

# Federal Communications Commission Rules and Regulations

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## §73.14 AM broadcast definitions.

**AM broadcast band**—The band of frequencies extending from 535 to 1705 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 117 carrier frequencies assigned to AM broadcast stations begin at 540 khz and are in successive steps of 10 khz to 1700 khz. See §73.21 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 AM broadcast band.

**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 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.

**Auxiliary facility**—An auxiliary facility is an AM antenna tower(s) separate from the main facility's antenna tower(s), permanently installed at the same site or at a different location, from which an AM station may broadcast for short periods without prior Commission authorization or notice to the Commission while the main facility is not in operation (e.g., where tower work necessitates turning off the main antenna or where lightning has caused damage to the main antenna or transmission system) (See §73.1675).

**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 components. 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**—Means 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**—Means 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 10,000 hz 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. (See §73.1570.)

**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.

**Model I facility**—A station operating in the 1605-1705 kHz band featuring fulltime operation with stereo, com-

petitive technical quality, 10 kW daytime power, 1 kW nighttime power, non-directional antenna (or a simple directional antenna system), and separated by 400-800 km from other co-channel stations.

**Model II facility**—A station operating in the 535-1605 kHz band featuring fulltime operation, competitive technical quality, wide area daytime coverage with nighttime coverage at least 15% of the daytime coverage.

**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 applications 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**—Means 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**—Means 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 50 to 10,000 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 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 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 stations are assigned to serve wide areas. These stations are protected from objectionable interference within their primary service areas and, depending on the class of station, their secondary service areas. Stations operating on these channels are classified as follows:

(1) Class A station. A Class A station is an unlimited time station that operates on a clear channel and is designed to render primary and secondary service over an extended area and at relatively long distances from its transmitter. Its primary service area is protected from objectionable interference from other stations on the same and adjacent channels, and its secondary service area is protected from interference from other stations on the same channel. (See §73.182). The operating power shall not be less than 10 kW nor more than 50 kW. (Also see §73.25(a)).

(2) Class B station. A Class B station is an unlimited time station which is designed to render service only over a primary service area. Class B stations are authorized to operate with a minimum power of 0.25 kW (or, if less than 0.25 kW, an equivalent RMS antenna field of at least 141 mV/m at 1 km) and a maximum power of 50 kW, or 10 kW for stations that are authorized to operate in the 1605-1705 kHz band.

(3) Class D station. A Class D station operates either daytime, limited time or unlimited time with nighttime power less than 0.25 kW and an equivalent RMS antenna field of less than 141 mV/m at one km. Class D stations shall operate with daytime powers not less than 0.25 kW nor more than 50 kW. Nighttime operations of Class D stations are not afforded protection and must protect all Class A and Class B operations during nighttime hours. New Class D stations that had not been previously licensed as Class B will not be authorized.

(b) Regional Channel. A regional channel is one on which Class B and Class D stations may operate and serve primarily a principal center of population and the rural area contiguous thereto.

%NOTE: Until the North American Regional Broadcasting Agreement (NARBA) is terminated with respect to the Bahama Islands and the Dominican Republic, radiation toward those countries from a Class B station may not exceed the level that would be produced by an omnidirectional antenna with a transmitted 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 stations operate unlimited time and serve primarily a community and the suburban and rural areas immediately contiguous thereto.

(1) Class C station. A Class C station is a station operating on a local channel and is designed to render service only over a primary service area that may be reduced as a consequence of interference in accordance with §73.182. The power shall not be less than 0.25 kW, nor more than 1 kW. Class C stations that are licensed to operate with 0.1 kW may continue to do so.

**§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.

(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.

(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 mV 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 mV contour is 300 or less the provisions of this subparagraph are not applicable.

(h) That, in the case of an application for a Class B or Class D station on a clear channel, 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 groundwave contour of a co-channel United States Class A station, no more than the maximum radiation values permitted under the provisions of §73.187.

(i) That, for all stations, the daytime 5 mV/m contour encompasses the entire principal community to be served. That, for stations in the 535-1605 kHz band, 80% of the principal community is encompassed by the nighttime 5 mV/m contour or the nighttime interference-free contour, whichever value is higher. That, for stations in the 1605-1705 kHz band, 50% of the principal community is encompassed by the 5 mV/m contour or the nighttime interference-free contour, whichever value is higher. That, Class D stations with nighttime authorizations need not demonstrate such coverage during nighttime operation.

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

**§73.25 Clear channels:** Class A, Class B and Class D 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 A station may 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 Alaska, these frequencies can be used by Class A stations subject to the conditions set forth in §73.182(a)(1)(ii). On the channels listed in this paragraph, Class B and Class D stations may be assigned.

(b) To each of the following channels there may be assigned Class A, Class B and Class D 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: Until superseded by a new agreement, protection of the Bahama Islands shall be in accordance with NARBA. Accordingly, a Class A, Class B or Class D station on 1540 kHz shall restrict its signal to a value no greater than 4 μV/m groundwave or 25 μV/m-10% 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) Class A, Class B and Class D stations may be assigned on 540, 690, 730, 740, 800, 860, 900, 990, 1010, 1050, 1220, 1540, 1570, and 1580 kHz.

**§73.26 Regional channels: Class B and Class D stations.**

(a) The following frequencies are designated as regional channels and are assigned for use by Class B and Class D 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, 1600, 1610, 1620, 1630, 1640, 1650, 1660, 1670, 1680, 1690, and 1700 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 B stations. Stations formerly licensed to these channels in those locations as Class C stations are redesignated as Class B stations.

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

**§73.28 Assignments of stations to channels.**

(a) 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 for a list of pertinent treaties, conventions and agreements, and §73.23 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 C stations on regional channels.** No license will be granted for the operation of a Class C station on a regional channel.

**§73.30 Petition for authorization of an allotment in the 1605-1705 kHz band.**

(a) Any party interested in operating an AM broadcast station on one of the ten channels in the 1605-1705 kHz band must file a petition for the establishment of an allotment to its community of license. Each petition must include the following information:

(1) name of community for which allotment is sought; (2) frequency and call letters of the petitioner's existing AM operation; and (3) statement as to whether or not AM stereo operation is proposed for the operation in the 1605-1705 kHz band.

(b) Petitions are to be filed during a filing period to be determined by the Commission. For each filing period, eligible stations will be allotted channels based on the following steps:

(1) Stations are ranked in descending order according to the calculated improvement factor.

(2) The station with the highest improvement factor is initially allotted the lowest available channel.

(3) Successively, each station with the next lowest improvement factor is allotted an available channel taking into account the possible frequency and location combinations and relationship to previously selected allotments. If a channel is not available for the subject station, previous allotments are examined with respect to an alternate channel, the use of which would make a channel available for the subject station.

(4) When it has been determined that, in accordance with the above steps, no channel is available for the subject station, that station is no longer considered and the process continues to the station with the next lowest improvement factor.

(c) If awarded an allotment, a petitioner will have sixty (60) days from the date of public notice of selection to file an application for construction permit on FCC Form 301. (See —§73.24 and §73.37(e) for filing requirements.) Unless instructed by the Commission to do otherwise, the application shall specify Model I facilities. (See §73.14.) Upon grant of the application and subsequent construction of the authorized facility, the applicant must file a license application on FCC Form 302.

NOTE 1: Until further notice by the Commission, the filing of these petitions is limited to licensees of existing AM stations (excluding Class C stations) operating in the 535-1605 kHz band. First priority will be assigned to Class D stations located within the primary service contours of U.S. Class A stations that are licensed to serve communities of 100,000 or more for which there exists no local fulltime aural service.

