 0.5 mv/m groundwave contour and nighttime protection to the contour to which it is limited by the co-channel Class I-A station.

(e) Applications not complying with this section. Applications for Class II-A stations which do not meet the requirements of paragraphs (b) and (c) of this section will be returned without further consideration.

**§73.24 Broadcast facilities; showing required.** An authorization for a new standard broadcast station, or increase in facilities of an existing station, will be issued only after a satisfactory showing has been made in regard to the following, among others:

(a) That the proposed assignment will tend to effect a fair, efficient and equitable distribution of radio service among the several states and communities.

(b) That a proposed new station (or a proposed change in the facilities of an authorized station) complies with the pertinent requirements of §73.37.

NOTE: With respect to new Class II-A stations, or to stations for which applications were accepted for filing before July 13, 1964, the provisions of NOTE 1 of §73.37 of this chapter shall apply. Special provisions concerning interference from Class II-A stations to stations of other classes authorized after October 30, 1961 are contained in §73.22(d) of this chapter and NOTE 3 to §73.21 of this chapter. The level of interference shall be computed pursuant to §73.182 and §73.186 of this chapter.

(c) That the applicant is financially qualified to construct and operate the proposed station.

(d) That the applicant is legally qualified. That the applicant (or the person or persons in control of an applicant corporation or other organization) is of good character and possesses other qualifications sufficient to provide a satisfactory public service.

(e) That the technical equipment proposed, the location of the transmitter, and other technical phases of operation comply with the regulations governing the same, and the requirements of good engineering practice. (See technical regulations of this subpart and §73.188.)

(f) That the facilities sought are subject to assignment as requested under existing international agreements and the rules and regulations of the Commission.

(g) That the population within the 1 m/v contour does not exceed 1.0 percent of the population within the 25 mv/m contour: Provided, however, that where the number of persons within the 1 m/v contour is 300 or less the provisions of this subparagraph are not applicable.

(h) That, in the case of an application for a Class II station, the proposed station would radiate, during two hours following local sunrise and two hours preceding local sunset, in any direction toward the 0.1 mv/m ground wave contour of a co-channel United States Class I-A or I-B station, no more than the maximum radiation values permitted under the provisions of §738.187.

(i) That, in the case of an application for a Class II-A station (see §73.22), 25% or more of the area of population within the nighttime interference-free service contour of the proposed station receives no nighttime interference-free primary service from another station.

(j) That the 5 mv/m contour (or, at night, the interference-free contour, if of a higher field strength) encompasses the entire principal community to be served. For Class II-C and II-S stations on the 14 frequencies listed in §73.24(c), it is not necessary to demonstrate the ability to provide such coverage during nighttime operation.

(k) That the public interest, convenience and necessity will be served through the operation under the proposed assignment.

**§73.25 Clear channels: Classes I and II stations.** The frequencies in the following tabulations are designated as clear channels and assigned for use by the classes of stations given:

(a) On each of the following channels, one Class I-A station will be assigned, operating with power of 50 kw:

640, 650, 660, 670, 700, 720, 750, 760, 770, 780, 820, 830, 840, 870, 880, 890, 1020, 1030, 1040, 1100, 1120, 1160, 1180, 1200 and 1210 khz. In addition, on the channels listed in this paragraph, Class II stations may be assigned as follows:

(1) On 670, 720, 770, 780, 880, 890, 1020, 1030, 1100, 1120, 1180 and 1210 khz, one Class II-A unlimited time station, assigned and located pursuant to the provisions of §73.22; and

(2) On any of the 25 channels listed at the beginning of this paragraph:

(i) the unlimited time, limited time, daytime-only, specified hours, and time-sharing Class II stations authorized prior to June 1, 1980, to operate on those channels; and

(ii) additional unlimited time Class II-B and II-C stations authorized after June 1, 1980.

(iii) additional daytime-only Class II stations whose transmitter sites are located inside the 0.5 mv/m 50% nighttime contour of the respective co-channel Class I-A stations.

(b) To each of the following channels there may be assigned Class I and Class II stations: 680, 710, 810, 850, 940, 1000, 1060, 1070, 1080, 1090, 1110, 1130, 1140, 1170, 1190, 1500, 1510, 1520, 1530, 1540, 1550 and 1560 khz.

NOTE: Class I and Class II stations on 1540 khz shall deliver not over 4 uV/m groundwave or 25 uV/m skywave at any point of land in the Bahama Islands, and such stations operating nighttime (i.e., sunset to sunrise at the location of the U.S. station) shall be located not less than 650 miles from the nearest point of land in the Bahama Islands.

(c) For Class II stations on 540, 690, 730, 740, 800, 860, 900, 990, 1010, 1050, 1220, 1540, 1570, and 1580 khz. Effective June 1, 1985, no applications for new Class II-D stations will be accepted on these channels.

**§73.26 Regional channels: Class III stations.** (a) The following frequencies are designated as regional channels and are assigned for use by Class III and Class III-S stations: 550, 560, 570, 580, 590, 600, 610, 620, 630, 790, 910, 920, 930, 950, 960, 970, 980, 1150, 1250, 1260, 1270, 1280, 1290, 1300, 1310, 1320, 1330, 1350, 1360, 1370, 1380, 1390, 1410, 1420, 1430, 1440, 1460, 1470, 1480, 1590, and 1600 khz.

(b) Additionally, in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands the frequencies 1230, 1240, 1340, 1400, 1450 and 1490 kHz are designated as regional channels, and are assigned for use by Class III stations. Stations formerly licensed to use by Class III stations. Stations in those locations as Class IV stations are redesignated as Class III stations.

(c) No application for new daytime-only stations will be accepted on the channels listed in paragraph (a) of this section.

**§73.27 Local Channels; Class IV stations.** Within the coterminous 48 states, the following frequencies are designated as local channels and are assigned for use by Class IV stations: 1230, 1240, 1340, 1400, 1450, and 1490 khz.

**§73.28 Assignments of stations to channels.** (a) With respect to applications for new Class II-A stations, and other applications accepted for filing before July 13, 1964, the individual assignments of stations to channels which may cause interference to other United States stations only shall be made in accordance with the provisions of this part for the respective classes of stations involved. (For determining objectionable interference, see §73.22, and §73.182 through §73.186.)

(b) The Commission will not make an AM station assignment that does not conform with international requirements and restrictions on spectrum use that the United States has accepted as a signatory to treaties, conventions, and other international agreements. See §73.1650 of this chapter for a list of pertinent treaties, conventions and agreements, and §73.3570 for procedural provisions relating to compliance with them.

(c) Engineering standards now in force domestically differ in some respects from those specified for international purposes. The engineering standards specified for international purposes (see §73.1650, International Agreements) will be used to determine: (1) The extent to which interference might be caused by a proposed station in the United States to a station in another country; and (2) whether the United States should register an objection to any new or changed assignment notified by another country. The domestic standards in effect in the United States will be used to determine the extent to which interference exists or would exist from a foreign station where the value of such interference enters into a calculation of: (1) the service to be rendered by a proposed operation in the United States; or (2) the permissible interfering signal from one station in the United States to another United States station.

**§73.29 Class IV stations on regional channels.** No license will be granted for the operation of a Class IV station on a regional channel.

*In FM rules ...*

**§73.201. Numerical designation of FM broadcast channels.** The FM broadcast band consists of that portion of the radio frequency spectrum between 88 megacycles per second (MHz) and 108 MHz. It is divided into 100 channels of 200 kHz each. For convenience, the frequencies available for FM broadcasting (including those assigned to noncommercial educational broadcasting) are given numerical designations which are shown in the table below:

Freq	Ch. No	Freq	Ch. No
88.1 mhz	201	98.1 mhz	251
88.3 mhz	202	98.3 mhz	252
88.5 mhz	203	98.5 mhz	253
88.7 mhz	204	98.7 mhz	254
88.9 mhz	205	98.9 mhz	255
89.1 mhz	206	99.1 mhz	256
89.3 mhz	207	99.3 mhz	257
89.5 mhz	208	99.5 mhz	258
89.7 mhz	209	99.7 mhz	259
89.9 mhz	210	99.9 mhz	260
90.1 mhz	211	100.1 mhz	261
90.3 mhz	212	100.3 mhz	262
90.5 mhz	213	100.5 mhz	263
90.7 mhz	214	100.7 mhz	264
90.9 mhz	215	100.9 mhz	265
91.1 mhz	216	101.1 mhz	266
91.3 mhz	217	101.3 mhz	267
91.5 mhz	218	101.5 mhz	268
91.7 mhz	219	101.7 mhz	269
91.9 mhz	220	101.9 mhz	270
92.1 mhz	221	102.1 mhz	271
92.3 mhz	222	102.3 mhz	272
92.5 mhz	223	102.5 mhz	273
92.7 mhz	224	102.7 mhz	274
92.9 mhz	225	102.9 mhz	275
93.1 mhz	226	103.1 mhz	276
93.3 mhz	227	103.3 mhz	277
93.5 mhz	228	103.5 mhz	278
93.7 mhz	229	103.7 mhz	279
93.9 mhz	230	103.9 mhz	280
94.1 mhz	231	104.1 mhz	281
94.3 mhz	232	104.3 mhz	282
94.5 mhz	233	104.5 mhz	283
94.7 mhz	234	104.7 mhz	284
94.9 mhz	235	104.9 mhz	285
95.1 mhz	236	105.1 mhz	286
95.3 mhz	237	105.3 mhz	287
95.5 mhz	238	105.5 mhz	288
95.7 mhz	239	105.7 mhz	289
95.9 mhz	240	105.9 mhz	290
96.1 mhz	241	106.1 mhz	291
96.3 mhz	242	106.3 mhz	292
96.5 mhz	243	106.5 mhz	293
96.7 mhz	244	106.7 mhz	294
96.9 mhz	245	106.9 mhz	295
97.1 mhz	246	107.1 mhz	296
97.3 mhz	247	107.3 mhz	297
97.5 mhz	248	107.5 mhz	298
97.7 mhz	249	107.7 mhz	299
97.9 mhz	250	107.9 mhz	300

**§73.202 Table of Allotments.** (a) General. The following Table of Allotments contains the channels (other than noncommercial educational Channels 201-220) designated for use in communities in the United States, its territories, and possessions. All listed channels are for Class B stations in Zones I and I-A and for Class C stations in Zone II unless otherwise specifically designated.

(1) Channels designated with an asterisk may only be used by noncommercial educational broadcast stations. Noncommercial educational FM allotments (Channels 201-220) available for use in various communities in Arizona, California, New Mexico, and Texas are listed in §73.504. The rules governing the use of noncommercial educational channels in other communities are contained in §73.501.

(2) Each channel listed in the Table of Allotments reflects the class of station that is authorized, or has an application filed, to use it based on the minimum and maximum facility requirements for each class contained in §73.211.

NOTE: The provisions of this subparagraph [(a)(2)] become effective March 1, 1987.

(b) Table of FM Allotments. [EDITOR'S NOTE: Channel assignments by cities are reprinted in the AM-FM directory and are not repeated here.]

**§73.203 Availability of channels.** (a) Except as provided for in paragraph (b) of this section, applications may be filed to construct FM broadcast stations only at the communities and on the channels and classes contained in the FM Table of Allotments (§73.202(b)). Applications that fail to comply with this requirement,

whether or not accompanied by a petition to amend the Table, will not be accepted for tender.

(b) In the event a channel becomes available for application on a first come/first served basis, an applicant may propose a lower class channel. Applications for the modification of an existing FM broadcast station may also propose a lower class of channel. In both cases, the applicant need not file a petition for rulemaking to amend the Table of FM Allotments (§73.202(b)) to specify the lower channel class.

**§73.205 Zones.** For the purpose of allotments and assignments, the United States is divided into three zones as follows:

(a) Zone I consists of that portion of the United States located within the confines of the following lines drawn on the United States Albers Equal Area Projection Map (based on standard parallels 29 1/2 and 45 1/2; North American datum); Beginning at the most easterly point on the state boundary line between North Carolina and Virginia; thence in a straight line to a point on the Virginia, West Virginia boundary line located at North Latitude 37 49' and West Longitude 80 12' 30"; thence westerly along the southern boundary lines of the States of West Virginia, Ohio, Indiana, and Illinois to a point at the junction of the Illinois, Kentucky, and Missouri state boundary lines; thence northerly along the western boundary line of the State of Illinois to a point at the junction of the Illinois, Iowa, and Wisconsin state boundary lines; thence, easterly along the northern state boundary line of Illinois to the 90th meridian; thence north along this meridian to the 43.5- parallel; thence east along the parallel to the United States-Canada border; thence southerly and following that border until it again intersects the 43.5- parallel; thence east along this parallel to the 71st meridian; thence in a straight line to the intersection of the 69th meridian and the 45th parallel; thence east along the 45th parallel to the Atlantic Ocean. When any of the above lines pass through a city, the city shall be considered to be located in Zone I. (See Figure I of §73.699 [in complete copy of Rules]).

(b) Zone IA consists of Puerto Rico, the Virgin Islands, and that portion of the state of California which is located south of the 40th parallel.

(c) Zone II consists of Alaska, Hawaii and the rest of the United States which is not located in either Zone I or Zone IA.

**§73.207 Minimum distance separations between stations.** (a) Except for assignments made pursuant to §73.213 or §73.215, FM allotments and assignments must be separated from other allotments and assignments on the same channel (co-channel) and five pairs of adjacent channels by not less than the minimum distances specified in paragraphs (b) and (c) of this section. The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments unless transmitter sites meet the minimum distance separation requirements of this section, or such applications conform to the requirements of §73.213 or §73.215. However, applications to modify the facilities of stations with short-spaced antenna locations authorized pursuant to prior waivers of the distance separation requirements may be accepted, provided that such applications propose to maintain or improve that particular spacing deficiency. Class D (secondary) assignments are subject only to the distance separation requirements contained in paragraph (b)(3) of this section. (See §73.512 for rules governing the channel and location of Class D [secondary] assignments.)

(b) The distances listed in Tables A, B and C apply to allotments and assignments on the same channel and each of five pairs of adjacent channels. The five pairs of adjacent channels are the first (200 kHz above and 200 kHz below the channel under consideration), the second (400 kHz above and below), the third (600 kHz above and below), the fifty-third (10.6 MHz above and below), and the fifty-fourth (10.8 MHz above and below). The distances in the Tables apply regardless of whether the proposed station class appears first or second in the "Relation" column of the table.

(1) Domestic allotments and assignments must be separated from each other by not less than the distances in Table A which follows:

(2) Under the Canada-United States FM Broadcasting Agreement, domestic U.S. allotments and assignments within 320 kilometers (199 miles) of the common border must be separated from Canadian allotments and assignments by not less than the distances given in Table B, which follows. When applying Table B, U.S. Class C2 allotments and assignments are considered to be Class B; also, U.S. Class C3 allotments and assignments and U.S. Class A assignments operating with more than 3 kW ERP and 100 meters antenna HAAT (or equivalent lower ERP and higher antenna

# Federal Communications Commission Rules and Regulations

HAAT based on a class contour distance of 24 km) are considered to be Class B1.

(3) Under the Mexico-United States FM Broadcasting Agreement, domestic U.S. allotments and assignments within 320 kilometers (199 miles) of the common border must be separated from Mexican allotments and assignments by not less than the distances given in Table C, which follows. When applying Table C, U.S. Class C2, C3 and B1 allotments and assignments are considered to be Class B; U.S. Class C1 allotments and assignments are considered to be Class C; also, U.S. Class A assignments operating with more than 3 kW ERP and 91 meters antenna height above average terrain (or equivalent lower ERP and higher antenna HAAT based on Annex IV of the Agreement) are considered to be Class B.

(c) The distances listed below apply only to allotments and assignments on Channel 253 (98.5 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any TV Channel 6 allotment or assignment are not met:

### Minimum Distance Separation from TV Channel 6 (82-88 mhz)

FM Class	TV Zone I	TV Zones II & III
A	17	22
B1	19	23
B	22	26
C3	19	23
C2	22	26
C1	29	33
C	36	41

**§73.210 Station classes.** (a) The rules applicable to a particular station, including minimum and maximum facilities requirements, are determined by its class. Possible class designations depend upon the zone in which the station's transmitter is located. The zones are defined in §73.205. Allotted station classes are indicated in the Table of Allotments, §73.202. Class A, B1 and B stations may be authorized in Zones I and I-A. Class A, C3, C2, C1 and C stations may be authorized in Zone II.

(b) The power and antenna height requirements for each class are set forth in §73.211. If a station has an ERP and an antenna HAAT such that it cannot be classified using the maximum limits and minimum requirements in §73.211, its class shall be determined using the following procedure:

(1) Determine the reference distance of the station using the procedure in paragraph (b)(1)(i) of §73.211. If this distance is less than or equal to 28 km, the station is Class A; otherwise,

(2) For a station in Zone I or Zone I-A, except for Puerto Rico and the Virgin Islands:

(i) If this distance is greater than 28 km and less than or equal to 39 km, the station is Class B1.

(ii) If this distance is greater than 39 km and less than or equal to 52 km, the station is Class B.

(3) For a station in Zone II:

(i) If this distance is greater than 28 km and less than or equal to 39 km, the station is Class C3.

(ii) If this distance is greater than 39 km and less than or equal to 52 km, the station is Class C2.

(iii) If this distance is greater than 52 km and less than or equal to 72 km, the station is Class C1.

(iv) If this distance is greater than 72 km and less than or equal to 92 km, the station is Class C.

(4) For a station in Puerto Rico or the Virgin Islands:

(i) If this distance is less than or equal to 42 km, the station is Class A.

(ii) If this distance is greater than 42 km and less than or equal to 46 km, the station is Class B1.

(iii) If this distance is greater than 46 km and less than or equal to 78 km, the station is Class B.

### §73.211 Power and antenna height requirements.

(a) Minimum requirements.

(1) Except as provided in paragraphs (a)(3) and (b)(2) of this section, FM stations must operate with a minimum effective radiated power (ERP) as follows:

(i) The minimum ERP for Class A stations is 0.1 kW.

(ii) The ERP for Class B1 stations must exceed 6 kW.

(iii) The ERP for Class B stations must exceed 25 kW.

(iv) The ERP for Class C3 stations must exceed 6 kW.

(v) The ERP for Class C2 stations must exceed 25 kW.

(vi) The ERP for Class C1 stations must exceed 50 kW.

(vii) The minimum ERP for Class C stations is 100 kW.

(2) Class C stations must have an antenna height above average terrain (HAAT) of at least 300 meters (984 feet). No minimum HAAT is specified for Classes A, B1, B, C3, C2, or C1 stations.

(3) Stations of any class except Class A may have an ERP less than that specified in paragraph (a)(1) of this section, provided that the reference distance, determined in accordance with paragraph (b)(1)(i) of this section, exceeds the distance to the class contour for the next lower class. Class A stations may have an ERP less than 100 watts provided that the reference distance, determined in accordance with paragraph (b)(1)(i) of this section, equals or exceeds 6 kilometers.

(b) Maximum limits.

(1) Except for stations located in Puerto Rico or the Virgin Islands, the maximum ERP in any direction, reference HAAT and distance to the class contour for each FM station class are listed below:

Station Class	Maximum ERP	Reference HAAT in meters (ft.)	Class contour distance in kilometers
A	6 kw (7.8 dBk)	100 (328)	28
B1	25 kw (14.0 dBk)	100 (328)	39
B	50 kw (17.0 dBk)	150 (492)	52
C3	25 kw (14.0 dBk)	100 (328)	39
C2	50 kw (17.0 dBk)	150 (492)	52
C1	100 kw (20.0 dBk)	299 (981)	72
C	100 kw (20.0 dBk)	600 (1968)	92

(i) The reference distance of a station is obtained by finding the predicted distance to the 1 mV/m contour using Figure 1 of §73.333 and then rounding to the nearest kilometer. Antenna HAAT is determined using the procedure in §73.313. If the HAAT so determined is less than 30 meters (100 feet), a HAAT of 30 meters must be used when finding the predicted distance to the 1 mV/m contour.

(ii) If a station's ERP is equal to the maximum for its class, its antenna HAAT must not exceed the reference HAAT, regardless of the reference distance. For example, a Class A station operating with 6 kW ERP may have an antenna HAAT of 100 meters, but not 101 meters, even though the reference distance is 28 km in both cases.

(iii) Except as provided in paragraph (b)(3) of this section, no station will be authorized in Zone I or I-A with an ERP equal to 50 kW and a HAAT exceeding 150 meters. No station will be authorized in Zone II with an ERP equal to 100 kW and a HAAT exceeding 600 meters.

(2) If a station has an antenna HAAT greater than the reference HAAT for its class, its ERP must be lower than the class maximum such that the reference distance does not exceed the class contour distance. If the antenna HAAT is so great that the station's ERP must be lower than the minimum ERP for its class (specified in paragraphs (a)(1) and (a)(3) of this section), that lower ERP will become the minimum for that station.

(3) For stations located in Puerto Rico or the Virgin Islands, the maximum ERP in any direction, reference HAAT, and distance to the class contour for each FM station class are listed below:

Station Class	Maximum ERP	Reference HAAT in meters (ft.)	Class contour distance in kilometers
A	6 kw (7.8 dBk)	240 (787)	42
B1	25 kw (14.0 dBk)	150 (492)	46
B	50 kw (17.0 dBk)	472 (1549)	78

(c) Existing stations. Stations authorized prior to March 1, 1984, that do not conform to the requirements of this section, may continue to operate as authorized. Stations operating with facilities in excess of those specified in paragraph (b) of this section may not increase their effective radiated powers or extend their 1 mV/m field strength contour beyond the location permitted by their present authorizations. The provisions of this section will not apply to applications to increase facilities for those stations operating with less than the minimum power specified in paragraph (a) of this section.

**§73.213 Grandfathered short-spaced stations.** (a) Stations at locations authorized prior to November 16, 1964, that did not meet the separation distances required by §73.207 and have remained short-spaced since that time may be modified or relocated provided that the predicted distance to the 1 mV/m field strength contour is not extended toward the 1 mV/m field

strength contour of any short-spaced station. Mutual increase in the facilities of such stations up to the limits set forth in §73.211 may be permitted pursuant to an agreement between the affected stations and a showing of public interest. See §73.4235.

(b) Stations at locations authorized prior to May 17, 1989, that did not meet the IF separation distances required by §73.207 and have remained short-spaced since that time may be modified or relocated provided that the overlap area of the two stations' 36 mV/m field strength contours is not increased.

(c) Short spacings involving at least one Class A allotment or authorization. Stations that became short-spaced on or after November 16, 1964, (including stations that do not meet the minimum distance separation requirements of paragraph (c)(1) of this section and that propose to maintain or increase their existing distance separations) may be modified or relocated in accordance with paragraph (c)(1) or (c)(2) of this section, except that this provision does not apply to stations that became short spaced by grant of applications filed after October 1, 1989, or filed pursuant to §73.215. If the reference coordinates of an allotment are short spaced to an authorized facility or another allotment (as a result of the revision of §73.207 in the Second Report and Order in MM Docket No. 88-375), an application for the allotment may be authorized, and subsequently modified after grant, in accordance with paragraph (c)(1) or (c)(2) of this section only with respect to such short spacing. No other stations will be authorized pursuant to these paragraphs.

(1) Applications for authorization under requirements equivalent to those of prior rules. Each application for authority to operate a Class A station with no more than 3000 watts ERP and 100 meters antenna HAAT (or equivalent lower ERP and higher antenna HAAT based on a class contour distance of 24 km) must specify a transmitter site that meets the minimum distance separation requirements in this paragraph. Each application for authority to operate a Class A station with more than 3000 watts ERP (up to a maximum of 5800 watts) but with an antenna HAAT lower than 100 meters such that the distance to the predicted 0.05 mV/m (34 dB uV/m) F(50,10) field strength contour does not exceed 98 km must specify a transmitter site that meets the minimum distance separation requirements in this paragraph. Each application for authority to operate an FM station of any class other than Class A must specify a transmitter site that meets the minimum distance separation requirements in this paragraph with respect to Class A stations operating pursuant to this paragraph or paragraph (c)(2) of this section, and that meets the minimum distance separation requirements of §73.207 with respect to all other stations.

(2) Applications for authorization of Class A facilities greater than 3000 watts ERP and 100 meters HAAT. Each application to operate a Class A station with an ERP and HAAT such that the reference distance would exceed 24 kilometers must contain an exhibit demonstrating the consent of the licensee of each co-channel, first, second, or third adjacent channel station (for which the requirements of §73.207 are not met) to a grant of that application. Each such application must specify a transmitter site that meets the applicable IF-related channel distance separation requirements of §73.207. Applications that specify a new transmitter site which is short-spaced to an FM station other than another Class A station which is seeking a mutual increase in facilities may be granted only if no alternative fully-spaced site or less short-spaced site is available. Licensees of Class A stations seeking mutual increases in facilities need not show that a fully-spaced site or less short-spaced site is available. Applications submitted pursuant to the provisions of this paragraph may be granted only if such action is consistent with the public interest.

**§73.215 Contour protection for short-spaced assignments.** The Commission will accept applications that specify short-spaced antenna locations (locations that do not meet the domestic co-channel and adjacent channel minimum distance separation requirements of §73.207); provided that, such applications propose contour protection, as defined in paragraph (a) of this section, with all short-spaced assignments, applications and allotments, and meet the other applicable requirements of this section. Each application to be processed pursuant to this section must specifically request such processing on its face, and must include the necessary exhibit to demonstrate that requisite contour protection will be provided. Such applications may be granted when the Commission determines that such action would serve public interest, convenience, and necessity.

(a) Contour protection. Contour protection, for the purpose of this section, means that on the same channel and on the first, second and third adjacent channels,

the predicted interfering contours of the proposed station do not overlap the predicted protected contours of other short-spaced assignments, applications and allotments, and the predicted interfering contours of other short-spaced assignments, applications and allotments do not overlap the predicted protected contour of the proposed station.