NOTE 2: Selection among competing petitions will be based on interference reduction. Notwithstanding the exception contained in NOTE 5, within each operational category, the station demonstrating the highest value of

improvement factor will be afforded the highest priority for an allotment, with the next priority assigned to the station with next lowest value, and so on, until available allotments are filled.

**NOTE 3:** The Commission will periodically evaluate the progress of the movement of stations from the 535-1605 kHz band to the 1605-1705 kHz band to determine whether the 1605-1705 kHz band should continue to be administered on an allotment basis or modified to an assignment method. If appropriate, the Commission will later develop further procedures for use of the 1605-1705 kHz band by existing station licensees and others.

**NOTE 4:** Other than the exception specified in NOTE 1, existing fulltime stations are considered first for selection as described in NOTE 2. In the event that an allotment availability exists for which no fulltime station has filed a relevant petition, such allotment may be awarded to a licensed Class D station. If more than one Class D station applies for this migration opportunity, the following priorities will be used in the selection process: First priority - A Class D station located within the 0.5 mV/m-50% contour of a U.S. Class A station and licensed to serve a community of 100,000 or more, for which there exists no local fulltime aural service; Second priority - Class D stations ranked in order of improvement factor, from highest to lowest, considering only those stations with improvement factors greater than zero.

**NOTE 5:** The preference for AM stereo in the expanded band will be administered as follows: when an allotment under consideration (candidate allotment) conflicts with one or more previously selected allotments (established allotments) and cannot be accommodated in the expanded band, the candidate allotment will be substituted for the previously established allotment provided that the petitioner for the candidate allotment has made a written commitment to the use of AM stereo and the petitioner for the established allotment has not; the difference between the ranking factors associated with the candidate and established allotments does not exceed 10% of the ranking factor of the candidate allotment; the substitution will not require the displacement of more than one established allotment; and both the candidate allotment and the established allotment are within the same priority group.

*In FM rules ...*

**§73.35 Calculation of improvement factors.**

Application for an allotment (see §73.30) in the 1605-1705 kHz band filed by an existing fulltime AM station licensed in the 535-1605 kHz band will be ranked according to the station's calculated improvement factor. (See §73.30.) Improvement factors relate to both nighttime and daytime interference conditions and are based on two distinct considerations: (1) service area lost by other stations due to interference caused by the subject station, and (2) service area of the subject station. These considerations are represented by a ratio. The ratio consists, where applicable, of two separate additive components, one for nighttime and one for daytime. For the nighttime component, to determine the numerator of the ratio (first consideration), calculate the RSS and associated service area of the stations (co- and adjacent channel) to which the subject station causes nighttime interference. Next, repeat the RSS and service area calculations excluding the subject station. The cumulative gain in the above service areas is the numerator of the ratio. The denominator (second consideration) is the subject station's interference-free service area. For the daytime component, the composite amount of service lost by co-channel adjacent channel stations, each taken individually, that are affected by the subject station, excluding the effects of other assignments during each study, will be used as the numerator of the daytime improvement factor. The denominator will consist of the actual daytime service area (0.5 mV/m contour) less any area lost to interference from other assignments. The value of this combined ratio will constitute the petitioner's improvement factor. Notwithstanding the requirements of §73.153, for uniform comparisons and simplicity, measurement data will not be used for determining improvement factors and FCC Figure M-3 ground conductivity values are to be used exclusively in accordance with the pertinent provisions of §73.183(c)(1).

**§73.201 Numerical designation of FM broadcast channels.**

The FM broadcast band consists of that portion of the radio frequency spectrum between 88 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

**NOTE:** The frequency 108.0 MHz may be assigned to VOR test stations subject to the condition that interference is not caused to the reception of FM broadcast stations, present or future.

**§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) Applications filed on a first come, first served basis may propose a lower or higher class adjacent, intermediate frequency or co-channel. Applications for the modification of an existing FM broadcast station may propose a lower or higher class adjacent, intermediate frequency or co-channel, or a same class adjacent channel. In these cases, the applicant need not file a petition for rulemaking to amend the Table of Allotments (§73.202(b)) to specify the modified channel class.

**NOTE:** Changes in channel and/or class by application are limited to modifications on first, second and third adjacent channels, intermediate frequency (IF) channels, and co-channels which require no other changes to the FM Table of Allotments. Applications requesting such modifications must meet either the minimum spacing requirements of §73.207 at the site specified in the application, without resort to the provisions of the Commission's Rules permitting short spaced stations as set forth in §§73.213-73.215 or demonstrate by a separate exhibit attached to the application the existence of a suitable allotment site that fully complies with §§73.207 and 73.315, without resort to §§73.213-73.215.

**§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 1 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 unless the reference points meet all of the minimum distance separation requirements of this section. The Commission will not accept 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 HAAT based on a class contour distance of 24 km) are considered to be Class B1.

(3) Under the 1992 Mexico-United States FM Broadcasting Agreement, domestic U.S. assignments or allotments within 320 kilometers (199 miles) of the common border must be separated from Mexican assignments or allotments by not less than the distances given in Table C in this paragraph (b)(3). When applying Table C—

(i) U.S. or Mexican assignments or allotments which have been notified internationally as Class A are limited to a maximum of 3.0 kW ERP at 100 meters HAAT, or the equivalent;

(ii) U.S. or Mexican assignments or allotments which have been notified internationally as Class AA are limited to a maximum of 6.0 kW ERP at 100 meters HAAT, or the equivalent;

(iii) U.S. Class C3 assignments or allotments are considered Class B1;

(iv) U.S. Class C2 assignments or allotments are considered Class B; and

(v) Class C1 assignments or allotments assume maximum facilities of 100 kW ERP at 300 meters HAAT. However, U.S. Class C1 stations may not, in any event, exceed the domestic U.S. limit of 100 kW ERP at 299 meters HAAT, or the equivalent.

(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 or distance in meters (ft.)	Class contour 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 or distance in meters (ft.)	Class contour 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 continuously short-spaced since that time may be modified or relocated with respect to such short-spaced stations, provided that (i) any area predicted to receive interference lies completely within any area currently predicted to receive co-channel or first-adjacent channel interference as calculated in accordance with paragraph (a)(1) of this section, or that (ii) a showing is provided pursuant to paragraph (a)(2) of this section that demonstrates that the public interest would be served by the proposed changes.

(1) The F(50,50) curves in Figure 1 of §73.333 are to be used in conjunction with the proposed effective radiated power and antenna height above average terrain, as calculated pursuant to §73.313(c), (d)(2) and (d)(3), using data for as many radials as necessary, to determine the location of the desired (service) field strength. The F(50,10) curves in Figure 1a of §73.333 are to be used in conjunction with the proposed effective radiated power and antenna height above average terrain, as calculated pursuant to §73.313(c), (d)(2) and (d)(3), using data for as many radials as necessary, to determine the location of the undesired (interfering) field strength. Predicted interference is defined to exist only for locations where the desired (service) field strength exceeds 0.5 mV/m (54 dBu) for a Class B station, 0.7 mV/m (57 dBu) for a Class B1 station, and 1 mV/m (60 dBu) for any other class of station.

(i) Co-channel interference is predicted to exist, for the purpose of this section, at all locations where the undesired (interfering station) F(50,10) field strength exceeds a value 20 dB below the desired (service) F(50,50) field strength of the station being considered (e.g., where the protected field strength is 60 dBu, the interfering field strength must be 40 dBu or more for predicted interference to exist).

(ii) First-adjacent channel interference is predicted to exist, for the purpose of this section, at all locations where the undesired (interfering station) F(50,10) field strength exceeds a value 6 dB below the desired (service) F(50,50) field strength of the station being considered (e.g., where the protected field strength is 60 dBu, the interfering field strength must be 54 dBu or more for predicted interference to exist).

(2) For co-channel and first-adjacent channel stations, a showing that the public interest would be served by the changes proposed in an application must include exhibits demonstrating that the total area and population subject to co-channel or first-adjacent channel interference, caused and received, would be maintained or decreased. In addition, the showing must include exhibits demonstrating that the area and the population subject to co-channel or first-adjacent channel interference caused by the proposed facility to each short-spaced station individually is not increased. In all cases, the applicant must also show that any area predicted to lose service as a result of new co-channel or first-adjacent channel interference has adequate aural service remaining. For the purpose of this section, adequate service is defined as 5 or more aural services (AM or FM).

(3) For co-channel and first-adjacent channel stations, a copy of any application proposing interference caused in any areas where interference is not currently caused must be served upon the licensee(s) of the affected short-spaced station(s).

(4) For stations covered by this paragraph (a), there are no distance separation or interference protection requirements with respect to second-adjacent and third-adjacent channel short-spacings that have existed continuously since November 16, 1964.

(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

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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 the requisite contour protection will be provided. Such applications may be granted when the commission determines that such action would serve the 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, the 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 both second and third adjacent channel stations (+/-400 kHz and +/-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.

(4) Stations in Puerto Rico and the Virgin Islands may submit application for short spaced locations provided the predicted distance to their 1 mV/m field strength contour is not extended toward the 1 mV/m contour of any short-spaced station.

(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

## 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	186 (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	Co-channel	Adjacent Channels		I.F.	
	0 khz	200 khz	400 khz	600 khz	10.6 10.8 mhz
A to A	132	85	45	37	8
A to B1	180	113	62	54	16
A to B	208	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 (135)	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	260 (165)	155 (95)	105 (65)	25 (15)
D to D	18 (11)	10 (6)	5 (3)	3 (2)

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 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	92 (57)	49 (30)	29 (18)
A to B1	119 (74)	72 (45)	46 (29)
A to B	143 (89)	96 (60)	67 (42)
A to C3	119 (74)	72 (45)	40 (25)
A to C2	143 (89)	89 (55)	53 (33)
A to C1	178 (111)	111 (69)	73 (45)
A to C	203 (126)	142 (88)	93 (58)
B1 to B1	143 (89)	96 (60)	48 (30)
B1 to B	178 (111)	114 (71)	69 (43)
B1 to C3	143 (89)	96 (60)	48 (30)
B1 to C2	175 (109)	114 (71)	55 (34)
B1 to C1	200 (124)	134 (83)	75 (47)
B1 to C	233 (145)	165 (103)	95 (59)
B to B	211 (131)	145 (90)	71 (44)
B to C3	178 (111)	114 (70)	69 (43)
B to C2	211 (131)	145 (90)	71 (44)
B to C1	241 (150)	169 (105)	77 (48)
B to C	270 (168)	195 (121)	105 (65)
C3 to C3	142 (88)	89 (55)	42 (26)
C3 to C2	166 (103)	106 (66)	55 (34)
C3 to C1	200 (124)	133 (83)	75 (47)
C3 to C	226 (140)	165 (103)	95 (59)
C2 to C2	177 (110)	117 (73)	56 (35)
C2 to C1	211 (131)	144 (90)	76 (47)
C2 to C	237 (147)	176 (109)	96 (60)
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)

(c) In the case of any application designated for hearing on issues other than those related to consistency with international relationships and as to which no final decision has been rendered, whenever action under this section becomes appropriate because of inconsistency with international relationships, the applicant involved shall, notwithstanding the provisions of §73.3522 and §73.3571, be permitted to amend its application to achieve consistency with such relationships. In such cases the provisions of §73.3605(c) will apply.

(d) In some circumstances, special international considerations may require that the FCC, in acting on applications, follow procedures different from those established for general use. In such cases, affected applicants will be informed of the procedures to be followed.

*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)**

(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.

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)

Federal Communications Commission Rules and Regulations

(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.

Table with 4 columns: Chan. No., Freq. Band (Mega-cycles), Chan. No., Freq. Band (Mega-cycles). Lists channel assignments and corresponding frequency bands.

§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 non-commercial educational broadcast stations only.

(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.

(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.

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.

[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;

Table IV of Sec. 73.698—UHF Mileage Separations

Table with 7 columns: (1), (2) 20 miles (1 F beat), (3) 20 miles (Intermodulation-), (4) 55 miles (Adjacent channel), (5) 60 miles (Oscillator), (6) 60 miles (Sound image), (7) 75 miles (Picture image). Lists mileage separations for various channel numbers.

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 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:

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

Latitude/Longitude Chart  
from '99 Yearbook  
page J-13  
(right column)

§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:

(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:

(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

(1) Zone	Channels 2-13		Channels 14-28
	Kilometers (Miles)		
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.)	

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

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

be met in either rulemaking 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:

**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 for-

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

mulas:

(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

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)

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 from 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 the 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 conforming 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. The license of a broadcasting station that fails to transmit broadcast signals for any consecutive 12-month period expires as a matter of law at the end of that period, notwithstanding any STA or provision, term, or condition of the license to the contrary.

(5) Certain rules specify special considerations and procedures in situations requiring an STA or 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 day-time; §73.158, Directional antenna monitoring points; §73.691, Visual modulation monitoring; §73.1250, Broadcasting emergency information; §73.1350, Transmission system operation; §73.1560, Operating power and mode tolerances; §73.1570, Modulation levels: AM, FM, and TV aural; §73.1615, Operation during modification of facilities; §73.1680, Emergency antennas; and §73.1740, Minimum operating schedule.

(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 Agreements for the Broadcasting Service in Region 2

(i) MF Broadcasting 535-1605 kHz, Rio de Janeiro, 1981.

(ii) MF Broadcasting 1605-1705 kHz, Rio de Janeiro, 1988.

(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, Planning and Negotiations Division, International 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 No. 84-231, FCC 84-640 [57 RR 2d 863], adopted December 19, 1984. 100 FCC 2d 1332; 50 FR 3514, January 25, 1985.



(b) See Second Report and Order, MM Docket No. 84-231, FCC 85-124 [57 RR 2d 1607], adopted March 14, 1985, 101 FCC 2d 630, 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)(1) Radio contour overlap rule. No license for an AM or FM broadcasting station shall be granted to any party (including all parties under common control) if the grant of such license will result in overlap of the principal community contour of that station and the principal community contour of any other broadcasting station directly or indirectly owned, operated, or controlled by the same party, except that such license may be granted in connection with a transfer or assignment from an existing party with such interests, or in the following circumstances:

(i) In a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(ii) In a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(iii) In a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(iv) In a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

(2) Overlap between two stations in different services is permissible if neither of those two stations overlaps a third station in the same service.

(3) For purposes of this paragraph (a):

(i) The principal community contour for AM stations is the predicted or measured 5 mV/m groundwave contour computed in accordance with §73.183 or §73.186 and for FM stations is the predicted 3.16 mV/m contour computed in accordance with §73.313.

(ii) The number of stations in a radio market is the number of commercial stations whose principal community contours overlap, in whole or in part, with the principal community contours of the stations in question (i.e., the station for which an authorization is sought and any station in the same service that would be commonly owned whose principal community contour overlaps the principal community contour of that station). In addition, if the area of overlap between the stations in question is overlapped by the principal community contour of a commonly owned station or stations in a different service (AM or FM), the number of stations in the market includes stations whose principal community contours overlap the principal community contours of such commonly owned station or stations in a different service.