(1) The protected contours, for the purpose of this section, are defined as follows: For all Class B and B1 stations on Channels 221 through 300 inclusive, the F(50,50) field strengths along the protected contours are 0.5 mV/m (54 dBu) and 0.7 mV/m (57 dBu), respectively. For all other stations, F(50,50) field strength along the protected contour is 1.0 mV/m (60 dBu).

(2) The interfering contours, for the purpose of this section, are defined as follows: For co-channel stations, the F(50,10) field strength along the interfering contour is 20 dB lower than the F(50,50) field strength along the protected contour for which overlap is prohibited.

For first adjacent channel stations (+/-200 kHz), the F(50,10) field strength along the interfering contour is 6 dB lower than the F(50,50) field strength along the protected contour for which overlap is prohibited. For second adjacent channel stations (+/-400 kHz), the F(50,10) field strength along the interfering contour is 20 dB higher than the F(50,50) field strength along the protected contour for which overlap is prohibited. For third adjacent channel stations (+/-600 kHz), the F(50,10) field strength along the interfering contour is 40 dB higher than the F(50,50) field strength along the protected contour for which overlap is prohibited.

(3) The locations of the protected and interfering contours of the proposed station and the other short-spaced assignments, applications and allotments must be determined in accordance with the procedures of paragraphs (c), (d)(2) and (d)(3) of §73.313, using data for as many radials as necessary to accurately locate the contours.

(b) Applicants requesting short-spaced assignments pursuant to this section must take into account the following factors in demonstrating that contour protection is achieved:

(1) The ERP and antenna HAAT of the proposed station in the direction of the contours of other short-spaced assignments, applications and allotments. If a directional antenna is proposed, the pattern of that antenna must be used to calculate the ERP in particular directions. See §73.316 for additional requirements for directional antennas.

(2) The ERP and antenna HAAT of other short-spaced assignments, applications and allotments in the direction of the contours of the proposed station. The ERP and antenna HAATs in the directions of concern must be determined as follows:

(i) For vacant allotments, contours are based on the presumed use, at the allotment's reference point, of the maximum ERP that could be authorized for the station class of the allotment, and antenna HAATs in the directions of concern that would result from a nondirectional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the station class of the allotment.

(ii) For existing stations that were not authorized pursuant to this section, including stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, and for applications not requesting authorization pursuant to this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in §73.211), and the antenna HAATs in the directions of concern that would result from a nondirectional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply (e.g., zoning laws, FAA constraints, application of §73.213).

(iii) For stations authorized pursuant to this section, except stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, contours are based on the use of the authorized ERP in the directions of concern, and HAATs in the directions of concern derived from the authorized standard eight-radial antenna HAAT. For stations with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, authorized under this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in §73.211), and antenna HAATs in the directions of concern that would result from a nondirectional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply.

(iv) For applications containing a request for authorization pursuant to this section, except for applications to continue operation with authorized ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, contours are based on the use of the proposed ERP in the directions of concern, and antenna HAATs in the directions of concern derived from the proposed standard eight-radial antenna HAAT. For applications to continue operation with an ERP that exceeds the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed, if processing is requested under this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in §73.211), and antenna HAATs in the directions of concern that would result from a nondirectional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply.

NOTE: Applicants are cautioned that the antenna HAAT in any particular direction of concern will not usually be the same as the standard eight-radial antenna HAAT or the reference HAAT for the station class.

(c) Applications submitted for processing pursuant to this section are not required to propose contour protection of any assignment, application or allotment for which the minimum distance separation requirements of §73.207 are met, and may, in the directions of those assignments, applications and allotments, employ the maximum ERP permitted by §73.211 for the standard eight-radial antenna HAAT employed.

(d) Stations authorized pursuant to this section may be subsequently authorized on the basis of compliance with the domestic minimum separation distance requirements of §73.207, upon filing of an FCC Form 301 or

**MINIMUM DISTANCE SEPARATION REQUIREMENTS—U.S. STATIONS  
in Kilometers (miles)**

Relation	Co-channel	200 khz	400/600 khz	10.6/10.8 mhz
A to A	115 (71)	72 (45)	31 (19)	10 (6)
A to B1	143 (89)	96 (60)	48 (30)	12 (7)
A to B	178 (111)	113 (70)	69 (43)	15 (9)
A to C3	142 (88)	89 (55)	42 (26)	12 (7)
A to C2	166 (103)	106 (66)	55 (34)	15 (9)
A to C1	200 (124)	133 (83)	75 (47)	22 (14)
A to C	226 (140)	165 (103)	95 (59)	29 (18)
B1 to B1	175 (109)	114 (71)	50 (31)	14 (9)
B1 to B	211 (131)	145 (90)	71 (44)	17 (11)
B1 to C3	175 (109)	114 (71)	50 (31)	14 (9)
B1 to C2	200 (124)	134 (83)	56 (35)	17 (11)
B1 to C1	233 (145)	161 (100)	77 (48)	24 (15)
B1 to C	259 (161)	193 (120)	105 (65)	31 (19)
B to B	241 (150)	169 (105)	74 (46)	20 (12)
B to C3	211 (131)	145 (90)	74 (44)	17 (11)
B to C2	241 (150)	169 (105)	74 (46)	20 (12)
B to C1	270 (168)	195 (121)	79 (49)	27 (17)
B to C	274 (170)	217 (135)	105 (65)	35 (22)
C3 to C3	153 (95)	99 (62)	43 (27)	14 (9)
C3 to C2	177 (110)	117 (73)	56 (35)	17 (11)
C3 to C1	211 (131)	144 (90)	76 (47)	24 (15)
C3 to C	237 (147)	176 (109)	96 (60)	31 (19)
C2 to C2	190 (118)	130 (81)	58 (36)	20 (12)
C2 to C1	224 (139)	158 (98)	79 (49)	27 (17)
C2 to C	249 (155)	188 (117)	105 (65)	35 (22)
C1 to C1	290 (182)	177 (110)	82 (51)	34 (21)
C1 to C	270 (168)	209 (130)	105 (65)	41 (25)
C to C	290 (180)	241 (150)	105 (65)	48 (30)

**MINIMUM DISTANCE SEPARATION REQUIREMENTS—U.S. TO CANADIAN STATIONS  
in Kilometers**

Relation	Adjacent Channels		I.F.	10.6/10.8 mhz	
	Co-channel 0 khz	200 khz	400 khz		
A to A	132	85	45	37	8
A to B1	180	113	62	54	16
A to B	206	132	76	69	16
A to C1	239	164	98	90	32
A to C	242	177	108	100	32
B1 to B1	197	131	70	57	24
B1 to B	223	149	84	71	24
B1 to C1	256	181	106	92	40
B1 to C	259	195	116	103	40
B to B	237	164	94	74	24
B to C1	271	195	115	95	40
B to C	274	209	125	106	40
C1 to C1	292	217	134	101	48
C1 to C	302	230	144	111	48
C to C	306	241	153	113	48

**MINIMUM DISTANCE SEPARATION REQUIREMENTS—U.S. TO MEXICAN STATIONS  
in Kilometers (miles)**

Relation	Co-channel	200 khz	400/600 khz	10.6/10.8 mhz
A to A	105 (65)	65 (40)	25 (15)	8 (5)
A to B	175 (110)	105 (65)	65 (40)	16 (10)
A to C	210 (130)	170 (105)	105 (65)	8 (5)
A to D	95 (60)	50 (30)	25 (15)	8 (5)
B to B	240 (150)	170 (105)	65 (40)	25 (15)
B to C	270 (170)	215 (215)	105 (65)	40 (25)
B to D	170 (105)	95 (60)	65 (40)	16 (10)
C to C	290 (180)	240 (150)	105 (65)	48 (30)
C to D	200 (125)	155 (95)	105 (65)	25 (15)
D to D	18 (11)	10 (6)	5 (3)	3 (2)

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FCC Form 340 (as appropriate) requesting a modification of authorization.

(e) The Commission will not accept applications that specify a short-spaced antenna location for which the following minimum distance separation requirements, in kilometers (miles), are not met:

Relation	Co-channel	200 khz	400/600 khz
A to A	82 (51)	42 (26)	25 (16)
A to B1	119 (74)	66 (41)	46 (29)
A to B	143 (89)	88 (55)	67 (42)
A to C2	143 (89)	846 (52)	53 (33)
A to C1	178 (111)	111 (69)	73 (45)
A to C	203 (126)	142 (88)	93 (58)
B1 to B1	138 (86)	88 (55)	48 (30)
B1 to B	175 (109)	114 (71)	69 (43)
B1 to C2	163 (101)	105 (65)	55 (34)
B1 to C1	200 (124)	134 (83)	74 (46)
B1 to C	233 (145)	169 (105)	105 (65)
B to B	211 (131)	145 (90)	71 (44)
B to C2	200 (124)	134 (83)	69 (43)
B to C1	241 (150)	169 (105)	77 (48)
B to C	270 (168)	195 (121)	55 (34)
C2 to C2	163 (101)	105 (65)	55 (34)
C2 to C1	196 (122)	169 (105)	74 (46)
C2 to C	224 (139)	169 (105)	105 (65)
C1 to C1	224 (139)	158 (98)	79 (49)
C1 to C	249 (155)	188 (117)	105 (65)
C to C	270 (168)	209 (130)	105 (65)

NOTE: Until further notice, the Commission will not accept applications that specify short-spaced antenna locations pursuant to this section wherein the proposed distance separation is less than the normally required distance separation in §73.207 by more than 8 kilometers (5 miles). This temporary restriction will be removed when the Commission determines that available resources are sufficient to allow the timely processing of additional applications proposing short-spaced locations using contour protection.

**§73.220 Restrictions on use of channels.** (a) The Frequency 89.1 mhz (Channel 206) is reserved in the New York City metropolitan area for the use of the United Nations with the equivalent of an antenna height of 150 meters (492 feet) above average terrain and effective radiated power of 20 kilowatts, and the FCC will make no assignments which would cause objectionable interference with such use.

(b) In Alaska, FM broadcast stations operating on Channels 221-300 (92.1-107.9 mhz) shall not cause harmful interference to, and must accept interference from, non-government fixed operations authorized prior to January 1, 1982.

## In Noncommercial FM rules ...

**§73.506 Classes of noncommercial educational FM stations and channels.** (a) Noncommercial educational stations operating on the channels specified in §73.501 are divided into the following classes:

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

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

(3) Noncommercial educational FM (NCE-FM) stations with more than 10 watts transmitter power output are classified as Class A, B1, B, C3, C2, C1, or C depending on the station's effective radiated power and antenna height above average terrain, and on the zone in which the station's transmitter is located, on the same basis as set forth in §73.210 and §73.211 for commercial stations.

(b) Any noncommercial educational station except Class D may be assigned to any of the channels listed in §73.501. Class D noncommercial educational FM stations applied for or authorized prior to June 1, 1980, may continue to operate on their authorized channels subject to the provisions of §73.512.

**§73.507 Minimum distance separations between stations.** (a) Minimum distance separations. No application for a new station, or change in channel or transmitter site or increase in facilities of an existing station, will be granted unless the proposed facilities will be located so as to meet the adjacent channel distance separations specified in §73.207(a) for the class of station involved with respect to assignment on Channels 221, 222, and 223 listed in §73.201 (except where in the case of an existing station the proposed facilities fall within the provisions of §73.207(b)), or where a

Class D station is changing frequency to comply with the requirements of §73.512.

(b) Stations authorized as of September 10, 1962, which do not meet the requirements of paragraph (a) of this section and §73.511, may continue to operate as authorized; but any application to change facilities will be subject to the provision of this section.

(c)(1) Stations separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels) from allotments or assignments on non-reserved channels will not be authorized unless they conform to the separations in Table A given in §73.207.

(2) Under the United States-Mexican FM Broadcasting Agreement, for stations and assignments differing in frequency by 10.6 to 10.8 MHz (53 or 54 channels), U.S. noncommercial educational FM allotments and assignments must meet the separations given in Table C of §73.207 to Mexican allotments or assignments in the border area.

## In TV rules ...

**§73.603. Numerical designation of television channels.** (a)

Chan. No.	Freq. Band (Mega-cycles)	Chan. No.	Freq. Band (Mega-cycles)
2	54-60	43	644-650
3	60-66	44	650-656
4	66-72	45	656-662
5	72-78	46	662-668
6	82-88	47	668-674
7	174-180	48	674-680
8	180-186	49	680-686
9	186-192	50	686-692
10	192-198	51	692-698
11	198-204	52	698-704
12	204-210	53	704-710
13	210-216	54	710-716
14	470-476	55	716-722
15	476-482	56	722-728
16	482-488	57	728-734
17	488-494	58	734-740
18	494-500	59	740-746
19	500-506	60	746-752
20	506-512	61	752-758
21	512-518	62	758-764
22	518-524	63	764-770
23	524-530	64	770-776
24	530-536	65	776-782
25	536-542	66	782-788
26	542-548	67	788-794
27	548-554	68	794-800
28	554-560	69	800-806
29	560-566	70	806-812
30	566-572	71	812-818
31	572-578	72	818-824
32	578-584	73	824-830
33	584-590	74	830-836
34	590-596	75	836-842
35	596-602	76	842-848
36	602-608	77	848-854
37	608-614	78	854-860
38	614-620	79	860-866
39	620-626	80	866-872
40	626-632	81	872-878
41	632-638	82	878-884
42	638-644	83	884-890

(b) In Alaska, television broadcast stations operating on Channel 5 (76-82 mhz) and on Channel 6 (82-88 mhz) shall not cause harmful interference and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

(c) Channel 37, 608-614 mhz, is reserved exclusively for the radio astronomy service.

(d) In Hawaii, the frequency band 488-494 mhz is allocated for non-broadcast use. This frequency band

(Channel 17) will not be assigned in Hawaii for use by television broadcast stations.

**§73.606. Table of Assignments.** (a) The following Table of Assignments contains the channels assigned to the listed communities in the United States, its territories, and possessions. Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only. A station on a channel identified by a plus or a minus mark is required to operate with its carrier frequencies offset 10 khz above or below, respectively, the normal carrier frequencies.

(b) Table of Allotments. (EDITOR'S NOTE: Channel assignments by cities are reprinted in the TV directory and are not repeated here.)

**§73.607 Availability of channels.** (a) Applications may be filed to construct television broadcast stations only on the channels assigned in the Table of Allotments (§73.606(b)) and only in the communities listed therein. Applications which fail to comply with this requirement, whether or not accompanied by a petition to amend the Table, will not be accepted for filing. However, applications specifying channels which accord with publicly announced FCC orders changing the Table of Allotments will be accepted for filing even though such applications are tendered before the effective dates of such channel changes.

(b) [Deleted; see note below]. A channel assigned to a community listed in the Table of Assignments is available upon application in any unlisted community which is located within 15 miles of the listed community. In addition, a channel assigned to a community listed in the Table of Assignments and not designated for use by noncommercial educational stations only, is available upon application in any other community within 15 miles thereof which, although listed in the table, is assigned only a channel designated for use only by non-commercial educational stations. Where channels are assigned to two or more communities listed in combination in the Table of Assignments, the provisions of this paragraph shall apply separately to each community so listed. The distance between communities shall be determined by the distance between the respective coordinates thereof as set forth in the publication of the United States Department of Commerce entitled Air Line Distances Between Cities in the United States. (This publication may be purchased from the Government Printing Office, Washington, D.C.) If said publication does not contain the coordinates of either or both communities, the coordinates of the main post office in either or both of such communities shall be used. The method to be followed in making the measurements is set forth in §73.611(d).

(EDITOR'S NOTE: Subsection (b) was deleted by order adopted 2-17-83 (Docket No. 82-320). Applications on file on the date of adoption will be processed under the former rule; all applications filed after that date will be accepted only if tendered as valid competing applications to applications already found acceptable by the staff under the rule.)

**§73.609. Zones.** (a) For the purpose of allotment and assignment, the United States is divided into three zones as follows:

(1) Zone I consists of that portion of the United States located within the confines of the following lines drawn on the United States Albers Equal Area Projection Map (based on standard parallels 29 1/2 and 45 1/2; North American datum). Beginning at the most easterly point on the state boundary line between North Carolina and Virginia; thence a straight line to a point on the Virginia-West Virginia boundary line located at North Latitude 37 49' and West Longitude 80 12' 30"; thence westerly along the southern boundary lines of the states of West Virginia, Ohio, Indiana and Illinois to a point at the junction of the Illinois, Kentucky, and Missouri state boundary lines; thence northerly along the western boundary line of the state of Illinois to a point at the junction of the Illinois, Iowa, and Wisconsin state boundary lines; thence easterly along the northern state boundary line

## Minimum Distance Separation Requirements in kilometers (miles)

Relation	Co-channel	200 khz	400/600 khz	10.6/10.8 mhz
A to A	105 (65)	64 (40)	27 (17)	8 (5)
A to B1	138 (86)	88 (55)	48 (30)	11 (6)
A to B	163 (101)	105 (65)	69 (43)	14 (9)
A to C3	138 (86)	84 (52)	42 (26)	11 (6)
A to C2	163 (101)	105 (65)	55 (34)	14 (9)
A to C1	960 (122)	129 (80)	74 (46)	21 (13)
A to C	222 (138)	161 (100)	94 (58)	28 (17)

of Illinois to the 90th meridian; thence north along this meridian to the 43.5 parallel; thence east along this parallel to the United States-Canada border; thence southerly and following that border until it again intersects the 43.5 parallel; thence east along this parallel to the 71st meridian; thence in a straight line to the intersection of the 69th meridian and the 45th parallel; thence east along the 45th parallel; to the Atlantic Ocean. When any of the above lines pass through a

city, the city shall be considered to be located in Zone I. (See Figure 1 of §73.699).

(2) Zone II consists of that portion of the United States which is not located in either Zone I or Zone III, and Puerto Rico, Alaska, Hawaiian Islands and the Virgin Islands.

(3) Zone III consists of that portion of the United States located south of a line, drawn on the United States Albers Equal Area Projection Map (based on standard

parallels 29 1/2 and 45 1/2; North American datum), beginning at a point on the east coast of Georgia and the 31st parallel and ending at the United States-Mexican border, consisting of arcs drawn with a 241.4 kilometer (150 mile) radius to the north from the following specified points:

North Latitude	West Longitude
a) 29° 40' 00"	83° 24' 00"
b) 30° 07' 00"	84° 12' 00"
c) 30° 31' 00"	86° 30' 00"
d) 30° 48' 00"	87° 58' 30"
e) 30° 00' 00"	90° 38' 30"
f) 30° 04' 30"	93° 19' 00"
g) 29° 46' 00"	95° 05' 00"
h) 28° 43' 00"	96° 30' 30"
i) 27° 52' 30"	97° 32' 00"

Table IV of Sec. 73.698—UHF Mileage Separations

(1)	(2) 20 miles (I.F. beat)	(3) 20 miles (Intermod- ulation)-	(4) 55 miles (Adjacent channel)	(5) 60 miles (Oscil- lator)	(6) 60 miles (Sound image)	(7) 75 miles (Picture image)
14	22	16-19	15	21	29	30
15	23	17-20	14. 16	22	29	30
16	24	14, 18-21	15. 17	23	30	31
17	25	14-15, 19-22	16. 18	24	31	32
18	26	14-16, 20-23	17. 19	25	32	33
19	27	14-17, 21-24	18. 20	26	33	34
20	28	15-18, 22-25	19. 21	27	34	35
21	29	16-19, 23-26	20. 22	28. 14	35	36
22	30, 14	17-20, 24-27	21. 23	29. 15	36	37
23	31, 15	18-21, 25-28	22. 24	30. 16	37	38
24	32, 16	19-22, 26-29	23. 25	31. 17	38	39
25	33. 17	20-23, 27-30	24. 26	32. 18	39	40
26	34. 18	21-24, 28-31	25. 27	33. 19	40	41
27	35. 19	22-25, 29-32	26. 28	34. 20	41	42
28	36. 20	23-26, 30-33	27. 29	35. 21	42. 14	43
29	37. 21	24-27, 31-34	28. 30	36. 22	43. 15	44. 14
30	38. 22	25-28, 32-35	29. 31	37. 23	44. 16	45. 15
31	39. 23	26-29, 33-36	30. 32	38. 24	45. 17	46. 16
32	40. 24	27-30, 34-37	31. 33	39. 25	46. 18	47. 17
33	41. 25	28-31, 35-38	32. 34	40. 26	47. 19	48. 18
34	42. 26	29-32, 36-39	33. 35	41. 27	48. 20	49. 19
35	43. 27	30-33, 37-40	34. 36	42. 28	49. 21	50. 20
36	44. 28	31-34, 38-41	35. 37	43. 29	50. 22	51. 21
37	45. 29	32-35, 39-42	36. 38	44. 30	51. 23	52. 22
38	46. 30	33-36, 40-43	37. 39	45. 31	52. 24	53. 23
39	47. 31	34-37, 41-44	38. 40	46. 32	53. 25	54. 24
40	48. 32	35-38, 42-45	39. 41	47. 33	54. 26	55. 25
41	49. 33	36-39, 43-46	40. 42	48. 34	55. 27	56. 26
42	50. 34	37-40, 44-47	41. 43	49. 35	56. 28	57. 27
43	51. 35	38-41, 45-48	42. 44	50. 36	57. 29	58. 28
44	52. 36	39-42, 46-49	43. 45	51. 37	58. 30	59. 29
45	53. 37	40-43, 47-50	44. 46	52. 38	59. 31	60. 30
46	54. 38	41-44, 48-51	45. 47	53. 39	60. 32	61. 31
47	55. 39	42-45, 49-52	46. 48	54. 40	61. 33	62. 32
48	56. 40	43-46, 50-53	47. 49	55. 41	62. 34	63. 33
49	57. 41	44-47, 51-54	48. 50	56. 42	63. 35	64. 34
50	58. 42	45-48, 52-55	49. 51	57. 43	64. 36	65. 35
51	59. 43	46-49, 53-56	50. 52	58. 44	65. 37	66. 36
52	60. 44	47-50, 54-57	51. 53	59. 45	66. 38	67. 37
53	61. 45	48-51, 55-58	52. 54	60. 46	67. 39	68. 38
54	62. 46	49-52, 56-59	53. 55	61. 47	68. 40	69. 39
55	63. 47	50-53, 57-60	54. 56	62. 48	69. 41	70. 40
56	64. 48	51-54, 58-61	55. 57	63. 49	70. 42	71. 41
57	65. 49	52-55, 59-62	56. 58	64. 50	71. 43	72. 42
58	66. 50	53-56, 60-63	57. 59	65. 51	72. 44	73. 43
59	67. 51	54-57, 61-64	58. 60	66. 52	73. 45	74. 44
60	68. 52	55-58, 62-65	59. 61	67. 53	74. 46	75. 45
61	69. 53	56-59, 63-66	60. 62	68. 54	75. 47	76. 46
62	70. 54	57-60, 64-67	61. 63	69. 55	76. 48	77. 47
63	71. 55	58-61, 65-68	62. 64	70. 56	77. 49	78. 48
64	72. 56	59-62, 66-69	63. 65	71. 57	78. 50	79. 49
65	73. 57	60-63, 67-70	64. 66	72. 58	79. 51	80. 50
66	74. 58	61-64, 68-71	65. 67	73. 59	80. 52	81. 51
67	75. 59	62-65, 69-72	66. 68	74. 60	81. 53	82. 52
68	76. 60	63-66, 70-73	67. 69	75. 61	82. 54	83. 53
69	77. 61	64-67, 71-74	68. 70	76. 62	83. 55	84. 54
70	78. 62	65-68, 72-75	69. 71	77. 63	84. 56	85. 55
71	79. 63	66-69, 73-76	70. 72	78. 64	85. 57	86. 56
72	80. 64	67-70, 74-77	71. 73	79. 65	86. 58	87. 57
73	81. 65	68-71, 75-78	72. 74	80. 66	87. 59	88. 58
74	82. 66	69-72, 76-79	73. 75	81. 67	88. 60	89. 59
75	83. 67	70-73, 77-80	74. 76	82. 68	89. 61	90. 60
76	84. 68	71-74, 78-81	75. 77	83. 69	90. 62	91. 61
77	85. 69	72-75, 79-82	76. 78		91. 63	92. 62
78	86. 70	73-76, 80-83	77. 79		92. 64	93. 63
79	87. 71	74-77, 81-83	78. 80		93. 65	94. 64
80	88. 72	75-78, 82-83	79. 81		94. 66	95. 65
81	89. 73	76-79, 83	80. 82		95. 67	96. 66
82	90. 74	77-80	81. 83		96. 68	97. 67
83	91. 75	78-81	82. 84		97. 69	98. 68

When any of the above arcs pass through a city, the city shall be considered to be located in Zone II. (See Figure 2 of §73.699.)

**§73.610. Minimum distance separations between stations.**—(a) The provisions of this section relate to allotment separations and station separations. Petitions to amend the Table of Allotments (§73.606(b) other than those also expressly requesting amendment of this section or §73.609 will be dismissed and all applications for new television broadcast stations, or for changes in the transmitter sites of existing stations, will not be accepted for filing if they fail to comply with the requirements specified in paragraphs (b), (c) and (d) of this section.

NOTE: Licensees and permittees of television broadcast stations which were operating on April 14, 1952, pursuant to one or more separations below those set forth in §73.610 may continue to so operate, but in no event may they further reduce the separations below the minimum. As the existing separations of such stations are increased, the new separations will become the required minimum separations until separations are reached which comply with the requirements of §73.610. Thereafter the provisions of said section shall be applicable.

(b) Minimum co-channel allotment and station separations:

(1) Zone	Channels 2-13 Kilometers (Miles)	Channels 14-28
I	272.7 (169.5 mi.)	248.6 (154.5 mi.)
II	304.9 (189.5 mi.)	280.8 (174.5 mi.)
III	353.2 (219.5 mi.)	329.0 (204.5 mi.)

(2) The minimum co-channel distance separation between a station in one zone and a station in another zone shall be that of the zone requiring the lower separation.

(c) Minimum allotment and station adjacent channel separations applicable to all zones:

(1) Channels 2-13	95.7 km (59.5 mi.)
Channels 14-69	87.7 km (54.5 mi.)

(2) Due to the frequency spacing which exists between channels 4 and 5, between channels 6 and 7, and between channels 13 and 14, the minimum adjacent channel separations specified above shall not be applicable to these pairs of channels (see §73.603(a)).

(d) In addition to the requirements of paragraphs (a), (b) and (c) of this section, the minimum assignment and station separations between stations on channels 14-69, inclusive, as set forth in Table II of §73.698 must be met in either rule making proceedings looking towards the amendment of the Table of Assignments (§73.606(b)) or in licensing proceedings. No channel listed in column (1) of Table II of §73.698 [see box] will be assigned to any city, and no application for an authorization to operate on such a channel will be granted unless the mileage separations indicated at the top of columns (2)-(7), inclusive, are met with respect to each of the channels listed in those columns and parallel with the channel in column (1).

(e) The zone in which the transmitter of a television station is located or proposed to be located determines the applicable rules with respect to co-channel mileage separations where the transmitter is located in a different zone from that in which the channel to be employed is located.

(f) The distances listed below apply only to allotments and assignments on Channel 6 (82-88 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any FM Channel 253 allotment or assignment are not met:

FM Class	TV Zone I	TV Zones II & III
A	17	22
B1	19	23
B	22	26
C3	19	23
C2	22	26
C1	29	33
C	36	41

**§73.614. Power and antenna height requirements.**

(a) Minimum requirements. Applications will not be accepted for filing if less than 10 dbk (100 watts) horizontally polarized visual effective radiated power in any horizontal direction. No minimum antenna height above average terrain is specified.

(b) Maximum power. Applications will not be accepted for filing if they specify a power which exceeds the maximum permitted boundaries specified in the following formulas:

Maximum visual effective radiated power in db above Channel Nos.	one kilowatt (dBk)
2-6	20 dBk (100 kw)
7-13	25 dBk (316 kw)
14-83	37 dBk (5000 kw)

(6) The effective radiated power in any horizontal or vertical direction may not exceed the maximum values permitted by this section and Figure 3 and 4 of §73.1700.

(7) The effective radiated power at any angle above the horizontal shall be as low as the state of the art permits, and in the same vertical plane may not exceed the effective radiated power in either the horizontal direction or below the horizontal, whichever is greater.

(c) The zone in which the transmitter of a television station is located or proposed to be located determines the applicable rules with respect to maximum antenna heights and powers for VHF stations when the transmitter is located in Zone I and the channel to be employed is located in Zone II, or the transmitter is located in Zone II and the channel to be employed is located in Zone I.

*In AM, FM, TV rules ...*

**§73.1635 Special temporary authorizations (STA).**

(a) A special temporary authorization (STA) is the authority granted to a permittee or licensee to permit the operation of a broadcast facility for a limited period at a specified variance with the terms of the station authorization or requirements of the FCC rules applicable to the particular class of station.

(1) A request for an STA should be filed with FCC in Washington, D.C. at least 10 days prior to the date of the proposed operation.

(2) The request is to be made by letter and shall fully describe the proposed operation and the necessity for the requested STA. Such letter requests shall be signed by the licensee or the licensee's representative.

(3) A request for an STA necessitated by unforeseen equipment damage or failure may be made without regard to the procedural requirements of this section (e.g., via telegram or telephone). Any request made pursuant to this paragraph shall be followed by a written confirmation request confirming to the requirements of paragraph (a)(2) above. Confirmation requests shall be submitted within 24 hours. (See also §73.1680 Emergency Antennas).

(4) An STA may be granted for an initial period not to exceed 180 days. A limited number of extensions of such authorizations may be granted for additional periods not exceeding 180 days per extension. An STA necessitated by technical or equipment problems, however, may, in practice, be granted for an initial period not to exceed 90 days with a limited number of extensions not to exceed 90 days per extension. The permittee or licensee must demonstrate that any further extensions requested are necessary and that all steps to resume normal operation are being undertaken in an expeditious and timely fashion.

(5) Certain rules permit temporary operation at variance without prior authorization from the FCC when notification is filed as prescribed in the particular rules. See §73.62, Directional Antenna System Tolerances; §73.157, Antenna Testing During Daytime; §73.1250, Broadcasting Emergency Information; §73.1615, Operation During Modification of Facilities; and §73.1680, Emergency Antennas.

(b) An STA may be modified or cancelled by the FCC without prior notice or right to hearing.

(c) No request by an AM station for temporary authority to extend its hours of operation beyond those authorized by its regular authorization will be accepted or granted by the FCC except in emergency situations conforming with the requirements of §73.3542. Application for Emergency Authorization. See also §73.1250, Broadcasting Emergency Information.

**§73.1650 International agreements.**

(a) The Rules in this Part 73, and authorizations for which they provide, are subject to compliance with the international obligations and undertakings of the United States. Accordingly, all provisions in this Part 73 are subject to compliance with applicable requirements, restrictions and procedures accepted by the United States that have been established by or pursuant to treaties or other international agreements, arrangements or understandings to which the United States is a signatory, including applicable annexes, protocols, resolutions, recommendations and other supplementing documents associated with such international instruments.

(b) The United States is a signatory to the following treaties and other international agreements that relate, in whole or in part, to AM, FM or TV broadcasting:

(1) The following instruments of the International Telecommunication Union:

- (i) Constitution;
- (ii) Convention;
- (iii) Radio Regulations.

(2) Regional Agreement for the MF Broadcasting Service in Region 2 (Rio de Janeiro, 1981).

(3) Bi-lateral Agreements between the United States and Canada relating to: (i) AM Broadcasting; (ii) FM Broadcasting; (iii) TV Broadcasting.

(4) Bi-lateral Agreements between the United States and Mexico relating to: (i) AM Broadcasting; (ii) FM Broadcasting; (iii) TV Broadcasting.

(5) Bi-lateral Agreement between the United States and the Bahama Islands relating to presunrise operations by AM stations.

(6) North American Regional Broadcasting Agreement (NARBA), which, for the United States, remains in effect with respect to the Dominican Republic and the Bahama Islands.

The documents listed in this paragraph are available for inspection in the Office of the Chief, Policy and Rules Division, Mass Media Bureau, FCC, Washington, D.C. Copies may be purchased from the FCC Copy Contractor, whose name may be obtained from the FCC Consumer Assistance Office.

*In FCC Policies ...*

**§73.4107 FM broadcast assignments, increasing availability of.**

(a) See First Report and Order, MM Docket 84-231, FCC 86-640, adopted December 19, 1984, 50 FR 3514, January 25, 1985.

(b) See Second Report and Order, MM Docket No. 84-231, FCC 85-124, adopted March 14, 1985, 50 FR 15558, April 19, 1985.

(c) See Memorandum Opinion and Order, MM Docket No. 84-231, FCC 86-76, adopted February 10, 1986, 51 FR 9210, March 18, 1986.

(d) See Public Notice, 51 FR 26009, July 18, 1986.

**Multiple Ownership**

**§73.3555 Multiple Ownership.**

(a) No license for an AM, FM or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates, or controls one or more broadcast stations in the same service and the grant of such license will result in:

(1) any overlap of the predicted or measured 5 mv/m groundwave contours of the existing and proposed AM stations, computed in accordance with §73.183 or §73.186; or

(2) any overlap of the predicted 3.16 mv/m contours of the existing and proposed FM stations, computed in accordance with §73.313; or

(3) any overlap of the Grade B contours of the existing and proposed TV stations, computed in accordance with §73.684.

(b) No license for an AM, FM, or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates, or controls one or more such broadcast stations and the grant of such license will result in:

(1) the predicted or measured 2 mv/m groundwave contour of an existing or proposed AM station, computed in accordance with §73.183 or §73.186, encompassing the entire community of license of the TV broadcast station(s) or the Grade A contour(s) of the TV broadcast station(s), computed in accordance with

§73.684, encompassing the entire community of license of the AM station; or

(2) the predicted 1 mv/m contour of a proposed FM station, computed in accordance with §73.313, encompassing the entire community of license of an existing or proposed TV broadcast station(s) or the Grade A contour(s) of station(s), computed in accordance with §73.684, encompassing the entire community of license of the FM station.

(c) No license for an AM, FM, or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates, or controls a daily newspaper and the grant of such license will result in:

(1) the predicted or measured 2 mv/m contour for an AM station, computed in accordance with §73.183 or §73.186, encompassing the entire community in which such newspaper is published; or:

(2) the predicted 1 mv/m contour for an FM station, computed in accordance with §73.313, encompassing the entire community in which such newspaper is published; or

(3) the Grade A contour for a TV station, computed in accordance with §73.684, encompassing the entire community in which such newspaper is published.

(d)(1) No license for a commercial AM, FM or TV broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors, directly or indirectly, owning, operating or controlling, or having a cognizable interest in, either:

(i) more than fourteen (14) stations in the same service, or

(ii) more than twelve (12) stations in the same services which are not minority-controlled.

(2) No license for a commercial TV broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors, directly or indirectly, owning, operating or controlling, or having a cognizable interest in, either:

(i) TV stations which have an aggregate national audience reach exceeding thirty (30) percent, or

(ii) TV stations which have an aggregate national audience reach exceeding twenty-five (25) percent and which are not minority-controlled.

(3) For purposes of this paragraph:

(i) national audience reach means the total number of television households in the Arbitran Area of Dominant Influence (ADI) markets in which the relevant stations are located divided by the total national television households as measured by ADI data at the time of a grant, transfer or assignment of a license. For purposes of making this calculation, UHF television stations shall be attributed with 50 percent of television households in their ADI market. Where relevant application forms require a showing with respect to market data are unavailable, then the applicant shall make a showing as to the number of television households in its market.

Upon such a showing, the Commission shall make a determination as to the appropriate audience reach to be attributed to the applicant.

(A) TV broadcast station or "TV station" exclude stations which are primarily satellite operations.

(B) minority-controlled means more than 50 percent owned by one or more members of a minority group.

(C) minority means Black, Hispanic, American Indian, Alaska Native, Asian and Pacific Islander.

(e) No renewal of license shall be granted for a term extending beyond January 1, 1980, to any part that as of January 1, 1975, directly or indirectly owns, operates or controls the only daily newspaper published in a community and also of January 1, 1975, directly or indirectly owns, operates or controls the only commercial aural station or stations encompassing the entire community with a city-grade signal during daytime hours (predicted or measured signal for AM, predicted for FM), or the only commercial TV station encompassing the entire community with a city-grade signal. The provisions of this paragraph shall not require divestiture of any interest not in conformity with its provisions earlier than January 1, 1980. Divestiture is not required for aural stations if there is a separately owned, operated or controlled TV broadcast station licensed to serve the community.

(f) This section is not applicable to noncommercial educational FM and noncommercial educational TV stations.

NOTE 1 The word control as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

NOTE 2: In applying the provisions of this section,



ownership and other interests in broadcast licensee, cable television systems and daily newspapers will be attributed to their holders and deemed cognizable pursuant to the following criteria:

(1) Except as otherwise provided herein, partnership and direct ownership interests and any voting stock interest amounting to 5% or more of the outstanding voting stock of a corporate broadcast licensee, cable television system or daily newspaper will be cognizable;

(2) No minority voting stock interest will be cognizable if there is a single holder of more than 50% of the outstanding voting stock of the corporate broadcast licensee, cable television system or daily newspaper in which the minority interest is held;

(3) Investment companies, as defined in 15 USC 80a-3, insurance companies and banks holding stock through their trust departments in trust accounts will be considered to have a cognizable interest only if they hold 10% or more of the outstanding voting stock of a corporate broadcast licensee, cable television system or daily newspaper, or if any of the officers or directors of the broadcast licensee, cable television system or daily newspaper are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

(4) Attribution of ownership interests in a broadcast licensee, cable television system or daily newspaper that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50%, it shall not be included for purposes of this multiplication. [For example, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of Licensee, then X's interest in Licensee would be 25% (the same as Y's interest since X's interest in Y exceeds 50%), and A's interest in Licensee would be 2.5% (0.1 x 0.25). Under the 5% attribution benchmark, X's interest in Licensee would be cognizable, while A's interest would not be cognizable.]

(5) Voting stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal or extratrust business relationship to the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust. An otherwise qualified trust will be ineffective to insulate the grantor or beneficiary from attribution with the trust's assets unless all voting stock interests held by the grantor or beneficiary in the relevant broadcast licensee, cable television system or daily newspaper are subject to said trust.

(6) Holders of non-voting stock shall not be attributed an interest in the issuing entity. Holders of debt and instruments such as warrants, convertible debentures, options or other non-voting interests with rights of conversion to voting interests shall not be attributed unless and until conversion is effected.

(g)(1) A limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the licensee or system so certifies.

(2) In order for a licensee or system to make the certification set forth in paragraph (a)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. The criteria which would assure adequate insulation for purposes of this certification are described in the Memorandum Opinion and Order in MM Docket No. 83-46, FCC 85-252 (released June 24, 1985) as modified on reconsideration in Memorandum Opinion and Order in MM Docket No. 83-46, FCC 86-410 (released November 28, 1986). Irrespective of the terms of the certificate of limited partnership or partnership agreement, however, no such certificate shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners in the management or operation of the media-related business of the partnership.

(h) Officers and directors of a broadcast licensee, cable television system or daily newspaper are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in businesses in addition to its primary business of broadcasting, cable television service or newspaper publication, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a broadcast licensee, cable television system or daily newspaper, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the broadcast licensee, cable television system or daily newspaper subsidiary, and a statement properly documenting this fact is submitted to the Commission. [This statement may be included on the appropriate Ownership Report]. The officers and directors of a sister corporation of a broadcast licensee, cable television system or daily newspaper shall not be attributed with ownership of these entities by virtue of such status.

(i) Discrete ownership interests will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

(1) the sum of the interests held by or through passive investors is equal to or exceeds 10 percent; or

(2) the sum of the interests other than those held by or through passive investors is equal to or exceeds 5 percent; or

(3) the sum of the interests computed under (1) plus the sum of the interests computed under (2) is equal to or exceeds 10 percent.

NOTE 3: In cases where record and beneficial ownership of voting stock is not identical (e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, investment advisors holding stock in their own names for the benefit of clients, and insurance companies holding stock), the party having the right to determine how the stock will be voted will be considered to own it for purposes of these rules.

NOTE 4: Paragraphs (a)-(d) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities, and will not apply to applications for increased power for Class IV stations, to applications for assignment of license or transfer of control filed in accordance with §73.3540(f) or §73.3541 (b) of this part, or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy if no new or increased overlap would be created between commonly owned, operated or controlled broadcast stations in the same service and if no new encompassment of communities proscribed in paragraphs (b) and (c) of this section as to commonly owned, operated, or controlled broadcast stations or daily newspapers would result. Said paragraphs will apply to all applications for new stations, to all other applications for assignment or transfer, and to all applications for major changes in existing stations except major changes that will result in overlap of contours of broadcast stations in the same service with each other no greater than already existing. (The resulting areas of overlap of contours of such broadcast stations with each other in such major change cases may consist partly or entirely of new terrain. However, if the population in the resulting overlap areas substantially exceeds that in the previously existing overlap areas, the Commission will not grant the application if it finds that to do so would be against the public interest, convenience, or necessity.) Commonly owned, operated, or controlled broadcast stations, with overlapping contours or with community-encompassing contours prohibited by this section may not be assigned or transferred to a single person, group, or entity, except as provided above in this note. If a commonly owned, operated, or controlled broadcast station and daily newspaper fall within the encompassing proscription of this section, the station may not be assigned to a single person, group or entity if the newspaper is being simultaneously sold to such single person, group or entity.

NOTE 5: Paragraphs (a)-(d) of this section will not be applied to cases involving television stations which are "satellite" operations. Such cases will be considered in accordance with the analysis set forth in the Report and Order in MM Docket No. 87-8, FCC 91-182 (released July 8, 1991) in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. An authorized and operating "satellite" television station the Grade B contour of which overlaps that of a commonly owned, operated, or controlled "non-satellite" parent television broadcast station, or the Grade A contour of which

completely encompasses the community of publication of a commonly owned, operated, or controlled daily newspaper, or the community of license of a commonly owned, operated, or controlled AM or FM broadcast station, or the community of license of which is completely encompassed by the 2 mv/m contour of such AM broadcast station or the 1 mv/m contour of such FM broadcast station may subsequently become a "non-satellite" station under the circumstances described in the aforementioned Report and Order in MM Docket No. 87-8. However, such commonly owned, operated, or controlled "non-satellite" television stations with Grade B overlap or such commonly owned, operated, or controlled "non-satellite" television stations and AM or FM stations with the aforementioned community encompassment, may not be transferred or assigned to a single person, group, or entity except as provided in NOTE 4. Nor shall any application for assignment or transfer concerning such "non-satellite" stations be granted if the assignment or transfer would be to the same person, group or entity to which the commonly owned, operated, or controlled newspaper is proposed to be transferred, except as provided in NOTE 4.

NOTE 6: For the purposes of this section a daily newspaper is one which is published four or more days per week, which is in the English language and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

NOTE 7: The Commission will entertain requests to waive the restrictions of paragraph (b) of this section on a case-by-case basis. The Commission will look favorably upon waiver applications that meet either of the following two standards: (1) those involving radio and television station combinations in the top 25 television markets where there will be at least 30 separately owned, operated and controlled broadcast licensees after the proposed combination, as determined by counting television licensees in the relevant ADI television market and radio licensees in the relevant television metropolitan market; or (2) those involving "failed" broadcast stations that have not been operated for a substantial period of time, e.g., four months, or that are involved in bankruptcy proceedings. For the purposes of determining the top 25 ADI television markets, the relevant ADI television market and the relevant television metropolitan market for each prospective combination, we will use the most recent Arbitron Ratings Television ADI Market Guide. We will determine the number of radio stations in the relevant television metropolitan market and the number of television licensees within the relevant ADI television market based on the most recent Commission ownership records. Other waiver requests will be evaluated on a more rigorous case-by-case basis, as set forth in the Second Report and Order in MM Docket No. 87-7, FCC 88-407, released February 23, 1989, and Memorandum Opinion and Order in MM Docket No. 87-7, FCC 89-256, released August 4, 1989.

## Studio Location, Program Originations

*In AM, FM and TV rules...*

**§73.1120 Station location.** Each AM, FM and TV broadcast station will be licensed to the principal community or other political subdivision which it primarily serves. This principal community (city, town or other political subdivision) will be considered to be the geographical station location.

**§73.1125 Station main studio location.** (a) Each AM, FM and TV broadcast station shall maintain a main studio within the station's principal community contour as defined in §73.24(j) (%mv/m daytime contour), §73.315(a) and §73.685(a), respectively, of this chapter, except:

(1) AM stations licensed as synchronous amplifier transmitters ("AM boosters") or,

(2) AM stations whose main studio is located at the collocated main studio-transmitter site of a commonly-owned AM station licensed to the same principal community or,

(3) Any AM, FM or TV broadcast station whose main studio is located in the community which the station is licensed to serve at a point situated outside the principal community contour or,

(4) AM, FM or TV stations, when good cause exists for locating the main studio outside the station's principal community contour and that to do so would be consistent with the operation of the station in the public interest.

(b) Relocation of the main studio may be made:

(1) From one point to another within the principal

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community contour or from a point outside the principal community contour to one within it, without specific FCC authority, but notification to the FCC in Washington shall be made promptly; however,

(2) From a point within the principal community contour to one outside it or from one such point outside the community contour to another, only by first securing modification of construction permit or license (FCC Forms 301 for commercial stations and 340 for non-commercial educational stations).

(3) Exceptions to paragraph (b)(2) of this section are:

(i) Relocation of the main studio of an FM station to the collocated main studio-transmitter site of a commonly owned AM station licensed to the same principal community;

(ii) Relocation of the main studio from one point to another within the principal community of license or from a point outside the principal community to one within it; and

(iii) Notification to the FCC in Washington shall be made promptly of such relocations described in (b)(3)(i) and (b)(3)(ii) of this section.

(c) Each AM, FM and TV broadcast station shall maintain a local telephone number in its community of license or a toll-free number.

(d) Where the principal community to be served does not have specifically defined political boundaries, applications will be considered on a case-by-case basis by the FCC to determine if the main studio is located within the principal community to be served.

### Operating Schedules

#### For AM stations ...

#### **§73.72 Operation during the experimental period.**

(a) An AM station may operate during the experimental period on its assigned frequency and with its authorized power for the routine testing and maintenance of its transmitting system, and for conducting experimentation under an experimental authorization, provided no interference is caused to other stations maintaining a regular operating schedule within such period.

(b) No station licensed for daytime or "specified hours" of operation may broadcast any regular or scheduled program during this period.

(c) The licensee of an AM station shall operate or refrain from operating its station during the experimental period as directed by the FCC to facilitate frequency measurements or for the determination of interference.

#### **§73.99 Pre-sunrise service authorization (PSRA) and post-sunset service authorization (PSSA).**

(a) To provide the maximum uniformity in early morning operation compatible with interference considerations, and to provide for additional service during early evening hours for daytime-only stations, the provisions are made for pre-sunrise service and post-sunset service. The permissible power to be assigned in pre-sunrise or post-sunset service authorization will not exceed 500 watts, or the authorized daytime or critical hours power (whichever is less).

(b) Pre-sunrise service authorization (PSRA) will permit:

(1) Class II stations operating on Mexican, Bahamian, and Canadian Class I-A and I-B Clear Channels to commence PSRA operation at 6:00 a.m. local time and to continue such operation until the sunrise times specified in their basic instrument of authorization.

(2) Class II stations situated outside the respective 0.5 mv/m 50% skywave contours of co-channel domestic Class I-A and I-B stations to commence PSRA operation 6:00 a.m. local time, and continue this operation until sunrise times specified in their basic instruments of authorization.

(3) Class II stations located inside a co-channel 0.5 mv/m 50% skywave contours of domestic Class I-A and I-B stations, to commence PSRA operation either at 6:00 a.m. local time, or at the time of sunrise at the nearest Class I station located east of the Class II station (whichever is later), and continue this operation until the sunrise times specified in their basic instruments of authorization.

(4) Class III stations to commence PSRA operation at 6:00 a.m. local time and to continue this operation until the sunrise times specified in their basic instruments of authorization.

(c) Extended daylight saving time presunrise authorizations:

(1) Between the first Sunday in April and the end of the month of April, Class II and III daytime-only AM stations will be permitted to conduct presunrise operation beginning at 6:00 a.m. local time with a maximum power of 500 watts (not in excess of the station's regular daytime or critical hours power), reduced as necessary to comply with the following requirements:

(i) Full protection is to be provided as specified in applicable international agreements.

(ii) Domestic protection is to be provided to the 0.5 mv/m groundwave signals of co-channel Class I-A and Class I-B stations, but protection to the 0.5 mv/m 50% skywave signals of these stations is not required.

(iii) In determining the protection to be provided, the effect of each interfering signal will be evaluated separately. The presence of interference from other stations will not reduce or eliminate the required protection.

(iv) Notwithstanding the requirements of (ii) and (iii) above, the stations will be permitted to operate with a minimum power of 10 watts unless a lower power is required by international agreement.

(2) The Commission will issue appropriate authorizations to Class II or Class III daytime-only stations not previously eligible to operate during this period. Class II or Class III daytime-only stations already authorized to operate during this presunrise period may continue to operate under their current authorization.

(d) Post-sunset service authorization (PSSA) will permit:

(1) Class II-D stations located on Mexican, Bahamian, and Canadian Class I-A and I-B Clear Channels to commence PSSA operation at sunset times specified in their basic instruments of authorization and to continue for two hours after such specified times.

(2) In addition, Class II-S stations may operate pursuant to Class II-D stations situated outside the respective 0.5 mv/m 50% skywave contours of co-channel domestic Class I-A and I-B stations to commence PSSA operations at sunset times specified in their basic instruments of authorization and to continue up to two hours after such specified times.

(3) Class II-D stations located inside co-channel 0.5 mv/m 50% skywave contours of domestic Class I-A and I-B stations to commence PSSA operation at sunset times specified in their basic instruments of authorization and to continue such operation until two hours past such specified times, or until the time of sunset at the nearest Class I station located west of the Class II station (whichever is earlier). (Those west of the dominant station do not qualify for PSSA operation.)

(4) Class III daytime only stations to commence PSSA operation at sunset times specified on their basic instruments of authorization and to continue such operation until two hours past such specified times.

(e) Procedural Matters. (1) Applications for PSRA and PSSA operation are not required. Instead, the FCC will calculate the periods of such operation and the power to be used pursuant to the provisions of this Section and the protection requirements contained in applicable international agreements. Licensees will be duly notified of permissible power and times of operation. Pre-sunrise and post-sunset service authority permits operation on a secondary basis and does not confer license rights. No request for such authority need be filed. However, stations intending to operate PSRA or PSSA shall submit by letter, signed as specified in §73.3513, the following information;

(i) Licensee name, station call letters and station location.

(ii) Indication as to whether PSRA operation, PSSA operation, or both, is intended by the station,

(iii) A description of the method whereby any necessary power reduction will be achieved.

(2) Upon submission of the required information, such operation may begin without further authority.

(f) Technical criteria. Calculations to determine whether there is objectionable interference will be determined in accordance with the AM Broadcast Technical Standards, §73.182 through §73.190, and applicable international agreements. Calculations will be performed using daytime antenna systems, or critical hours antenna systems when specified on the license. In performing calculations to determine assigned power and times for commencement of PSRA and PSSA operation, the following standards and criteria will be used:

(1) Class II stations operating in accordance with paragraphs (b)(1), (b)(2), (d)(1) and (d)(2) of this section are required to protect the nighttime 0.5 mv/m 50% skywave contours of co-channel Class I stations. Where a 0.5 mv/m 50% skywave signal is not produced, the 0.5 mv/m groundwave contour will be protected.

(2) Class II stations are required to fully protect foreign Class II stations when operating PSRA and PSSA and Class II-D station operating PSSA are required to fully protect domestic full time Class I stations. For purposes of determining protection, the existing nighttime RSS limit will be used in the determination of maximum power permissible.