(b) Local television multiple ownership rule. An entity may directly or indirectly own, operate, or control two television stations licensed in the same Designated Market Area (DMA) (as determined by Nielsen Media Research or any successor entity) only under one or more of the following conditions:

(1) The Grade B contours of the stations (as determined by §73.684 of this part) do not overlap; or

(2)(i) At the time the application to acquire or construct the station(s) is filed, at least one of the stations is not ranked among the top four stations in the DMA, based on the most recent all-day (9:00 a.m.-midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and

(ii) At least 8 independently owned and operating full-power commercial and noncommercial TV stations would remain post-merger in the DMA in which the communities of license of the TV stations in question are located. In areas where there is no Nielsen DMA, count the TV stations present in an area that would be the functional equivalent of a TV market.

(c) Radio-television cross ownership rule. (1) This rule is triggered when:

(i) The predicted or measured 1 mV/m contour of an existing or proposed FM station (computed in accordance with §73.313 of this part) encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s) (computed in accordance with §73.684) encompasses the entire community of license of the FM station; or

(ii) The predicted or measured 2 mV/m groundwave contour of an existing or proposed AM station (computed in accordance with §73.183 or §73.386), encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s) (computed in accordance with §73.684) encompass(es) the entire community of license of the AM station.

(2) An entity may directly or indirectly own, operate, or control up to two commercial TV stations (if permitted by paragraph (b) of this section, the local television multiple ownership rule) and 1 commercial radio station situated as described above in paragraph (1) of this section. An entity may not exceed these numbers, except as follows:

(i) If at least 20 independently owned media voices would remain in the market post-merger, an entity can directly or indirectly own, operate, or control up to:

(A) Two commercial TV and six commercial radio stations (to the extent permitted by paragraph (a) of this section, the local radio multiple ownership rule); or

(B) One commercial TV and seven commercial radio stations (to the extent that an entity would be permitted to own two commercial TV and six commercial radio stations under paragraph (c)(2)(i)(A) of this section, and to the extent permitted by paragraph (a) of this section, the local radio multiple ownership rule).

(ii) If at least 10 independently owned media voices would remain in the market post-merger, an entity can directly or indirectly own, operate, or control up to two commercial TV and four commercial radio stations (to the extent permitted by paragraph (a) of this section, the local radio multiple ownership rule).

(3) To determine how many media voices would remain in the market, count the following:

(i) TV stations: independently owned full power operating broadcast TV stations within the DMA of the TV station's (or stations') community (or communities) of license;

(ii) Radio stations:  
 (A)(1) Independently owned operating primary broadcast radio stations that are in the radio metro market (as defined by Arbitron or another nationally recognized audience rating service) of:

(i) The TV station's (or stations') community (or communities) of license; or

(ii) The radio station's (or stations') community (or communities) of license; and

(2) Independently owned out-of-market broadcast radio stations with a minimum share as reported by Arbitron or another nationally recognized audience rating service.

(B) When a proposed combination involves stations in different radio markets, the voice requirement must be met in each market; the radio stations of different radio metro markets may not be counted together.

(C) In areas where there is no radio metro market, count the radio stations present in an area that would be the functional equivalent of a radio market.

(iii) Newspapers: English-language newspapers that are published at least four days a week within the TV station's DMA and that have a circulation exceeding 5% of the households in the DMA; and

(iv) One cable system: if cable television is generally available to households in the DMA. Cable television counts as only one voice in the DMA, regardless of how many individual cable systems operate in the DMA.

(d) Daily Newspaper Cross-Ownership Rule. 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 of 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.

(e)(1) National television multiple ownership rule. 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 TV stations which have an aggregate national audience reach exceeding thirty-five (35) percent.

(2) For purposes of this paragraph (e):

(i) National audience reach means the total number of television households in the Nielsen Designated Mar-

ket Area (DMA) markets in which the relevant stations are located divided by the total national television households as measured by DMA 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 the television households in their DMA market.

(ii) No market shall be counted more than once in making this calculation.

(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 licensees, cable television systems and daily newspapers will be attributed to their holders and deemed cognizable pursuant to the following criteria:

(a) 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;

(b) Subject to paragraph (j) of this Note, 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;

(c) Investment companies, as defined in 15 U.S.C. §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 20% 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.

(d) 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.]

(e) 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 extra-trust business relationship to the grantor or the beneficiary, 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.

(f) Subject to paragraph (j) of this Note, holders of non-voting stock shall not be attributed an interest in the issuing entity. Subject to paragraph (j) of this Note, 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. An interest in a Limited Liability Company (LLC) or Registered Limited Liability Partnership (RLLP) shall be attributed to the interest holder unless that interest holder 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 that is a limited partnership to make the certification set forth in paragraph (g)(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 at-

tribution, 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. In order for a licensee or system that is an LLC or RLLP to make the certification set forth in paragraph (g)(1) of this section, it must verify that the organizational document, with respect to the particular interest holder exempt from attribution, establishes that the exempt interest holder has no material involvement, directly or indirectly, in the management or operation of the media activities of the LLC or RLLP. The criteria which would assume 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 the 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, or other organizational document in the case of an LLC or RLLP, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners, or other interest holders in the case of an LLC or RLLP, in the management or operation of the media-related businesses of the partnership or LLC or RLLP.

(3) In the case of an LLC or RLLP, the licensee or system seeking insulation shall certify, in addition, that the relevant state statute authorizing LLCs permits an LLC member to insulate itself as required by our criteria.

(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 20 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 paragraph (i)(1) of this section plus the sum of the interests computed under paragraph (i)(2) of this section is equal to or exceeds 20 percent.

(j) Notwithstanding paragraphs (b), (f), and (g) of this Note, the holder of an equity or debt interest or interests in a broadcast licensee, cable television system, daily newspaper, or other media outlet subject to the broadcast multiple ownership or cross-ownership rules (interest holder) shall have that interest attributed if:

(1) The equity (including all stockholdings, whether voting or nonvoting, common or preferred) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value, defined as the aggregate of all equity plus all debt, of that media outlet; and

(2)(i) The interest holder also holds an interest in a broadcast licensee, cable television system, newspaper, or other media outlet operating in the same market that is subject to the broadcast multiple ownership or cross-ownership rules and is attributable under paragraphs of this Note other than this paragraph (j); or

(ii) The interest holder supplies over fifteen percent of the total weekly broadcast programming hours of the station in which the interest is held. For purposes of applying this paragraph, the term, market, will be defined as it is defined under the specific multiple or cross-ownership rule that is being applied, except that for television stations, the term market, will be defined by reference to the definition contained in the television duopoly rule contained in paragraph (b) of this section.

(k) **(r) Time brokerage**(r) is the sale by a licensee of discrete blocks of time to a broker that supplies the pro-

gramming to fill that time and sells the commercial spot announcements in it.

(1) Where the principal community contours (predicted or measured 5 mV/m groundwave contour for AM stations computed in accordance with §73.183 or §73.186 and predicted 3.16 mV/m contour for FM stations computed in accordance with §73.313) of two radio stations overlap and a party (including all parties under common control) with an attributable ownership interest in one such station brokers more than 15 percent of the broadcast time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraphs (a), (c), and (d) of this section. This limitation shall apply regardless of the source of the brokered programming supplied by the party to the brokered station.

(2) Where two television stations are both licensed to the same market, as defined in the television duopoly rule contained in paragraph (b) of this section, and a party (including all parties under common control) with an attributable ownership interest in one such station brokers more than 15 percent of the broadcast time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraphs (b), (c), (d) and (e) of this section. This limitation shall apply regardless of the source of the brokered programming supplied by the party to the brokered station.

(3) Every time brokerage agreement of the type described in this Note shall be undertaken only pursuant to a signed written agreement that shall contain a certification by the licensee or permittee of the brokered station verifying that it maintains ultimate control over the station's facilities, including specifically control over station finances, personnel and programming, and by the brokering station that the agreement complies with the provisions of paragraphs (b) through (d) of this section if the brokering station is a television station or with paragraphs (a), (c), and (d) if the brokering station is a radio station.