(3) Class II stations operating in accordance with (c)(2) and (c)(3) are required to restrict maximum 10% skywave radiation to any point on the daytime 0.1 mv/m

groundwave contour of the co-channel Class I station to 25 uV/m. For purposes of performing these calculations, the 0.1 mv/m contour of the Class I station will be determined by use of Figure M3, Estimated Ground Conductivity in the United States. When the 0.1 mv/m contour extends beyond the national boundary the international boundary shall be considered the 0.1 mv/m contour.

(4) Class III stations operating PSRA and PSSA are required to provide full protection to co-channel foreign Class III stations.

(5) Class III daytime-only stations operating PSSA beyond 6:00 p.m. local time are required to fully protect domestic full-time Class III stations.

(6) The protection that Class III daytime-only stations are required to provide when operating PSSA until 6:00 p.m. local time is as follows:

(i) For the first half-hour of PSSA operation, protection will be calculated at sunset plus 30 minutes at the site of the Class III daytime-only station;

(ii) For the second half-hour of PSSA operation, protection will be calculated at sunset plus one hour at the site of the Class III daytime-only station;

(iii) For the second hour of PSSA operation, protection will be calculated at sunset plus two hours at the site of the Class III daytime-only station;

(iv) Minimum powers during the period until 6:00 p.m. local time shall be permitted as follows:

Calculated Power	Adjusted Minimum Power
From 1 to 45 watt	50 watts
Above 45 watts to 70 watts	75 watts
Above 70 watts to 100 watts	100 watts

(7) For the purposes of determining protection, the existing nighttime RSS limit will be used in the determination of maximum power permissible.

(g) Calculations made under paragraph (d) of this section may not take outstanding PSRA or PSSA operations into account, nor will the grant of a PSRA or PSSA confer any degree of interference protection on the holder thereof.

(h) Operation under a PSRA or PSSA is not mandatory, and will not be included in determining compliance with the requirements of §73.1740. To the extent actually undertaken, however, pre-sunrise operation will be considered by the FCC in determining overall compliance with the past programming representations and station policy concerning commercial matter.

(i) The PSRA or PSSA is secondary to the basic instrument of authorization with which it is to be associated. The PSRA or PSSA may be suspended, modified, or withdrawn by the FCC without prior notice or right to hearing, if necessary to resolve interference conflicts, to implement agreements with foreign governments, or in other circumstances warranting such action. Moreover, the PSRA or PSSA does not extend beyond the term of the basic authorization.

(j) The Commission will periodically recalculate maximum permissible power and times for commencing PSRA and PSSA for each Class II and Class III station. For each Class II or III daytime only station operating in accordance with paragraph (c), the Commission will calculate the maximum power at which each individual station may conduct pre-sunrise operations during extended daylight saving time and shall issue conforming authorizations. These original notifications and subsequent notifications should be associated with the station authorization. Upon notification of new power and time of commencing operation, affected stations will make necessary adjustments within 30 days.

(k) A PSRA and PSSA does not require compliance with §73.45, §73.182, §73.188, and §73.1560 where the operation might otherwise be considered as technically substandard. Further, the requirements of paragraphs (a)(5), (b)(2), (c)(2), and (d)(2) of §73.1215 concerning the scale ranges of transmission system indicating instruments are waived for PSRA and PSSA operation except for the radio frequency ammeters used in determining antenna input power.

(l) A station having an antenna monitor incapable of functioning at the authorized PSRA and PSSA power when using a directional antenna shall take the monitor reading using unmodulated carrier at the authorized daytime power immediately prior to commencing PSRA or PSSA operations. Special conditions as the FCC may deem appropriate may be included for PSRA or PSSA to insure operation of the transmitter and associated equipment in accordance with all phases of good engineering practice.

NOTE: Extended hours operations are subject to international agreements governing all operations. These agreements are in the process of revision, but until this process is completed it will not be possible to allow full operation as outlined above.

(m) The authorization of unlimited-time operation by daytime-only stations that are reclassified as Class II-S or Class III-S stations will not affect their right to operate during prescribed pre-sunrise and post-sunset hours in accordance with PSRAs and PSSAs issued pursuant to this section.

#### For TV stations...

**§73.653 Operation of TV aural and visual transmitters.** The aural and visual transmitters may be operated independently of each other or, if operated simultaneously, may be used with different and unrelated program material.

#### For AM, FM and TV stations ...

**§73.1250 Broadcasting emergency information.** (a) Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to the following: Tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gasses, widespread power failures, industrial explosions, civil disorders and school closings and changes in school bus schedules resulting from such conditions. See also §73.3542, Application for Emergency Authorization, for requirements involving emergency situations not covered by this section for which prior operating authority must be requested.

(b) If requested by responsible public officials, a station may, at its discretion, and without further FCC authority, transmit emergency point-to-point messages for the purpose of requesting or dispatching aid and assisting in rescue operations.

(c) If the Emergency Broadcast System (EBS) is activated for a national level emergency while a local or state level emergency operation is in progress, the national level EBS operation shall take precedence. If, during the broadcasting of local or state emergency information, the attention signal described in §73.906 is used, the broadcasts are considered as being carried out under a state level or local level EBS operational plan.

(d) Any emergency operation undertaken in accordance with this section may be terminated by the FCC if required in the public interest.

(e) Immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages under paragraph (b) of this section, or when daytime facilities were used during nighttime hours by an AM station in accordance with paragraph (f) of this section, a report in letter form shall be forwarded to the FCC in Washington, D.C., setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information, and a brief description of the material carried during the emergency. A certification of compliance with the non-commercialization provision of paragraph (f) of this section must accompany the report where daytime facilities are used during nighttime hours by an AM station, together with a detailed showing, under the provisions of that paragraph, that no other broadcast service existed or was adequate.

(f) AM stations may, without further FCC authority, use their full daytime facilities during nighttime hours to broadcast emergency information (examples listed in paragraph (a) of this section), when necessary to the safety of life and property, in dangerous conditions of a general nature and when adequate advance warning cannot be given with the facilities authorized, because of skywave interference impact on other stations assigned to the same channel, such operation may be undertaken only if regular, unlimited-time service, is non-existent, inadequate from the standpoint of coverage, or not serving the public need. All operation under this paragraph must be conducted on a noncommercial basis. Recorded music may be used to the extent necessary to provide program continuity.

(g) Broadcasting of emergency information shall be confined to the hours, frequencies, powers and modes of operation specified in the station license, except as otherwise provided for AM stations in paragraph (f) of this section.

(h) Any emergency information transmitted by a TV station in accordance with this section shall be transmitted both aurally and visually or only visually. TV stations may use any method of visual presentation which results in a legible message conveying the essential emergency information. Methods which may be used include, but are not necessarily limited to, slides, electronic captioning, manual methods (e.g., hand printing) or mechanical printing processes. However, when emergency operation is being conducted under a national, state or local level Emergency Broadcast Sys-

tem (EBS) plan, emergency information shall be transmitted both aurally and visually.

**§73.1500 Automatic transmission systems (ATS).** An automatic transmission system consists of monitoring devices, control, and alarm circuitry, arranged so that they interact automatically to operate a broadcast station's transmitter and maintain technical parameters within licensed values.

(a) Licensees of AM, FM or TV broadcast stations may utilize an automatic transmission system (ATS) in lieu of either direct or remote control of the station transmitting system.

(b) No authorization from the FCC is required to operate the transmitter using an automatic transmission system. Prior to commencing use of the ATS, the station chief operator, technical director, or consulting engineer shall certify in writing to the station licensee that the system has been installed, tested, and fully complies with all prescribed technical standards of the rules applicable to the particular class of station.

(c) Broadcast stations operating automatic transmission systems must be provided with one or more ATS duty operator points. Each such point shall have a means to turn the transmitting apparatus off at all times.

(d) Whenever an automatic transmission system duty operator point is established at a location other than the main studio or transmitter, notification of that location must be sent to the FCC in Washington, D.C. within 3 days of initial use of the point. This notification is not required if responsible station personnel may be contacted at the transmitter or studio site during hours of operation when the ATS duty operator is elsewhere.

(e) The ATS must incorporate circuits that will terminate station transmission within 3 minutes if the adjustment controls do not correct an operating condition which is capable of causing interference.

(f) The transmitting apparatus must be manually activated at the beginning of each broadcast period.

(g) For AM station operation, the ATS may incorporate a means to transmit emergency information under the provisions of §73.1250(f).

**§73.1510. Experimental authorizations:** (a) Licensees of broadcast stations may obtain experimental authorizations to conduct technical experimentation directed toward improvement of the technical phases of operation and service, and for such purposes may use a signal other than the normal broadcast program signal.

(b) Experimental authorizations may be requested by filing an informal application with the FCC in Washington, D.C., describing the nature and purpose of the experimentation to be conducted, the nature of the experimental signal to be transmitted, and the proposed schedule of hours and duration of the experimentation. Experimental authorizations shall be posted with the station license.

(c) Experimental operations are subject to the following conditions:

(1) The authorized power of the station may not be exceeded, except as specifically authorized for the experimental operations.

(2) Emissions outside the authorized band-width must be attenuated to the degree required for the particular type of station.

(3) The experimental operations may be conducted at any time the station is authorized to operate, but the minimum required schedule of programming for the class and type of station must be met. AM stations also may conduct experimental operations during the experimental period (12 midnight local time to local sunrise) and at additional hours if permitted by the experimental authorization provided no interference is caused to other stations maintaining a regular operating schedule within such period(s).

(4) If an experimental authorization permits the use of additional facilities or hours of operation for experimental purposes, no sponsored programs or commercial announcements may be transmitted during such experimentation.

(5) The licensee may transmit regularly scheduled programming concurrently with the experimental transmissions if there is no significant impairment of service.

(6) No charges may be made, either directly or indirectly, for the experimentation; however, normal charges may be made for regularly scheduled programming transmitted concurrently with the experimental transmissions.

(d) The FCC may request a report of the research, experimentation and results at the conclusion of the experimental operations.

**§73.1515 Special field test authorizations.** (a) A special field test authorization may be issued to conduct field strength surveys to aid in the selection of suitable sites for broadcast transmission facilities, determine coverage areas, or to study other factors influencing

broadcast signal propagation. The applicant for the authorization must be qualified to hold a license under Section 303(l)(1) of the Communications Act.

(b) Requests for authorizations to operate a transmitter under a special field test authorization must be in writing using an informal application in letter form, signed by the applicant and including the following information:

(1) Purpose, duration and need for the survey.

(2) Frequency, transmitter output powers and time of operation.

(3) A brief description of the test antenna system, its estimated effective radiated field and height above ground or average terrain, and the geographic coordinates of its proposed location(s).

(c) Operation under a special field test authorization is subject to the following conditions:

(1) No objectionable interference will result to the operation of other authorized radio services; in this connection, the power requested shall not exceed that necessary for the purposes of the test.

(2) The carriers will be unmodulated except for the transmission of a test pattern on a visual TV transmitter, and for hourly voice station identification on aural AM, FM and TV transmitters.

(3) The transmitter output power or antenna input power may not exceed those specified in the test authorization and the operating power must be maintained at a constant value for each phase of the tests.

(4) The input power to the final amplifier stage, and the AM antenna current or the FM or TV transmitter output power must be observed and recorded at half hour intervals and at any time that the power is adjusted or changed. Copies of these records must be submitted to the FCC with the required report.

(5) The test equipment may not be permanently installed, unless such installation has been separately authorized. Mobile units are not deemed permanent installations.

(6) Test transmitters must be operated by or under the immediate direction of an operator holding a commercial radio operator license (any class, unless otherwise endorsed).

(7) A report, containing the measurements, their analysis and other results of the survey shall be filed with the FCC in Washington, D.C. within sixty (60) days following the termination of the test authorization.

(8) The test transmission equipment, installation and operation thereof need not comply with the requirements of FCC Rules and Standards except as specified in this section if the equipment, installation and operation are consistent with good engineering principles and practices.

(d) A special field test authorization may be modified or terminated by notification from the FCC if in its judgment such action will promote the public interest, convenience and necessity.

**§73.1520 Operation for tests and maintenance.** (a) Broadcast stations may be operated for tests and maintenance of their transmitting systems on their assigned frequencies using their licensed operating power and antennas during their authorized hours of operation without specific authorization from the FCC.

(b) Licensees of AM stations may operate for tests and maintenance during the hours from 12 midnight local time to local sunrise, if no interference is caused to other stations maintaining a regular operating schedule within such period. No AM station licensed for daytime or "specified hours" of operation may broadcast any regular or scheduled programs during this period of test and maintenance operation.

(c) Licensees of AM stations may obtain special antenna test authorizations, and operate under the provisions described in §73.157, to operate with nighttime facilities during daytime hours in conducting directional antenna field strength and antenna proof of performance measurements.

**§73.1705 Time of operation.** (a) Commercial and non-commercial educational TV and commercial FM stations will be licensed for unlimited time operation. Application may be made for voluntary share-time operation.

(b) Noncommercial educational FM stations will be licensed for unlimited and share time operation according to the provisions of §73.561

(c) AM stations will be licensed for unlimited time, limited time, daytime, share time or specified hours.

**§73.1715 Share time.** Operation is permitted by two or more broadcast stations using the same channel in accordance with a division of hours mutually agreed upon and considered part of their licenses.

(a) If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule

of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file it in triplicate original with each application to the FCC in Washington, D.C. for renewal of license. If and when such written agreements are properly filed in conformity with this section, the file mark of the FCC will be affixed thereto, one copy will be retained by the FCC, and one copy returned to the licensee to be posted with the station license and considered as a part thereof. If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license.

(b) If the licensees of stations authorized to share time are unable to agree on a division of time, the FCC in Washington, D.C. shall be so notified by a statement filed with the applications for renewal of licenses. Upon receipt of such statement, the FCC will designate the applications for a hearing and, pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.

(c) A departure from the regular schedule in a time-sharing agreement will be permitted only in cases where an agreement to that effect is put in writing, is signed by the licensees of the stations affected thereby and filed in triplicate by each licensee with the FCC in Washington, D.C. prior to the time of the proposed change. If time is of the essence, the actual departure in operating schedule may precede the actual filing of written agreement; provided appropriate notice is sent to the FCC.

(d) If the license of an AM station authorized to share time does not specify the hours of operation, the station may be operated for the transmission of regular programs during the experimental period provided an agreement thereto is reached with the other stations with which the broadcast day is shared; and further provided, such operation is not in conflict with §73.72 (Operating during the experimental period). Time-sharing agreements for operation during the experimental period need not be submitted to the FCC.

(e) Noncommercial educational FM stations are authorized for share-time operation according to the provisions of §73.561.

**§73.1720 Daytime.** Operation is permitted during the hours between average monthly local sunrise and average monthly local sunset.

(a) The controlling times for each month of the year are stated in the station's instrument of authorization. Uniform sunrise and sunset times are specified for all of the days of each month, based upon the actual times of sunrise and sunset for the fifteenth day of the month adjusted to the nearest quarter hour. Sunrise and sunset times are derived by using the standardized procedure and the table in the 1946 American Nautical Almanac issued by the United States Naval Observatory.

**§73.1725 Limited time.** (a) Operation is applicable only to Class II (secondary) AM stations on a clear channel with facilities authorized before November 30, 1959. Operation of the secondary station is permitted during daytime and until local sunset if located west of the dominant station on the channel, or until local sunset at the dominant station if located east of that station. Operation is also permitted during nighttime hours not used by the dominant station or stations on the channel.

(b) No authorization will be granted for: (1) A new limited time station; (2) A limited time station operating on a changed frequency; (3) A limited time station with a new transmitter site materially closer to the 0.1 mv/m contour of a co-channel U.S. Class I station; or (4) Modification of the operating facilities of a limited time station resulting in increased radiation toward any point on the 0.1 mv/m contour of a co-channel U.S. Class I station during the hours after local sunset in which the limited time station is permitted to operate by reason of location east of the Class I station.

(c) The licensee of a secondary station which is authorized to operate limited time and which may resume operation at the time the dominant station (or stations) on the same channel ceases operation shall, with each application for renewal of license, file in triplicate a copy of its regular operating schedule. It shall bear a signed notation by the licensee of the dominant station of its objection or lack of objection thereto. Upon approval of such operating schedule, the FCC will affix its file mark and return one copy to the licensee authorized to operate limited time. This shall be posted with the station license and considered as a part thereof. Departure from said operating schedule will be permitted only pursuant to §73.1715 (Share time).

**§73.1730 Specified hours.** (a) Specified hours stations must operate in accordance with the exact hours specified in their license. However, such stations, operating on local channels, unless sharing time with other stations, may operate at hours beyond those specified in their licenses to carry special events programming. When such programs are carried during nighttime hours, the station's authorized nighttime facilities must be used.

(b) Other exceptions to the adherence to the schedule of specified hours of operation are provided in §73.72 (Operating during the experimental period), §73.1250 (Broadcasting emergency information) and §73.1740 (Minimum operating schedule).

**§73.1735 AM station operating pre-sunrise and post-sunset.** Certain classes of AM stations are eligible to operate pre-sunrise and/or post-sunset for specified periods with facilities other than those specified on their basic instruments of authorization. Such pre-sunrise and post-sunset operation is authorized pursuant to the provisions of §73.99 of the rules.

**§73.1740 Minimum operating schedule.** (a) All commercial broadcast stations are required to operate not less than the following minimum hours:

(1) AM and FM stations. Two-thirds of the total hours they are authorized to operate between 6 a.m. and 6 p.m. local time and two-thirds of the total hours they are authorized to operate between 6 p.m. and midnight, local time, each day of the week except Sunday. (i) Daytime AM stations and former daytime-only AM stations that have been reclassified as Class II-S or III-S need comply only with the minimum requirements for operation between 6 a.m. and 6 p.m., local time.

(2) TV stations. (i) During the first 36 months of operation, not less than 2 hours daily in any 5 broadcast days per calendar week and not less than a total of: (A) 12 hours per week during the first 18 months. (B) 16 hours per week during the 19th through 24th months. (C) 20 hours per week during the 25th through 30th months. (D) 24 hours per week during the 31st through 36th months.

(ii) After 36 months of operation, not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week.

(iii) Visual transmissions of test patterns, slides, or still pictures accompanied by unrelated aural transmissions may not be counted in computing program service (see §73.653).

(3) Operation includes the period during which the station is operated pursuant to temporary authorization or program tests, as well as during the license period.

(4) In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

(b) Noncommercial educational AM and TV stations are not required to operate on a regular schedule and no minimum hours of operation are specified; but the hours of actual operation during a license period shall be taken into consideration in the renewal of noncommercial educational AM and TV broadcast licenses. Noncommercial educational FM stations are subject to the operating schedule requirements according to the provisions of §73.561.

## Operator Requirements

### In AM rules ...

**§73.61 AM directional antenna field strength measurements.** (a) Each AM station using a directional antenna system must make field strength measurements at the monitoring point locations specified in the instrument of authorization, as often as necessary to ensure that the field at those points does not exceed the values specified in the station authorization. Additionally, stations not having an approved sampling system must make the measurements once each calendar quarter at intervals not exceeding 120 days. The provision of this paragraph supersedes any schedule specified on a station license issued prior to January 1,

1986. The results of the measurements are to be entered into the station log pursuant to the provisions of §73.1820.

(b) Partial proof of performance measurements using the procedures described in §73.154 must be made whenever the licensee has reason to believe that the radiated field may be exceeding the limits for which the station was most recently authorized to operate.

(c) A station may be directed to make a partial proof of performance by the FCC whenever there is an indication that the antenna is not operating as authorized.

### In AM, FM and TV rules ...

**§73.1580 Transmission system inspections.** (a) Each AM, FM and TV station licensee or permittee must conduct a complete inspection of the transmitting system and all required monitors as often as necessary to ensure proper station operation.

(b) The results of the inspections required by subsection (a) of this section are to be entered in the station maintenance log as specified in §73.1830(a)(1)(ix).

**§73.1860 Transmitter duty operators.** (a) Each AM, FM or TV broadcast station must have at least one person holding a commercial radio operator license or permit (any class, unless otherwise endorsed) on duty in charge of the transmitter during all periods of broadcast operation. The operator must be on duty at the transmitter location, a remote control point, an ATS monitor and alarm point, or a position where extension meters are installed under the provisions of §73.1550.

(b) The transmitter operator must be able to observe the required transmitter and monitor metering to determine deviations from normal indications. The operator must also be able to make the necessary adjustments from the normal operator duty position, except as provided for in §73.1550.

(c) It is the responsibility of the station licensee to ensure that each transmitter operator is fully instructed and capable to perform all necessary observations and adjustments of the transmitting system and other associated operating duties to ensure compliance with the rules and station authorization.

(d) The transmitter duty operator may, at the discretion of the licensee and chief operator, be employed for other duties or operation of other transmitting stations if such other duties will not interfere with the proper operation of the broadcast transmission system.

**§73.1870 Chief operators.** (a) The licensee of each AM, FM or TV broadcast station must designate a person holding a commercial radio operator license or permit (any class, unless otherwise endorsed) to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another licensed operator as the acting chief operator on a temporary basis.

(b) Chief operators shall be employed or serve on the following basis:

(1) The chief operator for an AM station using a directional antenna or operating with greater than 10 kw authorized power, or of a TV station is to be an employee of the station on duty for whatever number of hours each week the station licensee determines is necessary to keep the station's technical operation in compliance with FCC rules and the terms of the station authorization.

(2) Chief operators for non-directional AM stations operating with authorized powers not exceeding 10 kw and FM stations may be either an employee of the station or engaged to serve on a contract basis for whatever number of hours each week the licensee determines is necessary to keep the station's technical operation in compliance with the FCC rules and terms of the station authorization.

(3) The designation of the chief operator must be in writing with a copy of the designation posted with the operator license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in station files.

(c) The chief operator is responsible for completion of the following duties specified in this paragraph below. When these duties are delegated to other persons, the chief operator shall maintain supervisory oversight sufficient to know that each requirement has been fulfilled in a timely and correct manner.

(1) Weekly (or monthly for stations using automatic transmission systems) inspections and calibrations of the transmission system, required monitors, metering, and control systems; and any necessary repairs or adjustments where indicated.

(2) Periodic AM field monitoring point measurements, equipment performance measurements, or other tests as specified in the rules or terms of the station license.

(3) Review of the station operating system inspec-

tions to determine if the entries are being made correctly or of the station authorization. Upon completion of the review, the chief operator or his designee is to make a notation of any discrepancies observed and date and sign the log, initiate necessary corrective action, and advise the station licensee of any condition which is a repetitive problem.

### Personal Attacks and Political Broadcasts

#### *In AM, FM, TV rules ...*

**§73.1910 Fairness Doctrine.** The Fairness Doctrine is contained in Section 315(a) of the Communications Act of 1934, as amended, which provides that broadcasters have certain obligations to afford reasonable opportunity for the discussion of conflicting views on issues of public importance. See FCC public notice Fairness Doctrine and the Public Interest Standards, 39 FR 26372. Copies may be obtained from the FCC upon request.

**§73.1920 Personal attacks.** (a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than one week after the attack, transmit to the persons or group attacked: (1) Notification of the date, time and identification of the broadcast; (2) A script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) An offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this Section shall not apply to broadcast material which falls within one or more of the following categories: (1) Personal attacks on foreign groups or foreign public figures; (2) Personal attacks occurring during uses by legally qualified candidates; (3) Personal attacks made during broadcasts not included in (b)(2) and made by legally qualified candidates, their authorized spokespersons, or those associated with them in the campaign, on other such candidates, their authorized spokespersons or persons associated with the candidates in the campaign; and (4) Bona fide newscasts, bona fide news interviews, and on-the-spot coverage of bona fide news events, including commentary or analysis contained in the foregoing programs.

(c) The provisions of paragraph (a) of this section shall be applicable to editorials of the licensee, except in the case of noncommercial educational stations since they are precluded from editorializing (Section 399(a), Communications Act).

**§73.1930 Political editorials.** (a) Where a licensee, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the licensee shall, within 24 hours after the editorial, transmit to, respectively, (i) the other qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial, (A) notification of the date and the time of the editorial, (B) a script or tape of the editorial and (C) an offer of a reasonable opportunity for the candidate or a spokesman of the candidate to respond over the licensee's facilities. Where such editorials are broadcast on the day of the election or within 72 hours prior to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

(b) Inasmuch as noncommercial educational stations may not engage in editorializing nor may support nor oppose any candidate for political office (Section 399, Communications Act), the provisions of paragraph (a) of this section do not apply to such stations.

**§73.1940 Broadcasts by candidates for public office.** (a) Definitions:

(1) A legally qualified candidate for public office is any person who

(i) has publicly announced his or her intention to run for nomination or office;

(ii) is qualified under the applicable local, state or federal law to hold the office for which he or she is a candidate; and,

(iii) has met the qualifications set forth in either subparagraphs (2), (3) or (4), below.

(2) A person seeking election to any public office including that of president or vice president of the United States, or nomination for any public office except that of president or vice president, by means of a primary general or special election, shall be considered a legally qualified candidate if, in addition to meeting the criteria set forth in subparagraph (1) above, that person:

(i) has qualified for a place on the ballot, or

(ii) has publicly committed himself or herself to seeking election by the write-in method and is eligible under applicable law to be voted for by sticker, by writing in his or her name on the ballot or by other method, and makes a substantial showing that he or she is a bona fide candidate for nomination or office.

Persons seeking election to the office of president or vice president of the United States shall, for the purposes of the Communications Act and the rules thereunder, be considered legally qualified candidates only in those states or territories (or the District of Columbia) in which they have met the requirements set forth in paragraph (a)(1) and (2) of this rule: Except, that any such person who has met the requirements set forth in paragraph (a)(1) and (2) in at least 10 states (or nine and the District of Columbia) shall be considered a legally qualified candidate for election in all states, territories and District of Columbia for purposes of this Act.

(3) A person seeking nomination to any public office, except that of president or vice president of the United States, by means of a convention, caucus or similar procedure, shall be considered a legally qualified candidate if, in addition to meeting the requirements set forth in paragraph (a)(1) above, that person makes a substantial showing that he or she is a bona fide candidate for such nomination: Except, that no person shall be considered a legally qualified candidate for nomination by the means set forth in this paragraph prior to 90 days before the beginning of the convention, caucus or similar procedure in which he or she seeks nomination.

(4) A person seeking nomination for the office of president or vice president of the United States shall, for the purposes of the Communications Act and the rules thereunder, be considered a legally qualified candidate only in those states or territories (or the District of Columbia) in which, in addition to meeting the requirements set forth in paragraph (a)(1) above:

(i) he or she, or proposed delegates on his or her behalf, have qualified for the primary or presidential preference ballot in that state, territory or the District of Columbia, or

(ii) he or she has made a substantial showing of bona fide candidacy for such nomination in that state, territory or the District of Columbia; except that any such person meeting the requirements set forth in paragraphs (a)(1) and (4) in at least ten states (or nine and the District of Columbia) shall be considered a legally qualified candidate for nomination in all states, territories and the District of Columbia for purposes of this Act.

(5) The term "substantial showing" of bona fide candidacy as used in paragraphs (a)(2), (3) and (4) above means evidence that the person claiming to be a candidate has engaged to a substantial degree in activities commonly associated with political campaigning. Such activities normally would include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee and establishing campaign headquarters (even though the headquarters in some instances might be the residence of the candidate or his campaign manager).

Not all of the listed activities are necessarily required in each case to demonstrate a substantial showing, and there may be activities not listed herein which would contribute to such a showing.

(b) Charges for use of stations: The charges, if any, made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed

(1) during the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period, and

(2) at any other time, the charges made for comparable use of such station by other users thereof. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discolor privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(3) This paragraph shall not apply to any station which is not licensed for commercial operation.

(c) Discrimination between candidates: In making time available to candidates for public office, no licensee shall make any discrimination between candidates in practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candi-

date for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) See §73.3526 and §73.3527. Records, inspection. Every licensee shall keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted. When free time is provided for use by or on behalf of such candidates, a record of the free time provided shall be placed in the political file. All records required by this paragraph shall be placed in the political file as soon as possible and shall be retained for a period of two years. See §73.3526 and §73.3527.

(e) Time of request: A request for equal opportunities must be submitted to the licensee within one week of the day on which the first prior use giving rise to the right of equal opportunities occurred. Provided, however, that where the person was not a candidate at the time of such first prior use, he shall submit his request within one week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) Burden of proof: A candidate requesting equal opportunities of the licensee, or complaining of noncompliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

(g) General requirements: (1) Except as otherwise indicated in paragraph (g)(2) of this section, no station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such licensee shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any (i) bona fide newscast, (ii) bona fide news interviews, (iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject covered by the news documentary), or (iv) on-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of a broadcasting station. (Section 315(a) of the Communications Act.)

(2) Section 312(a)(7) of the Communications Act provides that the Commission may revoke any station license or construction permit for willful or repeated failure to allow reasonable access to, or to permit purchase of, reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for federal elective office on behalf of his candidacy.

(h) Political broadcasting primer: A detailed study of these rules regarding broadcasts by candidates for federal and non-federal public office is available in the FCC Public Notice of July 20, 1978, "The Law of Political Broadcasting and Cablecasting" [43 RR 2d 1353]. Copies may be obtained from the FCC upon request.

### Equal Employment Opportunities

#### *In AM, FM, TV rules ...*

**§73.2080 Equal employment opportunities.** (a) General EEO policy: Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV or international broadcast stations (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin or sex.

(b) EEO program: Each broadcast station shall establish, maintain, and carry out, a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice. Under the terms of its programs, a station shall

(1) Define the responsibility of each level of management to ensure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race,

color, religion, national origin or sex, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing program to exclude all unlawful forms of prejudice or discrimination based upon race, color, religion, national origin or sex, from its personnel policies and practices and working conditions; and

(5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, job design, and other measures needed in order to ensure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(c) EEO program requirements: A broadcast station's equal employment opportunity program should reasonably address itself to the specific areas set forth below, to the extent possible, and to the extent that they are appropriate in terms of the station's size, location, etc.

(1) Disseminate its equal opportunity program to job applicants and employees. For example, this requirement may be met by:

(i) Posting notices in the station's office and other places of employment, informing employees, and applicants for employment, of their equal employment opportunity rights. Where it is appropriate, such equal employment opportunity notices should be posted in languages other than English;

(ii) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited;

(iii) Seeking the cooperation of labor unions, if represented at the station, in the implementation of its EEO program and the inclusion of nondiscrimination provisions in union contracts;

(iv) Utilizing media for recruitment purposes in a manner that will contain no indication, either explicit or implicit, of a preference for one sex over another and that can be reasonably expected to reach minorities and women.

(2) Use minority organizations, organizations for women, media, educational institutions and other potential sources of minority and female applicants, to supply referrals whenever job vacancies are available in its operation. For example, this requirement may be met by:

(i) Placing employment advertisements in media that have significant circulation among minorities residing and/or working in the recruiting area;

(ii) Recruiting through schools and colleges, including those located in the station's local area, with significant minority-group enrollments;

(iii) Contacting, both orally and in writing, minority and human relations organizations, leaders and spokesmen to encourage referral of qualified minority or female applicants;

(iv) Encouraging current employees to refer minority or female applicants;

(v) Making known to recruitment sources in the employer's immediate area that qualified minority members and females are being sought for consideration whenever you hire and that all candidates will be considered on a nondiscriminatory basis.

(3) Evaluate its employment profile and job turnover against the availability of minorities and women in its recruitment area. For example, this requirement may be met by:

(i) Comparing the composition of the relevant labor area with composition of the station's workforce;

(ii) Where there is underrepresentation of either minorities and/or women, examining the company's personnel policies and practices to assure that they do not inadvertently screen out any group and take appropriate action where necessary. Data on representation of minorities and women in the available labor force are generally available on a metropolitan statistical area (MSA) or county basis.

(4) Undertake to offer promotions of qualified minorities and women in a nondiscriminatory fashion to positions of greater responsibility. For example, this requirement may be met by:

(i) Instructing those who make decisions on placement and promotion that qualified minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed;

(ii) Giving qualified minority and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower paid employees with respect to any of the higher paid positions.

(5) Analyze its efforts to recruit, hire and promote minorities and women and address any difficulties encountered in implementing its equal employment op-

portunity program. For example, this requirement may be met by:

(i) Avoiding use of selection techniques or tests that have the effect of discriminating against qualified minority groups or females;

(ii) Reviewing seniority practices to ensure that such practices are nondiscriminatory;

(iii) Examining rates of pay and fringe benefits for employees having the same duties, and eliminating any inequities based upon race or sex discrimination.

### Network Affiliation

#### In AM rules ...

**§73.132 Territorial exclusivity.** No licensee of an AM broadcast station shall have any arrangement with a network organization which prevents or hinders another station serving substantially the same area from broadcasting the network's programs not taken by the former station, or which prevents or hinders another station serving a substantially different area from broadcasting any program of the network organization; provided, however, that this section does not prohibit arrangements under which the station is granted first call within its primary service area upon the network's programs. The term network organization means any organization originating program material, with or without commercial messages, and furnishing the same to stations interconnected so as to permit simultaneous broadcast by all or some of them. However, arrangements involving only stations under common ownership, or only the rebroadcast by one station of programming from another with no compensation other than a lump-sum payment by the station rebroadcasting, are not considered arrangements with a network organization. The term arrangement means any contract arrangement or understanding, express or implied.

#### In FM rules ...

**§73.232. EDITOR'S NOTE:** Same as §73.132.

#### In TV rules ...

**§73.658 Affiliation agreements.** (a) Exclusive affiliation of station: No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, broadcasting the programs of any other network organization. (The term network organization as used herein includes national and regional network organizations. See chapter VII, J. of Report on Chain Broadcasting.)

(b) **Territorial exclusivity.** No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which prevents or hinders another broadcast station in the same community from broadcasting the network's programs not taken by the former stations, or which prevents or hinders another broadcast station located in a different community from broadcasting any program of the network organization. This regulation shall not be construed to prohibit any contract, arrangement, or understanding between a station and a network organization pursuant to which the station is granted the first call in its community upon the program of the network organization. As employed in this paragraph, the term community is defined as the community specified in the instrument of authorization as the location of the station.

#### (c) [Reserved]

(d) **Station commitment of broadcast time.** No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with any network organization, which provides for optioning of the station's time to the network organization, or which has the same restraining effect as time optioning. As used in this section, time optioning is any contract, arrangement, or understanding, express or implied, between a station and a network organization which prevents or hinders the station from scheduling programs before the network agrees to utilize the time during which such programs are scheduled, or which requires the station to clear time already scheduled when the network organization seeks to utilize the time.

(e) **Right to reject programs.** No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which, with respect to programs offered or already contracted for pursuant to an affiliation contract, prevents or hinders the station from (1) rejecting or refusing network programs which

the station reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest, or (2) substituting a program which in the station's opinion, is of greater local or national importance.

(f) **Network ownership of stations.** No license shall be granted to a network organization, or to any person directly or indirectly controlled by or under common control of a network organization, for a television broadcast station in any locality where the existing television broadcast stations are so few or of such unequal desirability (in terms of coverage, power, frequency, or other related matters) that competition would be substantially restrained by such licensing. (The word control as used in this section is not limited to full control but includes such a measure of control as would substantially affect the availability of the station to other networks.)

(g) **Dual network operation.** No license shall be issued to a television broadcast station affiliated with a network organization which maintains more than one network of television broadcast stations; provided that this section shall not be applicable, if such networks are not operated simultaneously, or if there is no substantial overlap in the territory served by the group of stations comprising each such network.

(h) **Control by networks of station rates.** No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, fixing or altering its rates for the sale of broadcast time for other than the network's programs.

(i) No license shall be granted to a television broadcast station which is represented for the sale of non-network time by a network organization or by an organization directly or indirectly controlled by or under common control with a network organization, if the station has any contract, arrangement, or understanding, express or implied, which provides for the affiliation of the station with such network organization; provided, however, that this rule shall not be applicable to stations licensed to a network organization or to a subsidiary of a network organization.

#### (i) [Deleted]

(k) **Prime time access rule.** Effective September 8, 1975, commercial television stations owned by or affiliated with a national television network in the 50 largest television markets (see Note 1 to this paragraph) shall devote, during the four hours of prime time (7-11 p.m. E.T. and P.T., 6-10 p.m. C.T. and M.T.), no more than three hours to the presentation of programs from a national network, programs formerly on a national network (off-network programs) other than feature films, or, on Saturdays, feature films; provided, however, that the following categories of programs need not be counted toward the three-hour limitation:

(1) On nights other than Saturdays, network or off-network programs designed for children, public affairs programs or documentary programs (see Note 2 to this paragraph for definitions).

(2) Special news programs dealing with fast-breaking news events, on-the-spot coverage of news events or other material related to such coverage, and political broadcasts by or on behalf of legally qualified candidates for public office.

(3) Regular network news broadcasts up to half hour, when immediately adjacent to a full hour of continuous locally produced news or locally produced public affairs programming.

(4) Runovers of live network broadcast of sporting events, where the event has been reasonably scheduled to conclude before prime time or occupy only a certain amount of prime time, but the event has gone beyond its expected duration due to circumstances not reasonably foreseeable by the networks or under their control. This exemption does not apply to post-game material.

(5) In the case of stations in the Mountain and Pacific time zones, on evenings when network prime time programming consists of a sports event or other program broadcast live and simultaneously throughout the contiguous 48 states, such stations may assume that the network's schedule that evening occupies no more of prime time in these time zones than it does in the Eastern and Central time zones.

(6) Network broadcasts of an international sports event (such as the Olympic Games), New Year's Day college football games, or any other network programming of a special nature other than motion pictures or other sports events, when the network devotes all of its time on the same evening to the same programming, except brief incidental fill material.

NOTE 1 The top 50 markets to which this paragraph applies are the 50 largest markets in terms of average

prime time audience for all stations in the market. For broadcast years before fall 1980, the 50 markets are the largest 50 as listed in the Arbitron publication Television Markets and Rankings Guide, generally published in November, which will apply for the broadcast year starting the following fall, except that, for 1978-79, Syracuse-Elmira will not be included and the Salt Lake City market will be included. For broadcast years starting in the fall of 1980 and thereafter, the 50 largest markets to which this paragraph applies will be determined at three-year intervals, on the basis of the average of two Arbitron February/March audience surveys occurring roughly 2-1/2 years and roughly 3-1/2 years before the start of the three-year period. The 50 markets to which this paragraph will apply for three years from fall 1980 to fall 1983 will be determined by an average of the prime time audience figures (all market stations combined) contained in the reports of Arbitron February/March 1977 and February/March 1978 audience surveys. Shortly after the results of the 1978 survey are available, the Commission will issue a list of the 50 largest markets to which this paragraph will apply from fall 1980 to fall 1983. The same procedure will take place, on the basis of February/March 1980 and 1981 surveys, for the three-year period from fall 1983 to fall 1986.

NOTE 2: As used in this paragraph, the term programs designed for children means programs primarily designed for children aged 2 through 12. The term documentary programs means programs which are nonfictional and educational or informational, but not including programs where the information is used as part of a contest among participants in the program, and not including programs relating to the visual entertainment arts (stage, motion pictures or television) where more than 50% of the program is devoted to the presentation of entertainment material itself. The term public affairs programs means talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, roundtables, and similar programs primarily concerning local, national, and international public affairs.

NOTE 3: The provisions of this paragraph apply only to U.S. commercial television broadcast stations in the 50 states, and not to stations in Puerto Rico or the Virgin Islands, foreign stations or noncommercial educational television or "public" television stations (either by way of restrictions on their exclusivity or on exclusivity against them).

NOTE 4: New stations authorized in any community of a hyphenated market listed in §76.51 of this chapter or in any community of a hyphenated market listed in the ARB Television Market Analysis (for markets below the top-100 markets) are subject to the same rules as previously existing stations therein. New stations authorized in other communities are considered stations in separate markets unless and until §76.51 is amended by Commission action, or the ARB listing is changed.

**(l) Broadcast of the programs of more than one network.** The provisions of this paragraph govern and limit the extent to which, after October 1, 1971, commercial television stations in the 50 states of the United States, which are regular affiliates of one of the three national television networks, may broadcast programs of another network in markets where there are two such affiliated stations and one or more operational VHF or UHF stations having reasonably comparable facilities which are not regular affiliates of any network. Whether or not the stations in a particular market come within the provisions of this paragraph is determined by whether, as of July 1 of each year with respect to programs beginning October 1, or as of January 1 of each year with respect to programs beginning April 1, there are in the market the stations specified in the last sentence.

(1) Definitions. As used in this paragraph, the following terms have the meaning given:

(i) Station means a commercial television station in the 50 states of the United States.

(ii) Operational station means a station authorized and operating as of June 10 (with respect to programs beginning October 1) or as of December 10 (with respect to programs beginning April 1), or as a station authorized and which gives notice to the Commission by such June 10 or December 10 date that it will be on the air by such October 1 or April 1 date (including request for program test authority if none has previously been given), and commit itself to remain on the air for six months after such October 1 or April 1 date. Such notice shall be received at the Commission by the June 10 or December 10 date mentioned, and shall show that copies thereof have been sent to the three national networks and to the licensees of all operating television stations in the market.

(iii) Affiliated station means a station having a regular

affiliation with one of the three national television networks, under which it serves as that network's primary outlet for the presentation of its programs in a market. It includes any arrangement under which the network looks primarily to this station rather than other stations for the presentation of its programs and the station chiefly presents the programs of this network rather than another network.

(iv) Unaffiliated station means a station not having an affiliation arrangement as defined in this subparagraph with a national television network, even though it may have other types of agreements or pre-program arrangements with it.

(v) Network means a national organization distributing programs for a substantial part interconnection facilities.

(vi) Unaffiliated network means a network not having an affiliated station (as defined in this paragraph) in a particular market, even though it may have other types of agreements or pre-program arrangements.

(vii) Market means the television markets of the United States, and the stations in them, as identified in the latest publication of American Research Bureau (ARB), together with any stations which have since become operational in the same communities.

(viii) Evening programming means programing (regular programs or specials) starting and concluding on a network between the hours of 7:30 p.m. and 11 p.m. local time (except 6:30 p.m. and 10 p.m. in the Central time zone), plus all programs other than regular newscasts starting on the network between 7 and 7:30 p.m. local time (6 and 6:30 p.m. local time in the Central time zone). It does not include portions broadcast after 7 p.m. of programs starting earlier, or portions broadcast after 11 p.m. of programs starting earlier.

(ix) Specials means programs not carried on the network at least as often as once a week. It includes both programs scheduled very well in advance and those scheduled very shortly before broadcast on the network.

(x) Reasonably comparable facilities means station transmitting facilities (effective radiated power and effective antenna height above average terrain) such that the station's Grade B coverage area is at least two-thirds as large (in square kilometers) as the smallest of the market affiliated stations' Grade B coverage areas. Where one or both of the affiliates is licensed to a city different from that of the unaffiliated station, the term reasonably comparable facilities also includes the requirement that the unaffiliated station must put a predicted Grade A or better signal over all of the city of license of the other regular (non-satellite) station(s), except that where one of the affiliated stations is licensed to the same city as the unaffiliated station, and puts a Grade B but not a Grade A signal over the other city of license, the unaffiliated station will be considered as having reasonably comparable facilities if it too puts a predicted Grade B signal over all of the other city of license.

(2) Taking programs from unaffiliated networks: No affiliated station, in a market covered by this paragraph, shall take and broadcast, from an unaffiliated network, any programming of the times and types specified in this subparagraph, unless the conditions specified have first been met.

(i) Any evening programming (as defined in this paragraph), unless and until the entire schedule of such programs has been offered by the unaffiliated network to the unaffiliated station as provided in subparagraph (4) of this paragraph, and the unaffiliated station has either accepted 15 hours per week of such programs, plus additional special hours when part of the "special" is included in the 15 hours, or has accepted a lesser amount and indicated that it does not wish to carry any more. Such acceptance shall be governed by the provisions of subparagraph (4) of this paragraph.

(ii) Any programming beginning on the network between 12 noon and 7 p.m. on Saturdays, Sundays and holidays, and consisting of sports events (without limitation, college football and basketball, professional football, baseball, ice hockey, golf, tennis, horse racing and auto racing), unless and until the program has first been offered to the unaffiliated station and that station has indicated that it does not wish to accept it.

(iii) Any programming broadcast after 11 p.m. local time (except 10 p.m. local time in the Central time zone) which is a continuation of programs starting earlier and carried by the unaffiliated station; or any material broadcast after 7 p.m. (6 p.m. in the Central time zone) which is a continuation of sports programs beginning earlier and carried by the unaffiliated station.

(iv) Any program presented in the same week by the unaffiliated station.

(3) Carriage of programs of a network which has an affiliate: No affiliated station in a market covered by this paragraph shall broadcast, from another network which

has an affiliated station in the market, any evening programming or Saturday, Sunday or holiday sports programming, unless such programming has been offered to the unaffiliated station in the market and the latter has indicated that it does not wish to carry it.

(4) Offer and acceptance: (i) The offer by a network referred to in this paragraph means an offer to the unaffiliated station of the programs for broadcast. Programs so offered cannot be withdrawn by the network until the following April 1 or October 1, unless the station does not in fact broadcast the program as accepted, in which case the provisions of paragraph (1) (4) (ii) shall apply, or unless the program is cancelled on the network, in which case the replacement or substitute program shall be offered to the station as a new program under paragraph (1) (2) or (1) (3). If a program accepted by the unaffiliated station is shifted in time, the station may exercise its right of first call either with respect to the program at its new time, or the previous time segment, at its option.

(ii) The acceptance referred to in paragraphs (1) (2) and (3) means that the unaffiliated station agrees to broadcast the program accepted, at its live network time or a delayed time acceptable to the network, unless in its judgment the program is not in the public interest or it wishes to substitute a local, or other live, program for it. The provisions of 73.658(a), prohibiting agreements which hinder the presentation of the programs of other networks, shall not apply to material covered by this paragraph. If a program is not presented in a particular week or at a delayed time acceptable to the network, the network may place this particular broadcast of the program on another station; and if this occurs more than 4 times in any 13-week period the network may withdraw the program from the station without obligation to offer it any additional programming. The unaffiliated station is free to seek and obtain other terms of acceptance from the network; but the offer of programming by the network on the foregoing terms satisfies its obligations under this paragraph.

(iii) The offer by the network shall, to the extent possible, be on or before July 15 with respect to programs beginning in the fall season, and by January 15 with respect to programs presented after April 1, or otherwise as soon as possible. The unaffiliated station's acceptance or indication of non-acceptance shall be within two weeks after the date of the offer; where any negotiations between the network and the station concerning particular programs are involved, programs not accepted within 30 days of the date of the offer shall be deemed not accepted.

NOTE 1: If there are in a particular market two affiliated stations and two (or more) operational unaffiliated stations with reasonably comparable facilities, the provisions of paragraph (1) shall require an offer of programming to each: but the 15-hour-per-week first call provision applies to the total programming taken by all such stations.

NOTE 2: The provisions of paragraph (1) do not apply to a market in which there are two VHF affiliated U.S. stations, and a foreign VHF station to which a national U.S. television network transmits programs pursuant to authority granted under Section 325 of the Communications Act of 1934, as amended, and which serves as that network's primary affiliate in the market.

**(m)(1) Territorial exclusivity in non-network arrangements.** No television station shall enter into any contract, arrangement or understanding, expressed or implied, with a non-network program producer, distributor, or supplier, or other person which prevents or hinders another television station located in a community over 56.3 kilometers (35 miles) away, as determined by the reference points contained in §76.53 of this chapter, (if reference points for a community are not listed in §76.53, the location of the main post office will be used) from broadcasting any program purchased by the former station from such non-network program producer, distributor, supplier or any other person except that a TV station may secure exclusivity against a television station licensed to another designated community in a hyphenated market specified in the market listing as contained in §76.51 of this chapter for those 100 markets listed, and for markets not listed in §76.51 of this chapter, the listing as contained in the ARB Television Market Analysis for the most recent year at the time that the exclusivity contract, arrangement, or understanding is complete under practices of the industry. As used in this subsection, the term community as defined as the community specified in the instrument of authorization as the location of the station.

(2) Notwithstanding paragraph (m)(1), a television station may enter into a contract, arrangement, or understanding with a producer, supplier, or distributor of a non-network program if that contract, arrangement, or understanding provides that the broadcast station

has exclusive national rights such that no other television station in the United States may broadcast the program.

NOTE 1: Contracts, arrangements, or understandings that are complete under the practices of the industry prior to August 7, 1973, will not be disturbed. Extensions or renewals of such agreements are not permitted because they would in effect be new agreements without competitive bidding. However, such agreements that were based on the broadcaster's advancing "seed money" for the production of a specific program or series that specify two time periods—a tryout period and period thereafter for general exhibition—may be extended or renewed as contemplated in the basic agreement.

NOTE 2: It is intended that the top 100 major television markets listed in §76.51 of this chapter shall be used for the purposes of this rule and that the listing of the top 100 television markets appearing in the ARB Television Market Analysis shall not be used. The reference in this rule to the listing of markets in the ARB Television Market Analysis refers to hyphenated markets below the top-100 markets contained in the ARB Television Market Analysis. If a community is listed in a hyphenated market in §76.51 and is also listed in one of the Markets in the ARB listing, the listing in §76.51 shall govern.

NOTE 3: The provisions of this paragraph apply only to U.S. commercial television broadcast stations in the 50 states, and not to stations in Puerto Rico or the Virgin Islands, foreign stations or noncommercial educational television or "public" television stations (either by way of restrictions on their exclusivity or on exclusivity against them).

NOTE 4: New stations authorized in any community of a hyphenated market listed in §76.51 of this chapter or in any community of a hyphenated market listed in the ARB Television Market Analysis (for markets below the top-100 markets) are subject to the same rules as previously existing stations therein. New stations authorized in other communities are considered stations in separate markets unless and until §76.51 is amended by Commission action, or the ARB listing is changed.

### Network Financial Interests and Syndication

#### In TV rules ...

**§73.659 Television network financial interests and syndication rights in programs.** (a) No television network may hold or acquire continuing financial interests or syndication rights in any prime time entertainment program or series exhibited on its network unless such interests or rights are held or acquired under one of the following circumstances:

- (1) The program or series is solely produced by the network;
- (2) The program or series is a co-production between the network and a foreign production entity;
- (3) The program or series is a co-production between the network and a domestic production entity where such co-production arrangement (i) was initiated, in writing, by the outside production entity and (ii) does not become binding on the outside production entity until thirty (30) days after it is executed;
- (4) The interests or rights in a program or series are acquired from an outside producer through negotiations commencing no earlier than thirty (30) days subsequent to the execution of any network license fee agreement for that program or series.

(b) No television network may hold or acquire continuing financial interests or syndication rights in any first-run non-network program or series distributed in the United States unless the network has solely produced that program or series.

(c) No more than forty percent of a television network's total prime time entertainment programming schedule during a programming year shall consist of programming in which the network holds or acquires continuing financial interests or syndication rights pursuant to paragraphs (a)(1)-(a)(3) of this section.

**§73.660 Television network participation in program syndication.** (a) No television network may syndicate any prime time entertainment program to television stations within the United States: (1) the syndication rights to which have been acquired pursuant to the provisions of 73.659(a)(4); or (2) that has not previously been aired on its network. Such programs shall be syndicated domestically through an independent syndicator

(b) No television network may syndicate prime time entertainment programs to any station with which it is affiliated on terms or conditions that are more favorable

than those offered to other nonaffiliated stations. Favoritism shall be rebuttably presumed if productions in which a network has an interest are syndicated to network owned or affiliated stations in more than thirty percent of the markets where the program has been sold.