**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) through (e) 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 C stations, to applications for assignment of license or transfer of control filed in accordance with §73.3540(f) or §73.3541(b), 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 (c) and (d) 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 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 and by §73.3555(a). 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) through (d) of this section will not be applied to cases involving television stations that 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 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 of this section.

**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 applications to waive the restrictions in paragraph (b) and (c) of this section (the TV duopoly and TV-radio cross-ownership rules) on a case-by-case basis. In each case, we will require a showing that the in-market buyer is the only entity ready, willing, and able to operate the station, that sale to an out-of-market applicant would result in an artificially depressed price, and that the waiver applicant does not already directly or indirectly own, operate, or control interest in two television stations within the relevant DMA. One way to satisfy these criteria would be to provide an affidavit from an independent broker affirming that active and serious efforts have been made to sell the permit, and that no reasonable offer from an entity outside the market has been received. We will entertain waiver requests as follows:

(1) If one of the broadcast stations involved is a failed station that has not been in operation due to financial distress for at least four consecutive months immediately prior to the application, or is a debtor in an involuntary bankruptcy or insolvency proceeding at the time of the application.

(2) For paragraph (b) of this section only, if one of the television stations involved is a failing station that has an all-day audience share of no more than four per cent; the station has had negative cash flow for three consecutive years immediately prior to the application; and consolidation of the two stations would result in tangible and verifiable public interest benefits that outweigh any harm to competition and diversity.

(3) For paragraph (b) of this section only, if the combination will result in the construction of an unbuild station. The permittee of the unbuild station must demonstrate that it has made reasonable efforts to construct but has been unable to do so.

**NOTE 8:** Paragraph (a)(1) of this section will not apply to an application for an AM station license in the 535-1605 kHz band where grant of such application will result in the overlap of 5 mV/m groundwave contours of the proposed station and that of another AM station in the 535-1605 kHz band that is commonly owned, operated or controlled if the applicant shows that a significant reduction in interference to adjacent or co-channel stations would accompany such common ownership. Such AM overlap cases will be considered on a case-by-case basis to determine whether common ownership, operation or control of the stations in question would be in the public interest. Applicants in such cases must submit a contingent application for the major or minor facilities change needed to achieve the interference reduction along with the application which seeks to create the 5 mV/m overlap situation.

**NOTE 9:** Paragraph (a)(1) of this section will not apply to an application for an AM station license in the 1605-1705 kHz band where grant of such application will result in the overlap of the 5 mV/m groundwave

contours of the proposed station and that of another AM station in the 535-1605 kHz band that is commonly owned, operated or controlled. Paragraphs (d)(1)(i) and (d)(1)(ii) of this section will not apply to an application for an AM station license in the 1605-1705 kHz band by an entity that owns, operates, controls or has a cognizable interest in AM radio stations in the 535-1605 kHz band.

**NOTE 10:** Authority for joint ownership granted pursuant to NOTE 9 will expire at 3:00 a.m. local time on the fifth anniversary of the date of issuance of a construction permit for an AM radio station in the 1605-1705 kHz band.

**§73.3556 Duplication of programming on commonly owned or time brokered stations.**

(a) No commercial AM or FM radio station shall operate so as to devote more than 25 percent of the total hours in its average broadcast week to programs that duplicate those of any station in the same service (AM or FM) which is commonly owned or with which it has a time brokerage agreement if the principal community contours (predicted or measured 5 mV/m groundwave for AM stations and predicted 3.16 mV/m for FM stations) of the stations overlap and the overlap constitutes more than 50 percent of the total principal community contour service area of either station.

(b) For purposes of this section, duplication means the broadcasting of identical programs within any 24 hour period.

(c) Any party engaged in a time brokerage arrangement which conflicts with the requirements of paragraph (a) of this section on the effective date of this rule shall bring that arrangement into compliance within one year thereafter.

**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) Except for those stations described in paragraph (b) of this section, each AM, FM, and TV broadcast station shall maintain a main studio at one of the following locations:

- (1) within the station's community of license;
- (2) at any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or
- (3) within twenty-five miles from the reference coordinates of the center of its community of license as described in §73.208(a)(1).

**NOTE to paragraph (a):** The principal community contour of AM stations that simulcast on a frequency in the 535-1605 kHz band and on a frequency in the 1605-1705 kHz band shall be the 5 mV/m contour of the lower band operation during the term of the simultaneous operating authority. Upon termination of the 535-1605 kHz band portion of the dual frequency operation, the principal community contour shall become the 5 mV/m of the remaining operation in the 1605-1705 kHz band.

(b) The following stations are not required to maintain their main studio at the locations described in paragraph (a) of this section.

- (1) AM stations licensed as synchronous amplifier transmitters ("AM boosters") or,
- (2) AM, FM, or TV stations, when good cause exists for locating the main studio at a location other than that described in paragraph (a) of this section, and when so doing would be consistent with the operation of the station in the public interest.

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

- (1) From one point to another within the locations described in paragraph (a) this section or from a point outside the locations specified in paragraph (a) to one within those locations, without specific FCC authority, but notification to the FCC in Washington shall be made promptly.

(2) Written authority to locate a main studio outside the locations specified in paragraph (a) of this section for the first time must be obtained from the Audio Services Division, Mass Media Bureau for AM and FM stations, or the Television Branch, Video Services Division, Mass Media Bureau for television stations before the studio may be moved to that location. Where the main studio is already authorized at a location outside those specified in paragraph (a), and the licensee or permittee desires to specify a new location also located outside those locations, written authority must also be received from the Commission prior to the relocation of the main studio.

Authority for these changes may be requested by filing a letter with an explanation of the proposed changes with the appropriate division. Licensees or permittees should be aware that the filing of such a letter request does not imply approval of the relocation request, because each request is addressed on a case-by-case basis. A filing fee is required for commercial AM, FM, or TV licensees or permittees filing a letter request under this section (see §1.1104).

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

**Operating Schedules**

*For AM stations ...*

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

(a) An AM station may operate during the experimental period (the time between midnight and sunrise, local time) 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 maximum uniformity in early morning operation compatible with interference considerations, and to provide for additional service during early evening hours for Class D stations, provisions are made for pre-sunrise service and postsunset service. The permissible power for pre-sunrise or postsunset service authorizations shall not exceed 500 watts, or the authorized daytime or critical hours power (whichever is less). Calculation of the permissible power shall consider only co-channel stations for interference protection purposes.

(b) Pre-sunrise service authorizations (PSRA) permit:

(1) Class D stations operating on Mexican, Bahamian, and Canadian priority Class A 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 instruments of authorization.

(2) Class D stations situated outside 0.5 mV/m 50% skywave contours of co-channel U.S. Class A stations to commence PSRA operation at 6:00 a.m. local time and to continue such operation until sunrise times specified in their basic instruments of authorization.

(3) Class D stations located within co-channel 0.5 mV/m 50% skywave contours of U.S. Class A stations, to commence PSRA operation either at 6:00 a.m. local time, or at sunrise at the nearest Class A station located east of the Class D station (whichever is later), and to continue such operation until the sunrise times specified in their basic instruments of authorization.

(4) Class B and Class D stations on regional channels to commence PSRA operation at 6:00 a.m. local time and to continue such operation until local sunrise times specified in their basic instruments of authorization.

(c) Extended Daylight Saving Time Pre-Sunrise Authorizations: (1) Between the first Sunday in April and the end of the month of April, Class D stations will be permitted to conduct pre-sunrise operation beginning at 6:00 a.m. local time with a maximum power of 500 watts (not to exceed 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) Protection is to be provided to the 0.5 mV/m groundwave signals of co-channel U.S. Class A stations; 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 paragraph (c)(1)(ii) and (iii) of this section, 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 D stations not previously eligible to operate during this period. Class D stations authorized to operate

during this pre-sunrise period may continue to operate under their current authorization.