(c) Where a television network has syndication rights in prime time entertainment programming, such programming shall be made available for non-network broadcast exhibition within the United States no later than the earlier of: (1) the end of the fourth year after network exhibition of such a series has commenced, or the subsequent anniversary of that date as to all programs in that series aired after the fourth year, or (2) one hundred eighty (180) days after network exhibition of such a series or program is completed.

**§73.661 Network television program ownership and syndication reports.** (a) A television network shall maintain reports identifying prime time television entertainment programming exhibited on any television network in which the network holds or acquires financial interests or syndication rights. Any agreements containing such rights shall be made available to the Commission upon its request.

(b) Each television network shall maintain reports identifying all programs that the network has syndicated, and shall list therein all stations within the United States to which syndicated program sales have been made by the network. Any agreements entered into in connection with such syndication sales shall be made available to the Commission upon its request.

(c) Each television network shall, with respect to each program or series in which rights have been obtained pursuant to §73.659(a), certify in writing on the specified form that no financial interests or syndication rights were obtained as a condition of network licensing or airing of the programs, and verify compliance with the provisions of §73.659.

(d) The records maintained pursuant to paragraphs (a), (b), and (c) of this section shall be placed in the public file of each station owned by the network before the first regular business day of September and March of each year. These records shall be maintained in the public file for a period of five years and made available to the Commission upon its request.

**§73.662 Definitions for television network financial interest, syndication, and prime time access rules.** For purposes of §73.658(k), §73.659, §73.660, and §73.661:

- (a) A "continuing financial interest" is a right to receive revenue from the non-network broadcast or syndicated use of a television program by a network.
- (b) A "co-production" is a program in which copyright ownership, financial responsibility, and business and production control are shared.
- (c) A "domestic production entity" is a production entity registered to do business in the United States that is not owned or controlled, in full or in part, by the television network with which it seeks to co-produce.
- (d) "Entertainment programs" include series, made-for-television movies, mini-series, and entertainment specials, and do not include sports, public affairs, or news programs.
- (e) A "foreign production entity" is a production entity that is registered to do business and is located outside of the United States.
- (f) An "independent syndicator" is one not owned or controlled, in full or in part, by a television network.
- (g) A "prime time" program is one that has network exhibition during the hours of 7-11 p.m. eastern and pacific time or 6-10 p.m. central and mountain time.
- (h) A program "solely produced by a network" is a program in which the network is the sole copyright owner, has full financial responsibility, and full business and production control.
- (i) A "television network" is any person, entity, or corporation providing on a regular basis fifteen (15) hours of prime time programming per week (exclusive of live coverage of bona fide news events of national importance) to interconnected affiliates that reach, in aggregate, at least seventy-five percent of television households nationwide; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation. Not included within this definition is any television network formed for the purpose of producing, distributing, or syndicating program material for educational, noncommercial, or public broadcasting exhibition, or for non-English language exhibition, or that predominately distributes programming involving the direct sale of products or services.

NOTE: "National audience reach" for purposes of this definition is the total number of United States television households in the Arbitron Area of Dominant Influence (ADI) markets in which the stations or regular

television station affiliates of the network are located, divided by the total national television households as measured by the most current ADI data publicly available at the start of each television season. "Regular basis" means providing, on average for the prior six months, more than the specified number of hours of programming per week.

(j) A "television programming year" commences on the first day of September and ends on the last day of August the subsequent year.

### Common Antenna Site

**§73.635 Use of common antenna site.** No television license or renewal of a television license will be granted to any person who owns, leases, or controls a particular site which is peculiarly suitable for television broadcasting in a particular area and (a) which is not available for use by other television licensees; and (b) no other comparable site is available in the area; and (c) where the exclusive use of such site by the applicant or licensee would unduly limit the number of television stations that can be authorized in a particular area or would unduly restrict competition among television stations.

### Reports to be Filed

#### All broadcast stations ...

**§73.3526 Local public inspection file of commercial stations.** (a) Records to be maintained: Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a)(1), (2), (3), (4), (5), (6), (7) and (10) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing the material described in paragraphs (a)(8) of this section; every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in paragraph (a)(9) of this section. The material to be contained in the file is as follows:

(1) A copy of every application tendered for filing, with respect to which local public notice is required to be given under the provisions of §73.3580 or §73.3594; and all exhibits, letters and other documents tendered for filing as part thereof; all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of 0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition. The file shall also contain a copy of every written citizen agreement. For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operation in the public interest, in areas such as but not limited to community ascertainment, programming, and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts, network affiliation, syndication, program supply contracts and so on. However, the mere inclusion of commercial terms in a primarily noncommercial agreement such as provision for payment of fees for future services of the citizen-parties [see Report and Order, Docket 19518, 57 FCC 2d 494 [35 RR 2d 1542] (1976)—would not cause the agreement to be considered commercial for purposes of this section.

NOTE: Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of §73.3594, and material related to such applications, need not be placed in the file required to be kept by this section. Applications tendered for filing after May 13, 1965, which contain



major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of §73.3580, need not be placed in the file required to be kept by this section.

(2) A copy of every application tendered for filing by the licensee or permittee for such station which is not included in paragraph (a)(1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of 0.451 through 0.461 of these rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

NOTE: The engineering section of the applications mentioned in paragraphs (a)(1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps and information (state, county, city, street address, or other identifying information) showing main studio and transmitter locations shall be kept in the file.

(3) A copy of every ownership report or supplemental ownership report filed by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed, and all documents incorporated therein by reference, including contracts listed in such reports in accordance with the provisions of §73.3615(a)(4)(i) and which according to the provisions of 0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.

(4) Such records as are required to be kept by §73.1940 concerning broadcasts by candidates for public office.

(5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, and all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of 0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.

(6) The Public and Broadcasting—A Procedure Manual [see FCC 74-942, 39 32288, September 5, 1974.]

(7) Letters received from members of the public as are required to be retained by §73.1202.

(8)(i) For commercial TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding 3 month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

(ii) For commercial TV broadcast stations, records sufficient to permit substantiation of station's certification, in its license renewal application, of compliance

with commercial limits on children's programming established in 47 USC 303a and 47 CFR §73.670.

(iii) For commercial TV broadcast stations, on either an annual or quarterly basis, records demonstrating the extent to which the licensee responded to the educational and informational needs of children in their overall programming, including programming specifically designed to serve such needs. These records may also reflect any special nonbroadcast efforts by the licensee which enhance the educational and informational value of such programming to children and any special efforts by the licensee to produce or support programming broadcast by another television station in the licensee's marketplace, which is specifically designed to serve the educational and informational needs of children. These records shall include a summary of the licensee's programming response, nonbroadcast efforts and support for other stations' programming directed to the educational and informational needs of children, and shall reflect the most significant programming related to such needs which the licensee has aired. Licensees may make their children's programming records part of their issues/programs list or keep them as a separate list. Such records should indicate, at a minimum, the time, date, duration and a brief description of the program or nonbroadcast effort the licensee has made to serve the educational and informational needs of children.

(9) For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding 3 month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

(10) Each applicant for renewal of license shall, within seven days of the last day of the broadcast of the local public notice of filing announcements required pursuant to §73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement.

(11) Every television broadcast station owned or controlled by a television network shall maintain the records required by §76.661. These records shall be maintained in the file for a period of five years.

(b) Responsibility in case of assignment or transfer.

(1) In some cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of §73.3580 or §73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(c) Station to which records pertain: The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applications, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section.

(d) Location of records: The file shall be maintained at the main studio of the station, where such studio is located in the community to which the station is licensed or where such studio is located outside the community of license pursuant to authorization granted under §73.1125(a) of the Rules prior to July 16, 1987, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed. The file shall be available for public inspection at any time during regular business hours.

(e) Period of retention: The records specified in paragraph (a)(4) of this section shall be retained for periods

specified in §73.1940 (two years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in §73.1202 (three years). The "significant treatment of community issues" list specified in paragraphs (a)(8) and (9) of this section shall be retained for the term of license (five and seven years for TV and radio, respectively). The certification specified in paragraph (a)(10) of this section shall be retained for the period specified in §73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a)(1), (2), (3) and (5) of this section shall be retained, as follows:

(1) The applicant for a construction permit for a new station shall maintain such a file so long as the application is pending before the FCC or any proceeding involving that application is pending before the courts. (If the application is granted, subparagraph (2) below shall apply.)

(2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material as long as it is retained by the licensee even though the request for inspection is made after the conclusion of a required retention period specified in this paragraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee. Applications and related material placed in the file shall be retained for a period beginning with the date that they are tendered for filing and ending with the expiration of one license term (five years for television and seven years for radio licensees) or until the grant of the first renewal application of the television or radio broadcast station in question, whichever is later, with two exceptions:

(i) Engineering material pertaining to a former mode of operation need not be retained longer than three years after a station commences operation under a new or modified mode; and

(ii) Material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to an FCC investigation or a complaint to the FCC of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statute of limitations. Where an application or related material incorporates by reference material in earlier applications and material concerning programming and related matters (Section IV and related material), the material so referred to shall be retained as long as the application referring to it. If a written agreement is not incorporated in an application tendered for filing with the FCC, the starting date of the retention period for that agreement is the date the agreement is executed.

(f) Copies of any material required to be in the public file of any applicant for a construction permit, or permittee or licensee of any commercial TV or radio station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the applicant, permittee or licensee, within a reasonable period of time which, in no event, shall be longer than seven days unless reproduction facilities are unavailable in the applicant's, permittee's or licensee's community. The applicant, permittee or licensee is not required to honor requests made by mail, but may do so if it chooses.

**§73.3612 Annual employment report.** Each licensee or permittee of a commercially or noncommercially operated AM, FM, television, or international broadcast station with five or more fulltime employees shall file with the Commission on or before May 31 of each year, on FCC Form 395, an annual employment report.

**§73.3613 Filing of contracts.** Each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall file with the FCC copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 30 days of execution thereof:

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed as follows:

(1) All network affiliation contracts, agreements or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in

10 or more states; and/or any person, entity or corporation controlling, controlled by, or under common control with such person, entity or corporation.

(2) Each such filing on or after May 1, 1969, initially shall consist of a written instrument containing all of the terms and conditions of such contract, agreement or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment or change, as the case may be, of a particular contract previously filed in accordance herewith.

(3) The FCC shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section.

(b) 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 shall include but are 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 providing for the assignment of a license or permit, or 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:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) 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. However, trust agreements or abstracts thereof are not required to be filed, unless requested specifically by the FCC. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote or control the vote of the shares; and

(G) 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. However, 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% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% 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, or the maintenance of current assets.

(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 73.3615.

(c) Personnel:

(1) 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 attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d) The following contracts, agreements, or understandings need not be filed but shall be kept at the station and made available for inspection by any authorized representative of the FCC: Contracts relating to the sale of broadcast time to time brokers for resale; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the TV vertical blanking interval; time sales contracts with the same sponsor for four 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; and contracts with chief operators.

**§73.3615 Ownership reports.** (a) With the exception of sole proprietorships and partnerships composed entirely of natural persons, each licensee of a commercial AM, FM, or TV broadcast station shall file an Ownership Report on FCC Form 323 once a year, on the anniversary of the date that its renewal application is required to be filed. Licensees owning multiple stations with different anniversary dates need file only one report per year on the anniversary of their choice, provided that their reports are not more than one year apart. A licensee with a current and unamended report on file at the Commission may certify that it has reviewed its current report and that it is accurate, in lieu of filing a new report. Ownership Reports shall provide the following information as of a date not more than 60 days prior to the filing of the report:

(1) In the case of an individual, the name of such individual;

(2) In the case of a partnership, the name of each partner and the interest of each partner. Except as specifically noted below, the names of limited partners shall be reported. A limited partner need not be reported, regardless of the extent of its ownership, if the limited partner is not materially involved, directly or indirectly, in the management or operation of the licensee and the licensee so certifies.

(i) Any change in partners or in their rights will require prior consent of the FCC upon an application for consent to assignment of license or permit. If such change involves less than a controlling interest, the application for FCC consent to such changes may be made upon FCC Form 316.

(3) In the case of a corporation, association, trust, estate, or receivership, the data applicable to each:

(i)(A) The name, residence, citizenship, and stockholding of every officer, director, trustee, executor, administrator, receiver, partner, member of an association, and any stockholder which holds stock accounting for 5% or more of the votes of the corporation, except that an investment company, insurance company, or bank trust department needs be reported only if it holds stock amounting to 10% or more of the votes, provided that the licensee certifies that such entity has made no attempt to influence, directly or indirectly, the management or operations of the licensee, and that there is no representation on the licensee's board or among its officers by any person professionally or otherwise associated with the entity.

(B) A licensee shall report any separate interests known to the licensee to be held ultimately by the same individual or entity, whether those interests are held in custodial accounts, by individual holding corporations or otherwise, if, when aggregated:

(1) the sum of all interests except those held by or through "passive investors" is equal to or exceeds 5 percent; or

(2) the sum of all interests held by or through passive investors is equal to or exceeds 10 percent; or

(3) the sum of the interests computed under (1) plus the sum of the interests computed under (2) is equal to or exceeds 10 percent.

(i) If the majority of the voting stock of a corporate licensee is held by a single individual or entity, no other stockholding need be reported for that licensee;

(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 with respect to the interest and identity of any person having any direct, indirect, fiduciary, or beneficial interest in the licensee or in its stock accounting for 5% or more of its votes. For example:

(A) Where A is the trustee of stock held for beneficiary B, A shall be reported if A votes the stock or has the sole or shared power to dispose of the stock; B or any other party shall be reported if B or such party votes the stock or has sole power to dispose of the stock or has the power to revoke the trust or replace the trustee at will;

(B) Where X is not a natural person and has attributable ownership interests in the licensee under §73.3555 of the rules, regardless of its position in the vertical ownership chain, an Ownership Report shall be filed for X which, except as specifically noted below, must contain the same information as required of a licensee. If X has a voting stockholder interest in the licensee, only those voting interests of X that are cognizable after application of the multiplier described in NOTE 2(d) of §73.3555 of the rules, if applicable, shall be reported. If X is a corporation, whether or not its interest in the licensee is by virtue of its ownership of voting stock, the officers and directors shall be reported. With respect to those officers and directors shall be reported. With respect to those officers and directors whose duties and responsibilities are wholly unrelated to the licensee, and who wish to be relieved of attribution in the licensee, the name, title and duties of these officers and directors, with statements properly documenting that their duties do not involve the licensee, shall be reported.

(4) In the case of all licensees:

(i) A list of contracts will in effect be required to be filed with the FCC §73.3613 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) Except as specifically noted below, each permittee of a commercial AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323 (1) within 30 days of the date of grant by the FCC of an application for construction permit and (2) on the date that it applies for a station license. The Ownership Report of the permittee shall give the information required by the applicable portions of paragraph (a) of this section. A permittee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and it is accurate, in lieu of filing a new Report.

(c) 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 FCC consent must be received under §73.3540. A transfer of control takes place when an individual or group in privity, gains or loses affirmative or negative (50%) control. See instructions on FCC Form 323 (Ownership Report).

(d) Each licensee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323-E at the time the application for renewal of station license is required to be filed. Licensees owning more than one noncommercial educational AM, FM or TV broadcast station need file only one Ownership Report at five year intervals for TV stations and seven year intervals for AM and FM stations. 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) The following information as to all officers, members of governing board, and holders of 1% or more ownership interest (if any): Name, residence, office held, citizenship, principal profession or occupation, and by whom appointed or elected.

(2) Full information 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.

(3) A list of all contracts still in effect required by §73.3613 to be filed with the FCC, showing the date of execution and expiration of each contract.

(4) Any interest which the licensee or permittee or any of its officers, members of the governing board, and holders of 1% or more ownership interest (if any) held in any other broadcast station.

(e) Each permittee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323-E within 30 days of the date of grant by the FCC of an application for original construction permit. The Ownership Report of the permittee shall give the information required by the applicable form.

(f) A supplemental Ownership Report on FCC Form

323-E 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:

- (1) An change in organization; or
  - (2) Any change in officers or directors;
  - (3) 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).
- (g) 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 §73.3526 and §73.3527.

## License Renewals

### General ...

**§73.3523 Dismissal of applications in renewal proceedings.** (a) Any applicant for a construction permit, that has filed an application that is mutually exclusive with an application for the renewal of a license of an AM, FM or television station (hereinafter "competing applicant"), and seeks to dismiss or withdraw its application and thereby remove a conflict between applications pending before the Commission, must obtain the approval of the Commission.

(b) If a competing applicant seeks to dismiss or withdraw its application prior to the Initial Decision stage of the hearing on its application, it must submit to the Commission a request for approval of the dismissal or withdrawal of its application, a copy of any written agreement related to the dismissal or withdrawal of its application, and an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has received or will receive any money or other consideration in exchange for dismissing or withdrawing its application;

(2) A statement that its application was not filed for the purpose of reaching or carrying out an agreement with any other applicant regarding the dismissal or withdrawal of its application; and

(3) The terms of any oral agreement relating to the dismissal or withdrawal of its application. In addition, within five days of the applicant's request for approval, each remaining competing applicant and the renewal applicant must submit an affidavit setting forth:

(4) A certification that neither the applicant nor its principals has paid or will pay any money or other consideration in exchange for the dismissal or withdrawal of the application; and

(5) The terms of any oral agreement relating to the dismissal or withdrawal of the application.

(c) If a competing applicant seeks to dismiss or withdraw its application after the Initial Decision stage of the hearing on its application, it must submit to the Commission a request for approval of the dismissal or withdrawal of its application, a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has received or will receive any money or other consideration in excess of the legitimate and prudent expenses of the applicant;

(2) The exact nature and amount of any consideration paid or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement;

(4) A statement that its application was not filed for the purpose of reaching or carrying out an agreement with any other applicant regarding the dismissal or withdrawal of its application; and

(5) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

In addition, within 5 days of the applicant's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(6) A certification that neither the applicant nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the withdrawing applicant in exchange for the dismissal or withdrawal of the application; and

(7) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

(d) For the purposes of this section:

(1) Affidavits filed pursuant to this section shall be executed by the applicant, permittee, or licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) An application shall be deemed to be pending before the Commission from the time an application is filed with the Commission until an order of the Commission granting or denying the application is no longer

subject to reconsideration by the Commission or to review by any court.

(3) "Legitimate and prudent expenses" are those expenses reasonably incurred by an applicant in preparing, filing, and prosecuting its application.

(4) "Other consideration" consists of financial concessions, including but not limited to the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

**§73.3539 Application for renewal of license.** (a) Unless otherwise directed by the Federal Communications Commission, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed, except that applications for renewal of license of an experimental broadcast station shall be filed not later than the first day of the second full calendar month prior to the expiration date of the license sought to be renewed. If any deadline prescribed in this paragraph falls on a non-business day, the cut-off shall be the close of business of the first full business day thereafter.

(b) No application for renewal of license of any broadcast station will be considered unless there is on file with the Commission, the information, if any, currently required by §73.3611-§73.3615, inclusive, for the particular class of station. The renewal application shall include a reference by date and file number to such information on file.

(c) Whenever the Commission regards an application for a renewal of license as essential to the proper conduct of a hearing or investigation, and specifically directs that it be filed by a certain date, such application shall be filed within the time thus specified. If the licensee fails to file such application within the prescribed time, the hearing or investigation shall proceed as if such renewal application has been received.

(d) Renewal application forms, titles and numbers are listed in §73.35000, Applications and Report Forms.

**§73.3584 Procedures for filing petitions to deny.** (a) Except in the case of applications for new low power TV, TV translator or TV booster stations, for major changes in the existing facilities of such stations, or for applications for a change in output channel tendered by displaced low power TV and TV translator stations pursuant to §73.3572(a)(1), any party in interest may file with the Commission a Petition to Deny any application (whether as originally filed or if amended so as to require a new file number pursuant to §73.3571(j), §73.3572(b), §73.3573(b), §73.3574(b) or §73.3578) for which local notice pursuant to §73.3580 is required, provided such petitions are filed prior to the day such applications are granted or designated for hearing; but where the FCC issues a public notice pursuant to the provisions of §73.3571(c), §73.3572(c) or §73.3573(d), establishing a "cutoff" date, such petitions must be filed by the date specified. In the case of applications for transfers and assignments of construction permits or station licenses, Petitions to Deny must be filed not later than 30 days after issuance of a public notice of the acceptance for filing of the applications. In the case of applications for renewal of license, Petitions to Deny may be filed at any time up to the last day for filing mutually exclusive applications under §73.3516(e). Requests for extension of time to file Petitions to Deny applications for new broadcast stations or major changes in the facilities of existing stations or applications for renewal of license will not be granted unless all parties concerned, including the applicant, consent to such requests, or unless a compelling showing can be made that unusual circumstances make the filing of a timely petition impossible and the granting of an extension warranted.

(b) Except in the case of applications for new low power TV or TV translator stations, for major changes in the existing facilities of such stations, the applicant may file an opposition to any Petition to Deny, and the petitioner a reply to such opposition in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof. The times for filing such oppositions and replies shall be those provided in §1.45 except that as to a Petition to Deny an application for renewal of license, an opposition thereto may be filed within 30 days after the Petition to Deny is filed, and the party that filed the Petition to Deny may reply to the opposition within 20 days after the opposition is due or within 20 days after opposition is filed, whichever is longer. The failure to file an opposition or reply will not necessarily be construed as an admission of fact or argument contained in a pleading.

(c) In the case of applications for new low power TV, TV translator or TV booster stations, for major changes in the existing facilities of such stations, or for applica-

tions for a change in output channel tendered by displaced low power TV and TV translator stations pursuant to §73.3572(a)(1), any party in interest may file with the FCC a Petition to Deny any application (whether as originally filed or if amended so as to require a new file number pursuant to §73.3572(b)) for which local notice pursuant to §73.3580 is required, provided such petitions are filed within 30 days of the FCC Public Notice proposing the application for grant (applicants may file oppositions within 15 days after the Petition to Deny is filed); but where the FCC selects a tentative permittee pursuant to §1.1601 et seq., Petitions to Deny shall be accepted only if directed against the tentative selectee and filed after issuance of and within 15 days of FCC Public Notice announcing the tentative selectee. The applicant may file an opposition within 15 days after the Petition to Deny is filed. In cases in which the minimum diversity preference provided for in §1.1623(f)(1) has been applied, an "objection to diversity claim," and opposition thereto may be filed against any applicant receiving a diversity preference, within the same time period provided herein for Petitions and Oppositions. In all pleadings, allegations of fact or denials thereof shall be supported by appropriate certification. However, the FCC may announce, by the Public Notice announcing the acceptance of the last-filed mutually exclusive application, that a notice of Petition to Deny will be required to be filed no later than 30 days after issuance of the Public Notice.

(1) If so announced, a Petition to Deny filed against an applicant will not be accepted if filed by a party which failed to timely file a notice of petition, and make service of the notice of petition pursuant to §1.47, unless good cause is shown for the failure to file the notice. Good cause includes allegations based on facts that could not previously be discovered with diligence, and fraud or suppression of evidence by the tentative selectee.

(2) The notice of Petition to Deny shall be limited to two pages. The notice shall include specific allegations that concisely state the reasons why the applicant lacks the qualifications to be a licensee or why a grant of the application would be inconsistent with the public interest. The notice shall be supported by certification made by a person or persons having personal knowledge thereof.

(d) Untimely Petitions to Deny, as well as other pleadings in the nature of a Petition to Deny, and any other pleadings or supplements which do not lie as a matter of law or are otherwise procedurally defective, are subject to return by the FCC's staff without consideration.

**§73.3588 Dismissal of petitions to deny or withdrawal of informal objections in renewal proceedings.** (a) Whenever a petition to deny or an informal objection has been filed against any application, and the filing party seeks to dismiss or withdraw the petition to deny or the informal objection, either unilaterally or in exchange for financial consideration, that party must file with the Commission a request for approval of the dismissal or withdrawal, a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) A certification that neither the petitioner nor its principals has received or will receive any money or other consideration in excess of legitimate and prudent expenses in exchange for the dismissal or withdrawal of the petition to deny;

(2) The exact nature and amount of any consideration received or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement; and

(4) The terms of any oral agreement related to the dismissal or withdrawal of the petition to deny.

In addition, within five days of petitioner's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(5) A certification that neither the applicant nor its principals has paid, or will pay, money or other consideration in excess of the legitimate and prudent expenses of the petitioner in exchange for dismissing or withdrawing the petition to deny; and

(6) The terms of any oral agreement relating to the dismissal or withdrawal of the petition to deny.

(b) Citizens' agreements: For purposes of this section, citizens agreements include agreements arising whenever a petition to deny or informal objection has been filed against any application and the filing party seeks to dismiss or withdraw the petition or objection in exchange for non-financial consideration (e.g., programming, ascertainment or employment initiatives). The parties to such an agreement must file with the Commission a joint request for approval of the agreement, a copy of any written agreement, and an affidavit executed by each party setting forth:

(1) Certification that neither the petitioner, nor any

person or organization related to the petitioner, has received or will receive any money or other consideration in connection with the citizens' agreement other than legitimate and prudent expenses incurred in prosecuting the petition to deny;

(2) Certification that neither the petitioner, nor any person or organization related to the petitioner is or will be involved in carrying out, for a fee, any programming, ascertainment, employment or other non-financial initiative referred to in the citizens' agreement; and

(3) The terms of any oral agreement.

(c) For the purposes of this section:

(1) Affidavits filed pursuant to this section shall be executed by the applicant, permittee, or licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) A petition shall be deemed to be pending before the Commission from the time a petition is filed with the Commission until an order of the Commission granting or denying the petition is no longer subject to reconsideration by the Commission or to review by any court.

(3) "Legitimate and prudent expenses" are those expenses reasonably incurred by a petitioner in preparing, filing, and prosecuting its petition for which reimbursement is being sought.

(4) "Other consideration" consists of financial concessions, including but not limited to the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

**§73.3589 Threats to file petitions to deny or informal objections.** (a) No person shall make or receive any payments in exchange for withdrawing a threat to file or refraining from filing a petition to deny or an informal objection. For purposes of this section, reimbursement by an applicant of the legitimate and prudent expenses of a potential petitioner or objector incurred reasonably and directly in preparing to file a petition to deny will not be considered to be payment for refraining from filing a petition to deny or informal objection. Payments made directly to a potential petitioner or objector, or a person related to a potential petitioner or objector, to implement non-financial promises are prohibited unless specifically approved by the Commission.

(b) Whenever any payment is made in exchange for withdrawing a threat to file or refraining from filing a petition to deny or informal objection, the licensee must file with the Commission a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) Certification that neither the would-be petitioner, nor any person or organization related to the would-be petitioner, has received or will receive any money or other consideration in connection with the citizens' agreement other than legitimate and prudent expenses reasonably incurred in preparing to file the petition to deny;

(2) Certification that unless such arrangement has been specifically approved by the Commission, neither the would-be petitioner, nor any person or organization related to the would-be petitioner, is or will be involved in carrying out, for a fee, any programming ascertainment, employment or other non-financial initiative referred to in the citizens' agreement; and

(3) The terms of any oral agreement.

(c) For purposes of this section:

(1) Affidavits filed pursuant to this section shall be executed by the licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) "Legitimate and prudent expenses" are those expenses reasonably incurred by a would-be petitioner in preparing to file its petition for which reimbursement is being sought.

(3) "Other consideration" consists of financial concessions, including but not limited to the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

**§73.3601 Simultaneous modification and renewal of license.** When an application is granted by the FCC necessitating the issuance of a modified license less than 60 days prior to the expiration date of the license sought to be modified, and an application for renewal of the license is granted subsequent or prior thereto (but within 30 days of expiration of the present license), the modified license as well as the renewal license shall be issued to conform to the combined action of the FCC.

**§73.1020 Station license period.** (a) Initial licenses for broadcast stations will ordinarily be issued for a period running until the date specified in this section for the state or territory in which the station is located. If

issued after such date, it will run to the next renewal date determined in accordance with this section. Radio broadcasting stations will ordinarily be renewed for seven years and TV broadcast stations will be renewed for five years. However, if the FCC finds that the public interest, convenience, and necessity will be served thereby, it may issue either an initial license or a renewal thereof for a lesser term. The time of expiration of normally issued initial and renewal licenses will be 3 a.m., local time, on the following dates and thereafter at seven-year intervals for radio broadcast stations and at five-year intervals for television broadcast stations located in:

(1) Maryland, District of Columbia, Virginia and West Virginia: (i) Radio stations, October 1, 1995; (ii) Television stations, October 1, 1996.

(2) North Carolina and South Carolina: (i) Radio stations, December 1, 1995; (ii) Television stations, December 1, 1996.

(3) Florida, Puerto Rico and Virgin Islands: (i) Radio stations, February 1, 1996; (ii) Television stations, February 1, 1997.

(4) Alabama and Georgia: (i) Radio stations, April 1, 1996; (ii) Television stations, April 1, 1997.

(5) Arkansas, Louisiana and Mississippi: (i) Radio stations, June 1, 1996; (ii) Television stations, June 1, 1997.

(6) Tennessee, Kentucky and Indiana: (i) Radio stations, August 1, 1996; (ii) Television stations, August 1, 1997.

(7) Ohio and Michigan: (i) Radio stations, October 1, 1996; (ii) Television stations, October 1, 1997.

(8) Illinois and Wisconsin: (i) Radio stations, December 1, 1996; (ii) Television stations, December 1, 1997.

(9) Iowa and Missouri: (i) Radio stations, February 1, 1997; (ii) Television stations, February 1, 1993.

(10) Minnesota, North Dakota, South Dakota, Montana and Colorado: (i) Radio stations, April 1, 1997; (ii) Television stations, April 1, 1993.

(11) Kansas, Oklahoma and Nebraska: (i) Radio stations, June 1, 1997; (ii) Television stations, June 1, 1993.

(12) Texas: (i) Radio stations, August 1, 1997; (ii) Television stations, August 1, 1993.

(13) Wyoming, Nevada, Arizona, Utah, New Mexico and Idaho: (i) Radio stations, October 1, 1997; (ii) Television stations, October 1, 1993.

(14) California: (i) Radio stations, December 1, 1997; (ii) Television stations, December 1, 1993.

(15) Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon and Washington: (i) Radio stations, February 1, 1998; (ii) Television stations, February 1, 1994.

(16) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont: (i) Radio stations, April 1, 1998; (ii) Television stations, April 1, 1994.

(17) New Jersey and New York: (i) Radio stations, June 1, 1998; (ii) Television stations, June 1, 1994.

(18) Delaware and Pennsylvania: (i) Radio stations, August 1, 1998; (ii) Television stations, August 1, 1994.

(b) For the cutoff date for the filing of applications mutually exclusive with, and petitions to deny, renewal applications, see §73.3516(e).

### Modification of Unbuilt Facilities

**§73.3535 Application to modify authorized but unbuilt facilities, or to assign transfer control of an unbuilt facility.** (a) If a permittee finds it necessary to file either an application to modify its authorized, but unbuilt facilities, or an assignment/transfer application, such application shall be filed within the first nine months of the issuance of the original construction permit for radio and other broadcast and auxiliary stations, or within twelve months of the issuance of the original construction permit for television facilities. Before such application can be granted, the permittee or assignee must certify that it will immediately begin building after the modification is granted or the assignment is consummated.

(b) Modification and assignment applications filed after the time periods stated in paragraph (a) will not be granted absent a showing that one of the following three criteria applies: (1) construction is complete and testing is underway looking toward prompt filing of a license application; (2) substantial progress has been made i.e., demonstration that equipment is on order or on hand, site acquired, site cleared and construction proceeding toward completion; or (3) no progress has been made for reasons clearly beyond the control of the permittee (such as delays caused by governmental budgetary processes and zoning problems) but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction. A certification by the permittee or the assignee that it immediately will begin building after the modification is granted or the assignment is consummated is also nec-

essary. A seller must make the "one of three criteria" showing in an assignment application.

(c) If the modification is granted, the time period allowed for construction will be six months from the issuance of the authorization to modify or the remainder of the construction period, whichever is longer. Also, in the case of an assignment the time period allowed for construction will be twelve months from the consummation of the assignment or the remainder of the construction period, whichever is longer. The extension will be given subject to the condition that the modification is completed or the assignment consummated. Failure to modify or consummate within the time allowed will result in cancellation of the construction permit.

(d) We will not entertain an application for modification of an authorized but unbuilt facility or an application for assignment or transfer of control of an unbuilt facility if filed after the expiration of the initial construction period.

### Station Identification

#### All broadcast stations ...

**§73.1201 Station identification.** (a) When regularly required, broadcast station identification announcements shall be made: (1) at the beginning and ending of each hour of operation, and (2) hourly, as close to the hour as feasible, at a natural break in program offerings. Television broadcast stations may make these announcements visually or aurally.

(b) Content: (1) Official station identification shall consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location; provided, that the name of the licensee or the station's frequency or channel number, or both, as stated on the station's license may be inserted between the call letters and station location. No other insertion is permissible.

(2) A station may include in its official station identification the name of any additional community or communities, but the community to which the station is licensed must be named first.

(c) Channel:

(1) Generally, except as provided in this paragraph, in making the identification announcement the call letters shall be given only on the channel of the station identified thereby.

(2) Simultaneous AM-FM broadcasts: If the same licensee operates an FM broadcast station and a standard broadcast station and simultaneously broadcasts the same programs over the facilities of both such stations, station identification announcements may be made jointly for both stations for periods of such simultaneous operation. If the call letters of the FM station do not clearly reveal that it is an FM station, the joint announcement shall so identify it.

(3) Satellite operation: When programming of a broadcast station is rebroadcast simultaneously over the facilities of a satellite station, the originating station may make identification announcements for the satellite station for periods of such simultaneous operation.

(i) In the case of a television broadcast station, such announcements, in addition to the information required by paragraph (b) (1) of this section, shall include the number of the channel on which each station is operating.

(ii) In the case of aural broadcast stations, such announcements, in addition to the information required by paragraph (b) (1) of this section, shall include the frequency on which each station is operating.

(d) Subscription television stations (STV): The requirements for official station identification applicable to TV stations will apply to Subscription TV stations except, during STV-encoded programming such station identification is not required. However, a station identification announcement will be made immediately prior to and following the encoded-Subscription TV program period.

### Announcement of Sponsored Programs

**§73.1212 Sponsorship identification; list retention; related requirements.** (a) When a broadcast station transmits any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce (1) that such matter is sponsored, paid for, or furnished, either in whole or in part, and (2) by whom or on whose behalf such consideration was supplied; provided, however, that "service or other valuable consideration" shall not include any service or property furnished either without or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in con-

sideration for an identification of any person, product, service, trademark, or brand name beyond an identification reasonably related to the use of such service or property on the broadcast.

(3) For the purposes of this section, the term "sponsored" shall be deemed to have the same meaning as "paid for."

(b) The licensee of each standard broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program matter for broadcast, information to enable such licensee to make the announcement required by this section.

(c) In any case where a report has been made to a broadcast station, as required by Section 507 of the Communications Act of 1934, as amended, of circumstances which would have required an announcement under this section had the consideration been received by such broadcast station, an appropriate announcement shall be made by such station.

(d) In the case of any political broadcast matter or any broadcast matter involving the discussion of a controversial issue of public importance for which any film, record, transcription, talent, script, or other material or service of any kind is furnished, either directly or indirectly, to a station as an inducement for broadcasting such matter, an announcement shall be made both at the beginning and conclusion of such broadcast on which such material or service is used that such film, record, transcription, talent, script, or other material or service has been furnished to such station in connection with the transmission of such broadcast matter: provided, however, that in the case of any broadcast of five minutes duration or less, only one such announcement need be made either at the beginning or conclusion of the broadcast.

(e) The announcement required by this section shall, in addition to stating the fact that the broadcast matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or other valuable consideration is received, or by whom the material or services referred to in paragraph (d) of this section are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence, as specified in paragraph (b) of this section, could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent. Where the material broadcast is political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the broadcast matter, the station shall, in addition to making the announcement required by this section, require that a list of the chief executive officers or members of the executive committee as of the board of directors of the corporation, committee, association or other unincorporated group, or other entity, shall be made available for public inspection at the location specified by the licensee under §73.3526 of this chapter. If the broadcast is originated by a network, the list may, instead, be retained at the headquarters office of the network or at the location where the originating station maintains its public inspection file under §73.3526 of this chapter. Such lists shall be kept and made available for a period of two years.

(f) In the case of broadcast matter advertising commercial products or services, an announcement stating the sponsor's corporate or trade name, or the name of the sponsor's product, when it is clear that the mention of the name of the product constitutes a sponsorship identification, shall be deemed sufficient for the purposes of this section and only one such announcement need be made at any time during the course of the broadcast.

(g) The announcement otherwise required by Section 317(a) of the Communications Act of 1934, as amended, is waived with respect to the broadcast of "want ad" or classified advertisements sponsored by an individual. The waiver granted in this paragraph shall not extend to a classified advertisement or want ad sponsored by any form of business enterprise, corporate or otherwise. Whenever sponsorship announcements are omitted pursuant to this paragraph the licensee shall observe the following conditions:

(1) Maintain a list showing the name, address and (where available) the telephone number of each advertiser;

(2) [Reserved]

(3) Make this list available to members of the public

who have a legitimate interest in obtaining the information contained in the list. Such list must be maintained for a period of two years after broadcast.

(h) Any announcement required by Section 317(b) of the Communications Act of 1934, as amended, is waived with respect to feature motion picture film produced initially and primarily for theatre exhibition.

NOTE: The waiver heretofore granted by the commission in its report and order adopted November 16, 1960 (FCC 60-1369; 40 FCC 95), continues to apply to programs filmed or recorded on or before June 20, 1963, when §73.654, the predecessor television rule, went into effect.

(i) Commission interpretations in connection with the provisions of the sponsorship identification rules are contained in the commission's public notice, entitled "Applicability of Sponsorship Identification Rules," dated May 6, 1963 (40 FCC 141), as modified by public notice, dated April 21, 1975 (FCC 75-418). Further interpretations are printed in full in various volumes of the Federal Communications Commission reports.

[EDITOR'S NOTE: In a statement issued in 1950, the FCC warned that the sponsor or his product must be identified by a distinctive name and not by one merely descriptive of the type of business or product. The following are acceptable, the Commission said: "Henry Smith offers you ...." or "Smith Stove Co. offers you ...." or "Ajax Pens brings you ...." The following are not acceptable: "Write to the Comb Man ...." or "Send your money to Nylons, Box ...." or "This program is sponsored by your Sink Man ...."]

## Public Notice

### *In AM, FM and TV ...*

**§73.1202. Retention of letters received from the public.** (a) All written comments and suggestions received from the public by licensees of commercial AM, FM and TV broadcast stations regarding operation of their station shall be maintained in the local public inspection file, unless the letter writer has requested that the letter not be made public or when the licensee feels that it should be excluded from public inspection because of the nature of its content, such as a defamatory or obscene letter.

(1) Letters shall be retained in the local public inspection file for three years from the date on which they are received by the licensee.

(2) Letters received by TV licensees only shall be placed in one of the following separated subject categories: programming or nonprogramming. If comments in a letter relate to both categories, the licensee shall file it under the category to which the writer has given the greater attention.

## Rebroadcasts

**§73.1207 Rebroadcasts.** (a) The term "rebroadcast" means reception by radio of the programs or other transmissions of a broadcast or any other type of radio station, and the simultaneous or subsequent retransmission of such programs or transmissions by a broadcast station.

(1) As used in this section, "program" includes any complete program or part thereof.

(2) The transmission of a program from its point of origin to a broadcast station entirely by common carrier facilities, whether by wire line or radio, is not considered a rebroadcast.

(3) The broadcasting of a program relayed by a remote pickup broadcast station is not considered a rebroadcast.

(b) No broadcast station may retransmit the program, or any part thereof, of another U.S. broadcast station without the express authority of the originating station. A copy of the written consent of the licensee originating the program must be kept by the licensee of the station retransmitting such program and made available to the FCC upon request.

(1) Stations originating emergency communications under a Detailed State EBS Operation Plan are deemed to have conferred rebroadcast authority to other participating stations.

(2) Permission must be obtained from the originating station to rebroadcast any subsidiary communications transmitted by means of a multiplex subcarrier or the vertical blanking interval of a television signal.

(3) Programs originated by the Voice of America (VOA) and the Armed Forces Radio and Television Services (AFRTS) cannot, in general, be cleared for domestic rebroadcast, and may therefore be retransmitted only by special arrangements among the parties concerned.

(4) Except as otherwise provided by international agreement, programs originated by foreign broadcast

stations may be retransmitted without the consent of the originating station.

(c) The transmission of messages of nonbroadcast stations may be rebroadcast under the following conditions:

(1) Messages originated by privately-owned nonbroadcast stations other than those in the Amateur and Citizens Band (CB) Radio Services may be broadcast only upon receipt of prior permission from the nonbroadcast licensee. Additionally, messages transmitted by common carrier stations may be rebroadcast only upon prior permission of the originator of the message as well as the station licensee.

(2) Except as provided in paragraph (d) of this section, messages originated entirely by non-broadcast stations owned and operated by the Federal Government may be rebroadcast only upon receipt of prior permission from the government agency originating the messages.

(3) Messages originated by stations in the Amateur and Citizens Band (CB) radio services may be rebroadcast at the discretion of broadcast station licensees.

(d) The rebroadcasting of time signals originated by the Naval Observatory and the National Bureau of Standards and messages from the National Weather Service stations is permitted without specific authorization under the following procedures:

(1) Naval Observatory Time Signals: (i) The time signals rebroadcast must be obtained by direct radio reception from a naval radio station, or by land line circuits. (ii) Announcement of the time signal must be made without reference to any commercial activity. (iii) Identification of the Naval Observatory as the source of the time signal must be made by an announcement, substantially as follows: "With the signal, the time will be ... courtesy of the U.S. Naval Observatory." (iv) Schedules of time signal broadcasts may be obtained upon request from the Superintendent, U.S. Naval Observatory, Washington, D.C. 20390.

(2) National Bureau of Standards Time Signals: (i) Time signals for rebroadcast must be obtained by direct radio reception from a National Bureau of Standards (NBS) station. (ii) Use of receiving and rebroadcasting equipment must not delay the signals by more than 0.05 second. (iii) Signals must be rebroadcast live, not from tape or other recording. (iv) Voice or code announcements of the call signs of NBS stations are not to be rebroadcast. (v) Identification of the origin of the service and the source of the signals must be made by an announcement substantially as follows: "At the tone, 11 hours 25 minutes Coordinated Universal Time. This is a rebroadcast of a continuous service furnished by the National Bureau of Standards, Ft. Collins, Colo." No commercial sponsorship of this announcement is permitted and none may be implied. (vi) Schedules of time signal broadcasts may be obtained from, and notice of use of NBS time signals for rebroadcast must be forwarded semiannually to: National Bureau of Standards, WWW/WWVB, 2000 East County Road 58, Ft. Collins, Colo 80524. (vii) In the rebroadcasting of NBS time signals, announcements will not state that they are standard frequency transmissions. Voice announcements of Coordinated Universal Time are given in voice every minute. Each minute, except the first of the hour, begins with an 0.8 second long tone of 1000 hertz at WWV and 1200 hertz tone at WWVH. The first minute of every hour begins with an 0.8 second long tone of 1500 hertz at both stations. This tone is followed by a 3-second pause, then the announcement, "National Bureau of Standards Time." This is followed by another 3-second pause before station identification. This arrangement allows broadcast stations sufficient time to retransmit the hour time tone and the words "National Bureau of Standards Time" either by manual or automatic switching. (viii) Time signals or scales made up from integration of standard frequency signals broadcast from NBS stations may not be designated as national standard scales of time or attributed to the NBS as originator. For example, if a broadcasting station transmits time signals obtained from a studio clock which is periodically calibrated against the NBS time signals from WWV or WWVH, such signals may not be announced as NBS standard time or as having been originated by the NBS.

(3) National Weather Service Messages: (i) Messages of the National Weather Service must be rebroadcast within one hour of receipt (ii) if advertisements are given in connection with weather rebroadcast, these advertisements must not directly or indirectly convey an endorsement by the U.S. Government of the products or services so advertised. (iii) Credit must be given to indicate that the rebroadcast message originates with the National Weather Service.

## Recordings, Tapes and Films

### **§73.1206 Broadcast of telephone conversations.**

## Federal Communications Commission Rules and Regulations

Before recording a telephone conversation for broadcast, or broadcasting such a conversation simultaneously with its occurrence, a licensee shall inform any party to the call of the licensee's intention to broadcast the conversation, except where such party is aware, or may be presumed to be aware from the circumstances of the conversation, that it is being or likely will be broadcast. Such awareness is presumed to exist only when the other party to the call is associated with the station (such as an employee or part-time reporter), or where the other party originates the call and it is obvious that it is in connection with a program in which the station customarily broadcasts telephone conversations.

**§73.1208 Broadcast of taped, filmed, or recorded material.** (a) Any taped, filmed or recorded program material in which time is of special significance, or by which an affirmative attempt is made to create the impression that it is occurring simultaneously with the broadcast, shall be announced at the beginning as taped, filmed or recorded. The language of the announcement shall be clear and in terms commonly understood by the public. For television stations, the announcement may be made visually or aurally.

(b) Taped, filmed or recorded announcements which are of a commercial, promotional or public service nature need not be identified as taped, filmed, or recorded.

### Time

#### For AM, FM and TV ...

**§73.1209 References to time.** Unless specifically designated as "standard (non-advanced)" or "advanced," all references to time contained in this part, and in license documents and other authorizations issued thereunder, shall be understood to mean *local* time; i.e., the time legally observed in the community.

### Children's Programs; Commercial Limits

#### In TV Rules ...

**§73.670 Commercial limits in children's programs.** No commercial television broadcast station licensee shall air more than 10.5 minutes of commercial matter per hour during children's programming on weekends, or more than 12 minutes of commercial matter per hour on weekdays.

NOTE 1: Commercial matter means air time sold for purposes of selling a product or service.

NOTE 2: For purposes of this section, children's programming refers to programs originally produced and broadcast primarily for an audience of children 12 years old and younger.

**§73.671 Educational and informational programming for children.** (a) Each commercial television broadcast station licensee has an obligation to serve, over the term of its license, the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) Any special nonbroadcast efforts which enhance the value of children's educational and informational television programming, and any special effort to produce or support educational and informational television programming by another station in the licensee's marketplace, may also contribute to meeting the licensee's obligation to serve, over the term of its license, the educational and informational needs of children.

NOTE: For purposes of this section, educational and informational television programming is any television programming which furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs.

### Political Broadcasts

#### For AM, FM and TV ...

**§73.1940 Broadcasts by candidates for public office.** (a) Definitions: (1) A legally qualified candidate for public office is any person who: (i) has publicly announced his or her intention to run for nomination or office; (ii) is qualified under the applicable local, state or federal law to hold the office for which he or she is a candidate; and, (iii) has met the qualifications set forth in either subparagraphs (2), (3), or (4), below.

(2) A person seeking election to any public office including that of president or vice president of the United States, or nomination for any public office except that of president or vice president, by means of a primary, general or special election, shall be considered a legally

qualified candidate if, in addition to meeting the criteria set forth in subparagraph (1) above, that person: (i) has qualified for a place on the ballot, or (ii) has publicly committed himself or herself to seeking election by the write-in method and is eligible under applicable law to be voted for by sticker, by writing in his or her name on the ballot or by other methods, and makes a substantial showing that he or she is a bona fide candidate for nomination or office.

Persons seeking election to the office of president or vice president of the United States shall, for the purposes of the Communications Act and the rules thereunder, be considered legally qualified candidates only in those states or territories (or the District of Columbia) in which they have met the requirements set forth in paragraph (a)(1) and (2) of this rule: Except, that any such person who has met the requirements set forth in paragraph (a)(1) and (2) in at least 10 states (or nine and the District of Columbia) shall be considered a legally qualified candidate for election in all states, territories and the District of Columbia for purposes of this act.

(3) A person seeking nomination to any public office, except that of president or vice president of the United States, by means of a convention, caucus or similar procedure, shall be considered a legally qualified candidate if, in addition to meeting the requirements set forth in paragraph (a)(1) above, that person makes a substantial showing that he or she is a bona fide candidate for such nomination: Except, that no person shall be considered a legally qualified candidate for nomination by the means set forth in this paragraph prior to 90 days before the beginning of the convention, caucus or similar procedure in which he or she seeks nomination.

(4) A person seeking nomination for the office of president or vice president of the United States shall, for the purposes of the Communications Act and the rules thereunder, be considered a legally qualified candidate only in those states or territories or the District of Columbia in which, in addition to meeting the requirements set forth in paragraph (a)(1) above, (i) he or she, or proposed delegates on his or her behalf, have qualified for the primary or Presidential preference ballot in that state, territory or the District of Columbia, or (ii) he or she has made a substantial showing of bona fide candidacy for such nomination in that state, territory or the District of Columbia; Except, that any such person meeting the requirements set forth in paragraph (a)(1) and (4) in at least ten states (or nine and the District of Columbia) shall be considered a legally qualified candidate for nomination in all states, territories and the District of Columbia for purposes of this act.

(5) The term "substantial showing" of bona fide candidacy as used in paragraphs (a)(2), (3) and (4) above means evidence that the person claiming to be a candidate has engaged to a substantial degree in activities commonly associated with political campaigning. Such activities normally would include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee, and establishing campaign headquarters (even though the headquarters in some instances might be the residence of the candidate or his campaign manager). Not all of the listed activities are necessarily required in each case to demonstrate a substantial showing, and there may be activities not listed herein which would contribute to such a showing.

(b) Charges for use of stations: The charges, if any, made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or reelection, to such office shall not exceed (1) during the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period, and (2) at any other time, the charges made for comparable use of such station by other users thereof. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office. (3) This paragraph shall not apply to any station which is not licensed for commercial operation.

(c) Discrimination between candidates: In making time available to candidates for public office, no licensee shall make any discrimination between candidates in practices, regulations, facilities, or services for

or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) See §73.3526 and §73.3527.

(e) Time of request: A request for equal opportunities must be submitted to the licensee within one week of the day on which the first prior use, giving rise to the right of equal opportunities, occurred; provided, however, that where the person was not a candidate at the time of such first prior use, he shall submit his request within one week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) Burden of proof: A candidate requesting equal opportunities of the licensee, or complaining of noncompliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

(g) General requirements: (1) Except as otherwise indicated in paragraph (g)(2) of this section, no station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such licensee shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any (i) bona fide newscast, (ii) bona fide news interview, (iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject covered by the news documentary), or (iv) on-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of a broadcasting station. (Section 315(a) of the Communications Act.)

(2) Section 312(a)(7) of the Communications Act provides that the Commission may revoke any station license or construction permit for willful or repeated failure to allow reasonable access to, or to permit purchase of, reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for federal elective office on behalf of his candidacy.

(h) Political broadcasting primer. A detailed study of these rules regarding broadcasts by candidates for federal and non-federal public office is available in the FCC public notice of July 20, 1978, "The Law of Political Broadcasting and Cablecasting". Copies may be obtained from the FCC upon request.

### Candor; Truthful Responses to FCC

**§73.1015 Truthful written statements and responses to Commission inquiries and correspondence.** The Commission or its representatives may, in writing, require from any applicant, permittee or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to some other matter within the jurisdiction of the Commission, or, in the case of a proceeding to amend the FM or Television Table of Allotments, require from any person filing an expression of interest, written statements of fact relevant to that allotment proceeding. No applicant, permittee or licensee, or person who files an expression of interest shall in any response to Commission correspondence or inquiry or in any application, pleading, report or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission.

NOTE: Section §73.1015 is limited in application to written matter. It implies no change in the Commission's existing policies respecting the obligation of applicants, permittees and licensees in all instances to respond truthfully to requests for information deemed necessary to the proper execution of the Commission's functions.