(d) Postsunset service authorizations (PSSA) permit:

(1) Class D stations located on Mexican, Bahamian, and Canadian priority Class A 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) Class D stations situated outside 0.5 mV/m 50% skywave contours of co-channel U.S. Class A stations to commence PSSA operations at sunset times specified in their basic instruments of authorization and to continue for two hours after such specified times.

(3) Class D stations located within co-channel 0.5 mV/m 50% skywave contours of U.S. Class A 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 sunset at the nearest Class A station located west of the Class D station, whichever is earlier. Class D stations located west of the Class A 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 Postsunset 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 D 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 A stations. Where a 0.5 mV/m 50% skywave signal from the Class A station is not produced, the 0.5 mV/m groundwave contour shall be protected.

(2) Class D stations are required to fully protect foreign Class B and Class C stations when operating PSRA and PSSA; Class D stations operating PSSA are required to fully protect U.S. Class B stations. For purposes of determining protection, the nighttime RSS limit will be used in the determination of maximum permissible power.

(3) Class D stations operating in accordance with paragraphs (d)(2) and (d)(3) of this section are required to restrict maximum 10% skywave radiation at any point on the daytime 0.1 mV/m groundwave contour of a co-channel Class A station to 25 uV/m. The location of the 0.1 mV/m contour 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 B and Class D stations on regional channels operating PSRA and PSSA (Class D only) are required to provide full protection to co-channel foreign Class B and Class C stations.

(5) Class D stations on regional channels operating PSSA beyond 6:00 p.m. local time are required to fully protect U.S. Class B stations.

(6) The protection that Class D stations on regional channels 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 D 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 D station;

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

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

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

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

(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 D station operating in accordance with paragraph (c) of this section. The Commission will calculate the maximum power at which each individual station may conduct presunrise operations during extended daylight saving time and shall issue conforming authorizations. These original notifications and subsequent notifications should be associated with the station's authorization. Upon notification of new power and time of commencing operation, affected stations shall make necessary adjustments within 30 days.

(k) A PSRA and PSSA does not require compliance with §73.45, §73.182, 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.

#### 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 pur-

pose of requesting or dispatching aid and assisting in rescue operations.

(c) If the Emergency Alert System (EAS) is activated for a national emergency while a Local Area or State emergency operation is in progress, the national level EAS operation must take precedence. If, during the broadcasting of Local Area or State emergency information, the EAS codes or Attention Signal described in §11.12 of this chapter are used, the broadcasts are considered as being carried out under a Local Area or State EAS 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 noncommercialization 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 an emergency operation is being conducted under a national, State or Local Area Emergency Alert System (EAS) plan, emergency information shall be transmitted both aurally and visually unless only the EAS codes are transmitted as specified in §11.51(b) of this chapter.

##### §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 bandwidth 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 sta-

tions 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 provi-

sions 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 noncommercial 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 in the 535-1705 kHz band will be licensed for unlimited time. In the 535-1605 kHz band, stations that apply for share time and specified hours operation may also be licensed. AM stations licensed to operate daytime-only and limited-time may continue to do so; however, no new such stations will be authorized, except for fulltime stations that reduce operating hours to daytime-only for interference reduction purposes.

**§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 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 B (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 Class A station on the channel, or until local sunset at the Class A station if located east of that station. Operation is also permitted during nighttime

hours not used by the Class A 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 A station during the hours after local sunset in which the limited station is permitted to operate by reason of location east of the Class A 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 A 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 A station.

(c) The licensee of a secondary station which is authorized to operate limited time and which may resume operation at the time the Class A 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 Class A 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) Class D stations which have been authorized nighttime operations 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.

(c) The license of any broadcasting station that fails to transmit broadcast signals for any consecutive 12-month period expires as a matter of law at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.

**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 inspections to determine if the entries are being made correctly or if 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 263§72. 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 can-

didate 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 Legally qualified candidates for public office.**

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

(1) Has publicly announced his or her intention to run for nomination or office;

(2) Is qualified under the applicable local, State or Federal law to hold the office for which he or she is a candidate; and

(3) Has met the qualifications set forth in either paragraphs (b), (c), (d) or (e) of this section.

(b) 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 paragraph (a) of this section, that person:

(1) Has qualified for a place on the ballot, or

(2) 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.

(c) A person 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 paragraphs (a) and (b) of this section: except, that any such person who has met the requirements set forth in paragraphs (a) and (b) of this section in at least 10 States (or 9 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.

(d) 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) of this section, 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.

(e) 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) of this section:

(1) 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

(2) He or she has made a substantial showing of a 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 (2) of this section in at least 10 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.

(f) The term "substantial showing" of a bona fide candidacy as used in paragraphs (b), (d) and (e) of this section 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 or her 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.

### **§73.1941 Equal opportunities.**

(a) General requirements. Except as otherwise indicated in §73.1944, 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: (1) bona fide newscast; (2) bona fide news interview; (3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or (4) 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.)

(b) Uses. As used in this section and §73.1942, the term "use" means a candidate appearance (including by voice or picture) or political advertisement that is not exempt under §73.1941(a)(1)-(4).

(c) Timing of request. A request for equal opportunities must be submitted to the licensee within 1 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 or she shall submit his or her request within 1 week of the first subsequent use after he or she has become a legally qualified candidate for the office in question.

(d) 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 or she and his or her opponent are legally qualified candidates for the same public office.

(e) 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.

### **§73.1942 Candidate rates.**

(a) 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 or her 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.

(i) A candidate shall be charged no more per unit than the station charges its most favored commercial advertisers for the same classes and amounts of time for the same periods. Any station practices offered to commercial advertisers that enhance the value of advertising spots must be disclosed and made available to candidates on equal terms. Such practices include but are not limited to any discount privileges that affect the value of advertising, such as bonus spots, time-sensitive make goods, preemption priorities, or any other factors that enhance the value of the announcement.

(ii) The Commission recognizes non-preemptible, preemptible with notice, immediately preemptible and run-of-schedule as distinct classes of time.

(iii) Stations may establish and define their own reasonable classes of immediately preemptible time so long as the differences between such classes are based on one or more demonstrable benefits associated with each class and are not based solely upon price or identity of the advertiser. Such demonstrable benefits include, but are not limited to, varying levels of preemption protection, scheduling flexibility, or associated privileges, such as guaranteed time-sensitive make goods. Stations may not use class distinctions to defeat the purpose of the lowest unit charge requirement. All classes must be fully disclosed and made available to candidates.

(iv) Stations may establish reasonable classes of preemptible with notice time so long as they clearly de-

fine all such classes, fully disclose them and make them available to candidates.

(v) Stations may treat non-preemptible and fixed position as distinct classes of time provided that stations articulate clearly the differences between such classes, fully disclose them, and make them available to candidates.

(vi) Stations shall not establish a separate, premium-priced class of time sold only to candidates. Stations may sell higher-priced non-preemptible or fixed time to candidates if such a class of time is made available on a bona fide basis to both candidates and commercial advertisers, and provided such class is not functionally equivalent to any lower-priced class of time sold to commercial advertisers.

(vii) [Reserved]

(viii) Lowest unit charge may be calculated on a weekly basis with respect to time that is sold on a weekly basis, such as rotations through particular programs or dayparts. Stations electing to calculate the lowest unit charge by such a method must include in that calculation all rates for all announcements scheduled in the rotation, including announcements aired under long-term advertising contracts. Stations may implement rate increases during election periods only to the extent that such increases constitute "ordinary business practices," such as seasonal program changes or changes in audience ratings.