### Revocations, Modifications, Suspensions

#### All Classes of Station Licenses ...

**§1.87 Modification of license or construction permit on motion of the Commission.** (a) Whenever it appears that a station license or construction permit should be modified, the Commission will notify the licensee or permittee in writing of the proposed action and reasons therefor and afford the licensee or permittee at least thirty days to protest such order of

modification, except that, where safety of life or property is involved, the Commission may by order provide a shorter period of time.

(b) The notification required in paragraph (a) of this section may be effectuated by a notice of proposed rulemaking in regard to a modification or addition of an FM or television channel to the Table of Allotments (§73.202 and §73.504) or Table of Assignments (§73.606). The Commission shall send a copy of any such notice of proposed rulemaking to the affected licensee or permittee by certified mail, return receipt requested.

(c) Any other licensee or permittee who believes that its license or permit would be modified by the proposed action may also protest the proposed action before its effective date.

(d) Any protest filed pursuant to this section shall be subject to the requirements of Section 309 of the Communications Act of 1934, as amended, for petitions to deny.

(e) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission except that, with respect to any issue that pertains to the question of whether the proposed action would modify the license or permit of a person filing a protest pursuant to paragraph (c) of this section, such burdens shall be as prescribed by the Commission.

(f) In order to utilize the right to a hearing and the opportunity to appear and give evidence upon the issues specified in any hearing order, the licensee or permittee, in person or by his attorney, shall, within the period of time as may be specified in the hearing order, file with the Commission a written statement stating that he or she will appear at the hearing and present evidence on the matters specified in the hearing order.

(g) The right to file a protest or have a hearing shall, unless good cause is shown in a petition to be filed not later than five days before the lapse of time specified in paragraphs (a) or (f) of this section, be deemed waived:

(1) In case of failure to timely file the protest as required by paragraph (a) of this section or a written statement as required by paragraph (f) of this section.

(2) In case of filing a written statement provided for in paragraph (f) of this section but failing to appear at the hearing, either in person or by counsel.

(h) Where the right to file a protest or have a hearing is waived, the licensee or permittee will be deemed to have consented to the modification as proposed and a final decision may be issued by the Commission accordingly. Irrespective of any waiver as provided for in paragraph (g) of this section or failure by the licensee or permittee to raise a substantial and material question of fact concerning the proposed modification in his protest, the Commission may, on its own motion, designate the proposed modification for hearing in accordance with this section.

(i) Any order of modification issued pursuant to this section shall include a statement of the findings and grounds and reasons therefor, shall specify the effective date of the modification, and shall be served on the licensee or permittee.

**§1.89 Notice of violations.** (a) Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, any person who holds a license, permit or other authorization appearing to have violated any provision of the Communications Act or any provision of this chapter will, before revocation, suspension, or cease and desist proceedings are instituted, be served with a written notice calling these facts to his or her attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose. The Notice of Violation may be combined with a Notice of Apparent Liability to Monetary Forfeiture. In such event, notwithstanding the Notice of Violation, the provisions of §1.80 apply and not those of §1.89.

(b) Within 10 days from receipt of notice or such other period as may be specified, the recipient shall send a written answer, in duplicate, directly to the Commission office originating the official notice. If an answer cannot be sent or an acknowledgment cannot be made within such 10-day period by reason of illness or other unavoidable circumstance, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of action taken to correct the condition or omission complained of and to preclude its recurrence. In addition:

(1) If the notice related to violations that may be due to the physical or electrical characteristics of transmit-

ting apparatus and any new apparatus is to be installed, the answer shall state the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application.

(2) If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge (where applicable) shall be given.

**§1.91 Revocation and/or cease and desist proceedings: hearings.** (a) If it appears that a station license or construction permit should be revoked and/or that a cease and desist order should be issued, the Commission will issue an order directing the person to show cause why an order of revocation and/or a cease and desist order, as the facts may warrant, should not be issued.

(b) An order to show cause why an order of revocation and/or a cease and desist order should not be issued will contain a statement of the matters with respect to which the Commission is inquiring and will call upon the person to whom it is directed (the respondent) to appear before the Commission at a hearing, at a time and place stated in the order, but not less than thirty days after the receipt of such order, and give evidence upon the matters specified in the order to show cause. However, if safety of life or property is involved, the order to show cause may specify a hearing date less than thirty days from the receipt of such order.

(c) To avail himself of such opportunity for hearing, the respondent, personally or by his attorney, shall file with the Commission, within thirty days of the service of the order or such shorter period as may be specified therein, a written appearance stating that he will appear at the hearing and present evidence on the matters specified in the order. The Commission in its discretion may accept a late appearance. However, an appearance tendered after the specific time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petition for acceptance of late appearance will be granted only if the Commission determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(d) Hearings on the matters specified in such orders to show cause shall accord with the practice and procedure prescribed in this subpart and Subpart B of this part, with the following exception: (1) In all such revocation and/or cease and desist hearings, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; and (2) the Commission may specify in a show cause order, when the circumstances of the proceeding require expedition, a time less than that prescribed in §1.276 and §1.277 within which the initial decision in the proceeding shall become effective, exceptions to such initial decision must be filed, parties must file request for oral argument, and parties must file notice of intention to participate in oral argument.

(e) Correction or promise to correct the conditions or matters complained of in a show cause order shall not preclude the issuance of a cease and desist order. Corrections or promises to correct the conditions or matters complained of, and the past record of the licensee, may, however, be considered in determining whether a revocation and/or cease and desist order should be issued.

(f) Any order of revocation and/or cease and desist order issued after hearing pursuant to this section shall include a statement of findings and the grounds therefore, shall specify the effective date of the order, and shall be served on the person to whom such order is directed.

**§1.92 Revocation and/or cease and desist proceedings: after waiver of hearing.** (a) After the issuance of an order to show cause, pursuant to §1.91, calling upon a person to appear at a hearing before the Commission, the occurrence of any one of the following events or circumstances will constitute a waiver of such hearing and the proceeding thereafter will be conducted in accordance with the provisions of this section.

(1) The respondent fails to file a timely written appearance as prescribed in §1.91(c) indicating that he will appear at a hearing and present evidence on the matters specified in the order.

(2) The respondent, having filed a timely written appearance as prescribed in §1.91(c), fails in fact to appear in person or by his attorney at the time and place of the duly scheduled hearing.

(3) The respondent files with the Commission, within the time specified for a written appearance in §1.91(c),

a written statement expressly waiving his rights to a hearing.

(b) When a hearing is waived under the provisions of paragraph (a) (1) or (3) of this section, a written statement signed by the respondent denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause may be submitted within the time specified in §1.91(c). The Commission in its discretion may accept a late statement. However, a statement tendered after the specified time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petitions for acceptance of a late statement will be granted only if the Commission determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(c) Whenever a hearing is waived by the occurrence of any of the events or circumstances listed in paragraph (a) of this section, the Chief Hearing Examiner (or the presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. Such order shall be served upon the respondent.

(d) After a hearing has been terminated pursuant to paragraph (c) of this section, the Commission will act upon the matters specified in the order to show cause in the regular course of business. The Commission will determine on the basis of all the information available to it from any source, including such further proceedings as may be warranted, if a revocation order and/or a cease and desist order should issue, and if so, will issue such order. Otherwise, the Commission will issue an order dismissing the proceeding. All orders specified in this paragraph will include a statement of the findings of the Commission and the grounds and reasons therefore, will specify the effective date thereof, and will be served upon the respondent.

(e) Corrections or promise to correct the conditions or matters complained of in a show cause order shall not preclude the issuance of a cease and desist order. Corrections or promises to correct the conditions or matters complained of, and the past record of the licensee, may, however, be considered in determining whether a revocation and/or cease and desist order should be issued.

## Suspension of Operator Licenses

**§1.85 Suspension of operator licenses.** Whenever grounds exist for suspension of an operator license, as provided in Section 303(m) of the Communications Act, the Chief of the Safety and Special Radio Services Bureau, with respect to amateur operator licenses, or the Chief of the Field Engineering and Monitoring Bureau, with respect to commercial operator licenses, may issue an order suspending the operator license. No order of suspension in any operators' license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Safety and Special Radio Services Bureau or the Chief, Field Engineering Bureau, as the case may be, and said order of suspension shall be held in abeyance until the conclusion of the hearing. Upon the conclusion of said hearing, the Commission may affirm, modify or revoke said order of suspension. If the license is ordered suspended, the operator shall send his operator license to the office of the Commission in Washington, D.C., on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

## Logs and Records

**§1.6 Availability of station logs and records for Commission inspection.** (a) Station records and logs shall be made available for inspection or duplication at the request of the Commission or its representative. Such logs or records may be removed from the licensee's possession by a Commission representative or, upon request, shall be mailed by the licensee to the

Commission by either registered mail, return receipt requested, or certified mail, return receipt requested. The return receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. A receipt shall be furnished when the logs or records are removed from the licensee's possession by a Commission representative and this receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. When the Commission has no further need for such records or logs, they shall be returned to the licensee. The provisions of this rule shall apply solely to those station logs and records which are required to be maintained by the provisions of this chapter.

(b) Where records or logs are maintained as the official records of a recognized law enforcement agency and the removal of the records from the possession of that law enforcement agency will hinder its law enforcement activities, such records will not be removed pursuant to this section if the chief of the law enforcement agency shall promptly certify in writing to the Federal Communications Commission that the removal of the logs or records will hinder law enforcement activities of the agency, and stating insofar as feasible the basis for his decision and the date when it can reasonably be expected that such records may be released to the Federal Communications Commission.

**Lotteries**

**§73.1211 Broadcast of lottery information.** (a) No licensee of an AM, FM or television broadcast station, except as in paragraph (c) of this section, shall broadcast 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. (18 USC 1304, 62 Stat 763).

(b) The determination whether a particular program comes within the provisions of paragraph (a) of this section depends on the facts of each case. However, the Commission will in any event consider that a program comes within the provisions of paragraph (a) of this section to any person whose selection is dependent in whole or in part upon lot or chance, if as a condition of winning or competing for such prize, such winner or winners, are required to furnish any money, or thing of value or are required to have in their possession any product sold, manufactured, furnished or distributed by a sponsor of a program broadcast on the station in question.

(c) The provisions of paragraphs (a) and (b) of this section shall not apply to an advertisement, list of prizes or other information concerning:

(1) A lottery conducted by a state acting under authority of State law which is broadcast by a radio or television station licensed to a location in that State or any other state which conducts such a lottery. (18 USC 1307; 88 Stat 1916).

(2) Fishing contests exempted under 18 USC 1305 (not conducted for profit, i.e., all receipts fully consumed in defraying the actual costs of operation).

(3) Any gaming conducted by an Indian Tribe pursuant to the Indian Gaming Regulatory Act (25 USC 2701 et seq.).

(4) A lottery, gift enterprise or similar scheme, other than one described in paragraph (c)(1) of this section, that is authorized or not otherwise prohibited by the State in which it is conducted and which is:

(i) conducted by a not-for-profit organization or a governmental organization (18 USC 1307; 102 Stat 3205); or

(ii) conducted as a promotional activity by a commercial organization and is clearly occasional and is ancillary to the primary business of that organization. (18 USC 1307(a); 102 Stat 3205.)

(d) For the purposes of paragraph (c) of this section, "Lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. It does not include the placing or accepting of bets or wagers on sporting events or contests.

(e) For purposes of paragraph (c)(4)(i) of this section, the term "not-for-profit organization" means any organization that would qualify as tax exempt under Section 502 of the Internal Revenue Code of 1986.

**§1304** (of U.S. Criminal Code) Broadcasting Lottery Information. Whoever broadcasts by means of any radio station for which a license is required by any law of the U.S. or whoever, operating any such station, knowingly permits the broadcasting of any advertise-

ment 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.

**Tender Offers and Proxy Statements**

**§73.4266 Tender offers and proxy statements—** See Policy Statement, MM Docket No. 85-218, FCC 86-67 [59 FR 2d 1536], adopted January 30, 1986. 51 FR 9794, March 21, 1986.

**Censorship**

**§326** (of Communications Act) Nothing in this act shall be understood to give the Commission the power of censorship over the radio communications or signals transmitted which shall interfere with the right of free speech by means of radio communications.

**§73.3999 Enforcement of 18 USC 1464 (Restrictions on the transmission of obscene or indecent language).** The Commission will enforce the provisions of Section 1464 of the United States Criminal Code, 18 USC 1464, on a twenty-four hour per day basis in accordance with Public Law No. 100-459.

**Forfeitures**

**§503** (of Communications Act) (a) Any person who shall deliver messages for interstate or foreign transmission to any carrier, or for whom as sender or receiver, any such carrier shall transmit any interstate or foreign wire or radio communication, who shall knowingly by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transmission of such messages as fixed by the schedules of charges provided for in this act, shall in addition to any other penalty provided by this act forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action, may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both, as the case may be.

(b) (1) Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have

(A) willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument or authorization issued by the Commission;

(B) willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act or under any treaty convention, or other agreement to which the United States is a party and which is binding upon the United States;

(C) violated any provision of Section 317(c) or 509(a) of this Act; or

(D) violated any provision of Sections 1304, 1343, or 1464 of Title 18, United States Code; shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by this act; except that this subsection shall not apply to any conduct which is subject to forfeiture under Title II, Part II or III of Title III, or Section 507 of this act.

(2) The amount of any forfeiture penalty determined under this subsection shall not exceed \$2,000 for each violation. Each day of a continuing violation shall constitute a separate offense, but the total forfeiture penalty which may be imposed under this subsection, for acts or omissions described in paragraph (1) of this subsection and set forth in the notice or the notice of apparent liability issued under this subsection, shall not exceed

(A) \$20,000, if the violator is (i) a common carrier subject to the provisions of this act, (ii) a broadcast station licensee or permittee, or (iii) a cable television operator; or

(B) \$5,000, in any case not covered by subparagraph (A). The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(3)(A) At the discretion of the Commission, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof in accordance with Section 554 of Title 5, United States Code. Any person against whom a forfeiture penalty is determined under this paragraph may obtain review thereof pursuant to Section 402(a).

(B) If any person fails to pay an assessment of a forfeiture penalty determined under subparagraph (A) of this paragraph, after it has become, a final and unappealable order or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall refer the matter to the attorney general of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the forfeiture penalty shall not be subject to review.

(4) Except as provided in paragraph (3) of this subsection, no forfeiture penalty shall be imposed under this subsection against any person unless and until—

(A) the Commission issues a notice of apparent liability, in writing, with respect to such person;

(B) such notice has been received by such person, or until the Commission has sent such notice to the last known address of such person, by registered or certified mail; and

(C) such person is granted an opportunity to show, in writing, within such reasonable period of time as the Commission prescribes by rule or regulation, why no such forfeiture penalty should be imposed. Such a notice shall (1) identify each specific provision, term, and condition of any act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, instrument, or authorization which such person apparently violated or with which such person apparently failed to comply; (ii) set forth the nature of the act or omission charged against such person and the facts upon which such charge is based; and (iii) state the date on which such conduct occurred. Any forfeiture penalty determined under this paragraph shall be recoverable pursuant to Section 504(a) of this act.

(5) No forfeiture liability shall be determined under this subsection against any person, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the notice required by paragraph (3) of this subsection or the notice of apparent liability required by paragraph (4) of this subsection, such person (A) is sent a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission which is nearest to such person's place of residence; and (C) subsequently engages in conduct of the type described in such citation. The provisions of this paragraph shall not apply, however, if the person involved is engaging in activities for which a license, permit, certificate, or other authorization is required, or is a cable television system operator, or if the person involved is transmitting on frequencies assigned for use in a service in which individual station operation is authorized by rule pursuant to Section 307(e). Whenever the requirements of this paragraph are satisfied with respect to a particular person, such person shall not be entitled to receive any additional citation of the violation charged, with respect to any conduct of the type described in the citation sent under this paragraph.

(6) No forfeiture penalty shall be determined or imposed against any person under this subsection if—

(A) such person holds a broadcast station license issued under Title III of this act and if the violation charged occurred more than one year prior to the date of issuance of the required notice or notice of apparent liability, or prior to the date of commencement of the current term of such license, whichever is earlier so long as such violation occurred within three years prior to the date of issuance of such required notice; or

(B) such person does not hold a broadcast station license issued under Title III of this act and if the violation charged occurred more than one year prior to the date of issuance of the required notice or notice of apparent liability.

[EDITOR'S NOTE: Section 504 provides for recovery of forfeitures by the government in federal district courts, and for remission or mitigation of forfeitures.]



## Station Application Procedure

Any qualified citizen, company, or group may apply to the Federal Communications Commission for authority to construct a standard (AM), frequency modulation (FM), or television (TV) broadcast station.

All applications requiring a fee should be mailed to the Federal Communications Commission at a specific post office box address in Pittsburgh, Pa. The specific address depends upon the service requested and is listed in the Mass Media Fee Filing Guide. For copies of the Fee Filing Guides and additional information you may contact the FCC's Fees Hotline at (202) 632-FEES.

Licensing of these facilities is prescribed by the Communications Act of 1934, as amended, which sets up certain basic requirements. In general, applicants must satisfy the Commission that they are legally, technically and financially qualified, and that operation of the proposed station would be in the public interest.

Full details of the licensing procedure are in Part 1 of the Commission's rules, "Practice and Procedure" and Part 73 "Radio Broadcast Services." This includes technical standards for AM, FM and TV stations, and TV and FM channel (frequency) assignments by states and communities. Copies of the complete rules may be purchased from the Government Printing Office.

Most applicants employ engineering and legal services in preparing their applications. The Commission does not make technical or other special studies for prospective applicants nor does it recommend individual lawyers or engineers. Names of firms and individuals practicing before the Commission are listed in various trade publications.

Following is a summary of the consecutive steps to be followed in applying for authorization to build and operate a broadcast station. The application procedure is substantially the same whether the facility sought is AM, FM or TV.

### Selecting a Facility

An applicant must make his own search for a frequency on which he can operate without causing or receiving interference from existing stations and stations proposed in pending applications. AM broadcast stations operate on "local," "regional," or "clear" channels. Stations of 250 watts power nighttime and up to 1 kilowatt daytime serve small communities; stations of 250 watts to 50 kilowatts cover population centers and surrounding areas; stations of 10 to 50 kilowatts are for large area coverage, particularly at night.

An FM station applicant must request an FM channel assigned to the community in which he proposes to operate. Power, antenna height and station separation are governed by the zone in which the station is located.

The Commission authorizes seven classes of commercial and educational FM stations and three zones. Additionally, some educational stations are grandfathered to operate as Class D stations at less than 100 watts. Class A stations use power from 100 watts to 6 kilowatts to cover a radius of 28 kilometers; Class B1 stations use 6 to 25 kilowatts to cover a radius of 39 kilometers; Class B stations, 25 to 50 kilowatts, cover a radius of 53 kilometers; Class C1 stations use 50 to 100 kilowatts to cover a radius of 72 kilometers; and Class C stations with a minimum of 100 kilowatts with HAAT of at least 300 meters and a maximum of 100 kilometers with HAAT of at least 600 meters.

FM stations as well as AM stations may engage in stereophonic broadcasting, for which no special application is required.

An applicant for a TV station must request a VHF (Very High Frequency) or a UHF (Ultra High Frequency) channel assignment to the community in which he proposes to operate. Power depends upon the kind of channel used (VHF or UHF) and station separation is determined by three zones. TV "translator" stations serve remote communities by picking up and rebroadcasting the programs of outside stations, with the latter's permission. "Low power" TV stations may originate programming and/or operate subscription service. They operate on any VHF channel or on any unassigned UHF channel, provided they do not cause objectionable interference to full service stations. Low power channels are to be allocated on a demand basis. There is a "Community Antenna Relay Service" for non-common carrier microwave facilities to relay TV signals to cable TV systems.

**Applying for a Construction Permit.** FCC Form 301, "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Station"

is utilized when applying for a construction permit. This form covers AM, FM, or TV broadcast, with the exception of educational applicants (who use FCC Form 340), FM and TV translators (Form 346) and FM booster stations (Form 349P). These forms require information about the citizenship and character of the applicant, as well as financial, technical and other qualifications, plus details about the transmitting apparatus to be used, antenna and studio locations, and the service proposed. Triplicate copies are required. Fees are required for all construction permits with the exception of noncommercial stations. Nonprofit educational institutions apply for new or changed instructional TV fixed stations on Form 330-P.

**Applicants Must Give Local Notice.** Applicants for new broadcast stations, license renewals, station sales or major changes in existing stations must give local public notice of their plans and also of any subsequent designation of their applications for hearing. This is done over the applicant's local station (if any) and by advertising in the local newspaper. It affords an opportunity for public comment on these applications to the Commission. Applicants and stations also must maintain public reference files in their respective localities.

Applicants for new AM, TV and noncommercial broadcast stations and for major changes in existing facilities must be placed on a cut-off list. The cut-off procedure entails an issuance of a public notice announcing that an application has been accepted for filing and establishing a date by which competing applications and petitions to deny must be filed. The cut-off is at least 30 days from the release of the notice. Prior to the cut-off, an application cannot be processed to grant. In the case of the FM Commercial band, a window filing period of at least 30 days is announced in which applicants must file to be treated as competing applications. This excludes allocation in the commercial band set aside for education stations and which would fall under the noncommercial broadcast requirements. After commercial applications have been accepted for tender they may be placed on a notice of acceptance which sets a date by which petitions to deny must be filed and a second date by which all mutually exclusive applications on that list must pay the required hearing fee.

Applications generally are processed in the order in which accepted. They are reviewed for engineering, legal and financial data by the Mass Media Bureau which, under delegated authority, acts on routine applications and reports to the Commission those involving policy or other particular considerations. If an application has no engineering or other conflicts and no valid protests have been received, the applicant is found qualified. Assuming all other requirements are met, the application may be granted without hearing and a construction permit issued. All such grants are announced by the Commission. Petitions for reconsideration of grants made without hearing can be filed within 30 days but must show good cause why the objections were not raised before the grant.

**Hearing Procedure.** In instances where it appears that an application does not conform to the Commission's rules and regulations or that serious interference would be caused, if there is protest of merit, petitions for reconsideration, applications for review, or if there are other serious questions of a technical, legal or financial character, a hearing is usually required. The FCC must accord a hearing to competing applications filed within specified time limits.

In designating an application for hearing, the Commission gives public notice of the issues for the information of the applicant and others concerned. The hearing notice generally allows the applicant 60 days or more in which to prepare. Even after the hearing has been set, an applicant may amend his application to resolve engineering or other problems, if he or she so requests. (Commission approval is required for all mergers or situations in which a competing applicant withdraws on payment of expenses.) Hearings customarily are conducted by an Administrative Law Judge (ALJ).

Within 20 days after the close of a record by the ALJ, each party and the Chief of the FCC Broadcast Bureau can file proposed findings of fact and conclusions to support their contentions. After review of the evidence and statements, the ALJ issues an initial decision.

An applicant or any other party in interest wishing to contest the initial decision has 30 days from the date on which the initial decision was issued to file exceptions. In all cases heard by an ALJ, the Commission or its review board may hear oral argument and may

adopt, modify or reverse the ALJ's initial decision. In cases where the review board has acted on the exceptions, an appeal from its decision may be taken to the FCC within 30 days. However the Commission may deny an appeal for review without stating its reasons. Court appeals may be filed within 30 days following release of the final decision, in which case the Commission's action is stayed pending court decision.

**Construction Permit.** When a construction permit for a new station has been issued, the applicant may then request call letters that, if they are available and conform to the rules, are issued. AM, FM, FM and TV Translators, low-power TV, TV and FM booster, broadcast auxiliary, and Instructional TV Fixed stations have a maximum of 18 months in which to construct. TV Broadcast stations have a maximum of 24 months in which to construct. If the permittee is unable to build the station within the time specified, the permittee must apply for an extension of time on Form 307 ("Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit" giving reasons. Upon completion of construction, the permittee conducts equipment tests and in the case of a non-directional station, the permittee may begin program tests prior to filing a license application. However, a license application must be filed within 10 days of commencement of program tests.

**Licenses.** The final step is to apply for the actual license on Form 302 ("Application for New Broadcast Station License"), or one of the following: Form 330-L (Instructional TV Fixed stations), Form 347 (TV and FM translators), or Form 349L (FM boosters). Applicants must show compliance with all terms, conditions and obligations in the original applications and the construction permit.

Not until he applies for a license can the holder of a construction permit for a directional station request authority to conduct program tests. The license application form provides a space for program tests requests, or it can be made separately. A station license and program test authority are issued if no new cause or circumstance has come to the attention of the Commission that would make operation of the station contrary to public interest.

**Renewals.** An applicant for renewal of a station license must show that he has operated according to the terms of his authorization and the promises made in obtaining it. Most renewal applications are made on Form 303 ("Application for Renewal of Broadcast Station License"). However, Instructional TV Fixed stations use Form 330-R; noncommercial educational licensees use Form 341; TV and FM translators Form 348 and FM boosters Form 349R.

Pending the disposition of any Commission hearing or other proceeding involving license renewal or revocation considerations, the station continues to operate even though its license term may have expired.

**Sales and Transfers.** If the holder of a construction permit or license desires to assign it to someone else, he makes application on Form 314 ("Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License"). Should the permittee or licensee wish to transfer corporate control, he applies on Form 315 ("Application for Consent to Transfer Control of Corporation Holding Radio Broadcast Station Construction Permit or License"). Form 316 ("Application for Assignment or Transfer Short Form") may be used when the transfer or assignment involves no substantial change in interest.

**Construction Changes.** Applicants for authority to make construction changes in existing stations apply on the same form used for a construction permit for the type of station involved.

**Printed Rules.** FCC rules may be obtained only through the Government Printing Office, Washington, D.C. 20402. The rules on FCC practice and procedure are contained in Volume I. The broadcast rules are contained in Volume III. Orders should be sent to the Government Printing Office direct (not through the FCC).

**Applications Forms.** Application forms may be obtained from the FCC Forms Self-Service Center, Room L-17, 1919 M St. N.W., Washington, D.C. 20554; by calling (202) 632-FORM; or by mailing in FCC 207 Form Order Card.