(ix) Stations shall review their advertising records periodically throughout the election period to determine whether compliance with this section requires that candidates receive rebates or credits. Where necessary, stations shall issue rebates or credits promptly.

(x) Unit rates charged as part of any package, whether individually negotiated or generally available to all advertisers, must be included in the lowest unit charge calculation for the same class and length of time in the same time period. A candidate cannot be required to purchase advertising in every program or daypart in a package as a condition for obtaining package unit rates.

(xi) Stations are not required to include non-cash promotional merchandising incentives in lowest unit charge calculations; provided, however, that all such incentives must be offered to candidates as part of any purchases permitted by the licensee. Bonus spots, however, must be included in the calculation of the lowest unit charge calculation.

(xii) Make goods, defined as the rescheduling of preempted advertising, shall be provided to candidates prior to election day if a station has provided a time-sensitive make good during the year preceding the pre-election periods, respectively set forth in paragraph (a)(1) of this section to any commercial advertiser who purchased time in the same class.

(xiii) Stations must disclose and make available to candidates any make good policies provided to commercial advertisers. If a station places a make good for any commercial advertiser or other candidate in a more valuable program or daypart, the value of such make good must be included in the calculation of the lowest unit charge for that program or daypart.

(2) At any time other than the respective periods set forth in paragraph (a)(1) of this section, stations may charge legally qualified candidates for public office no more than the charges made for comparable use of the station by commercial advertisers. 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 for comparable commercial advertising. All discount privileges otherwise offered by a station to commercial advertisers must be disclosed and made available upon equal terms to all candidates for public office.

(b) If a station permits a candidate to use its facilities, the station shall make all discount privileges offered to commercial advertisers, including the lowest unit charges for each class and length of time in the same time period and all corresponding discount privileges, available upon equal terms to all candidates. This duty includes an affirmative duty to disclose to candidates information about rates, terms, conditions and all value-enhancing discount privileges offered to commercial advertisers. Stations may use reasonable discretion in making the disclosure; provided, however, that the disclosure includes, at a minimum, the following information:

(1) a description and definition of each class of time available to commercial advertisers sufficiently complete to allow candidates to identify and understand what specific attributes differentiate each class;

(2) a description of the lowest unit charge and related privileges (such as priorities against preemption and make goods prior to specific deadlines) for each class of time offered to commercial advertisers;

(3) a description of the station's method of selling preemptible time based upon advertiser demand, commonly known as the "current selling level," with the stipulation that candidates will be able to purchase at these demand-generated rates in the same manner as commercial advertisers;

(4) an approximation of the likelihood of preemption for each kind of preemptible time; and

(5) an explanation of the station's sales practices, if any, that are based on audience delivery, with the stipulation that candidates will be able to purchase this kind of time, if available to commercial advertisers.

(c) Once disclosure is made, stations shall negotiate in good faith to actually sell time to candidates in accordance with the disclosure.

(d) This rule (§73.1942) shall not apply to any station licensed for noncommercial operation.

**§73.1943 Political file.**

(a) Every licensee shall keep and permit public inspection of a complete and orderly record (political file) of all requests for broadcast time made by or on behalf of a candidate 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. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.

(b) When free time is provided for use by or on behalf of candidates, a record of the free time provided shall be placed in the political file.

(c) 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. As soon as possible means immediately absent unusual circumstances.

**§73.1944 Reasonable access.**

(a) 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.

(b) Weekend access. For purposes of providing reasonable access, a licensee shall make its facilities available for use by federal candidates *on the weekend before the election* if the licensee has provided similar access to commercial advertisers during the year preceding the relevant election period. Licensees shall not discriminate between candidates with regard to weekend access.

**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 opportunity 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.

(d) Mid-term review for television broadcast stations. The Commission will conduct a mid-term review of the employment practices of each broadcast television station at two and one-half years following the station's most recent license expiration date as specified in §73.1020 of these rules. The Commission will use the employment profile information provided on the first two Form 395-B reports submitted following such license expiration date to determine whether the television station's employment profiles as compared to the applicable labor force

data are in compliance with the Commission's processing criteria. Television broadcast stations whose employment profiles fall below the processing criteria will receive a letter noting any necessary improvements identified as a result of the review.

## 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) [Reserved]

(g) Dual network operation. A television broadcast station may affiliate with a person or entity that maintains two or more networks of television broadcast stations unless such dual or multiple networks are composed of:

(1) Two or more persons or entities that, on February 8, 1996, were "networks." 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; or

(2) Any network described in paragraph (g)(1) of this section and an English-language program distribution service that, on February 8, 1996, provided four or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service).

(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.

(j) [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) [Reserved]

(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), to-



gether with any stations which have since become operational in the same communities.

(viii) Evening programming means programming (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 ...*

§73.662 [Reserved]

### 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.

**§73.1692 Broadcast station construction near or installation on an AM broadcast tower.** Where a broadcast licensee or permittee proposes to mount a broadcast antenna on an AM station tower, or where construction is proposed within 0.8 km of an AM nondirectional tower or within 3.2 km of an AM directional station, the broadcast licensee or permittee is responsible for ensuring that the construction does not adversely affect the AM station, as follows:

(a) Installations on an AM nondirectional tower. During installation of the broadcast antenna and related equipment, the AM station shall determine operating power by the indirect method (see §73.51). Upon the completion of the installation, antenna impedance measurements on the AM antenna shall be made, and, prior to or simultaneously with the filing of the license application covering the broadcast station installation, an application on FCC Form 302-AM (including a tower sketch of the installation) shall be filed with the Commission for the AM station to return to direct power measurement.

(b) Installations on an AM directional array. Prior to commencing construction, the broadcast permittee or licensee shall notify the AM station so that, if necessary, the AM station may determine operating power by the indirect method (see §73.51) and request special temporary authority pursuant to §73.1635 to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Both prior to the commencement of construction and upon completion of construction, a partial proof of performance (as defined by §73.154) shall be conducted to establish that the AM array has not been adversely affected. Prior to or simultaneously with filing of the license application to cover the broadcast station construction, the results of the partial proof of performance shall be filed with the Commission on Form 302-AM.

(c) Tower erections or modifications within 0.8 km of an AM nondirectional tower. Prior to commencing the construction of tower modifications, or the erection of a new tower, within 0.8 km of an AM nondirectional tower, the broadcast permittee or licensee is required to notify the AM station so that the AM station may commence determining operating power by the indirect method (see §73.51). The broadcast licensee or permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects on the radiation pattern of the AM station. Both prior to construction of the tower modifications and upon completion of construction, antenna impedance measurements of the AM station shall be made. In addition, sufficient field strength measurements taken at a minimum of 10 locations along each of 8 equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. Prior or simultaneously with the filing of the application for license to cover this permit, the results of the impedance measurements

and the field strength measurements shall be filed with the Commission on FCC Form 302-AM for the AM station to return to the direct method of power determination.

(d) Tower erections or modifications within 3.2 km of an AM directional station. Prior to commencing construction of tower modifications, or the erection of a new tower structure, within 3.2 km of an AM directional array, the broadcast permittee or licensee shall notify the AM station so that, if necessary, the AM station may determine operating power by the indirect method (see §73.51) and request special temporary authority pursuant to §73.1635 to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. The broadcast licensee or permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to the commencement of construction and upon completion of construction, a partial proof of performance (as defined by §73.154) shall be conducted to establish that the AM array has not been adversely affected. Prior to or simultaneously with filing of the license application to cover the broadcast station construction, the results of the partial proof of performance shall be filed with the Commission on Form 302-AM.

## Reports to be Filed

### All broadcast stations ...

#### §73.3526 Local public inspection file of commercial stations.

(a) Responsibility to maintain a file. The following shall maintain for public inspection a file containing the material set forth in this section.

(1) Applicants for a construction permit for a new station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(2) and (e)(10) of this section. A separate file shall be maintained for each station for which an application is pending. If the application is granted, paragraph (a)(2) of this section shall apply.

(2) Every permittee or licensee of an AM, FM, or TV station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(10) and paragraph (e)(13) of this section. In addition, every permittee or licensee of a commercial TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(11) and (e)(15) of this section, and every permittee or licensee of a commercial AM or FM station shall maintain for public inspection a file containing the material, relating to that station, described in paragraphs (e)(12) and (e)(14) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.

(b) Location of the file. The public inspection file shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(c) Access to material in the file. (1) The file shall be available for public inspection at any time during regular business hours. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant, permittee, or licensee may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (e.g., by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

(2) The applicant, permittee, or licensee who maintains its main studio and public file outside its community of license shall

(i) Make available to persons within its geographic service area, by mail upon telephone request, photocopies of documents in the file (see §73.3526(c)(1)), excluding the political file (see §73.3526(e)(6)), and the station shall pay postage.

(ii) Mail the most recent version of The Public and Broadcasting to any member of the public that requests a copy; and

(iii) Be prepared to assist members of the public in identifying the documents they may ask to be sent to them by mail, for example, by describing to the caller, if

asked, the period covered by a particular report and the number of pages included in the report.

**NOTE** to paragraph (c)(2): For purposes of this section, geographic service area includes the area within the Grade B contour for TV, 1 mV/m contour for all FM station classes except 7 mV/m for Class B1 stations and .5 mV/m for Class B stations, and .5 mV/m contour for AM stations.

(d) Responsibility in case of assignment or transfer. (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of §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 assignee shall retain public file documents obtained from the assignor for the period required under these rules.

(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.

(e) Contents of the file. The material to be retained in the public inspection file is as follows:

(1) Authorization. A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization. These materials shall be retained until replaced by a new authorization, at which time a copy of the new authorization and any related materials shall be placed in the file.

(2) Applications and related materials. A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto. If petitions to deny are filed against the application and have been served on the applicant, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition. Applications shall be retained in the public inspection file until final action has been taken on the application, except that applications for a new construction permit granted pursuant to a waiver showing and applications for assignment or transfer of license granted pursuant to a waiver showing shall be retained for as long as the waiver is in effect. In addition, license renewal applications granted on a short-term basis shall be retained until final action has been taken on the license renewal application filed immediately following the short-term license term.

(3) Citizen agreements. A copy of every written citizen agreement. These agreements shall be retained for the term of the agreement, including any renewal or extension thereof.

**NOTE** to paragraph (e)(3): 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 operations in the public interest, in areas such as—but not limited to—programming and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts, etc. However, the mere inclusion of commercial terms in a primarily noncommercial agreement—such as a provision for payment of fees for future services of the citizen-parties (see “Report and Order,” Docket 19518, 57 FCC 2d 494 (1976))—would not cause the agreement to be considered commercial for purposes of this section.

(4) Contour maps. A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.

(5) Ownership reports and related materials. A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the contracts listed in such reports in

accordance with §73.3615(a)(4)(i), or an up-to-date list of such contracts. Licensees or permittees who choose to retain a list of contracts must provide a copy of any contracts to requesting parties within 7 days.

(6) Political file. Such records as are required by §73.1943 to be kept concerning broadcasts by candidates for public office. These records shall be retained for the period specified in §73.1943 (2 years).

(7) Annual employment reports. A copy of every annual employment report filed by the licensee or permittee for the station, together with all related material (Form 395-B). These materials shall be retained until final action has been taken on the station's next license renewal application.

(8) The public and broadcasting. At all times, a copy of the most recent version of the manual entitled “The Public and Broadcasting.”

(9) Letters and e-mail from the public.

(i) All written comments and suggestions received from the public regarding operation of the station, 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. Letters and electronic mail messages shall be retained for a period of three years from the date on which they are received by the licensee.

(ii) For purposes of this section, written comments and suggestions received from the public include electronic mail messages transmitted via the internet to station management or an e-mail address publicized by the station. Personal e-mail messages sent to station employees need not be retained. Licensees may retain e-mails either on paper or in a computer file. Licensees who choose to maintain a computer file of e-mails may make the file available to the public either by providing the public with access to a computer terminal at the location of the public file, or providing the public with a copy of such e-mails on computer diskette, upon request. In the case of identical communications, licensees and permittees may retain one sample copy of the letter or electronic mail message together with a list identifying other parties who sent identical communications.

(10) Material relating to FCC investigation or complaint. Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised. This material shall be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded.

(11)(i) TV issues/programs lists. 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 three 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 shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(ii) Records concerning commercial limits. For commercial TV broadcast stations, records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's programming established in 47 USC 303a and 47 CFR 73.670. The records for each calendar quarter must be filed in the public inspection file 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.). These records shall be retained until final action has been taken on the station's next license renewal application.

(iii) Children's Television Programming Reports. For commercial TV broadcast stations, on a quarterly basis, a completed Children's Television Programming Report (“Report”), on FCC Form 398, reflecting efforts made by the licensee during the preceding quarter, and efforts planned for the next quarter, to serve the educational and informational needs of children. The Report for each quarter is to be filed by the tenth day of the succeeding calendar quarter. The Report shall identify the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children, and it shall explain how programs identified as Core Programming meet the definition set forth in §73.671(c). The Report shall include the name of the individual at the station responsible for collecting com-

ments on the station's compliance with the Children's Television Act, and it shall be separated from other materials in the public inspection file. These Reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application. Licensees shall publicize in an appropriate manner the existence and location of these Reports. For an experimental period of three years, licensees shall file these Reports with the Commission on an annual basis, i.e., four quarterly reports filed jointly each year, in electronic form as of January 10, 1999. These Reports shall be filed with the Commission on January 10, 1998, January 10, 1999, and January 10, 2000.

(12) Radio issues/programs lists. 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 three 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 shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(13) Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of 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. The certifying statement shall be retained in the public file for the period specified in §73.3580 (for as long as the application to which it refers).

(14) Radio and television time brokerage agreements. For commercial radio and television stations, a copy of every agreement or contract involving time brokerage of the licensee's station or of another station by the licensee, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate. These records shall be retained as long as the contract or agreement is in force.

(15) Must-carry or retransmission consent election. Statements of a commercial television station's election with respect to either must-carry or retransmission consent as defined in §76.64 of this chapter. These records shall be retained for the duration of the three year election period to which the statement applies.

(16) Radio and television joint sales agreements. For commercial radio and commercial television stations, a copy of agreement for the joint sale of advertising time involving the station, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate.

**NOTE 1** to paragraph (e): For purposes of this section, action taken on an application tendered with the FCC becomes final when that action is no longer subject to reconsideration, review, or appeal either at the FCC or in the courts.

**NOTE 2** to paragraph (e): For purposes of this section, the term all related material includes all exhibits, letters, and other documents tendered for filing with the FCC as part of an application, report, or other document, all amendments to the application, report, or other document, copies of all documents incorporated therein by reference and not already maintained in the public inspection file, and all correspondence between the FCC and the applicant pertaining to the application, report, or other document, which according to the provisions of §§0.451 through 0.461 of this part are open for public inspection at the offices of the FCC.

**§73.3612 Annual employment report.** Each licensee or permittee of a commercially or noncommercially operated AM, FM, TV or International broadcast station with five or more full-time employees shall file an annual employment report with the FCC on or before September 30 of each year on FCC Form 395.

**§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 1 year, and all proxies, whether or not running for a period of 1 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 indi-

rect, in the licensee or permittee as specified by §73.3615.

(7) Agreements providing for the assignment of a license or permit or agreements for the transfer of stock filed in accordance with FCC application Forms 314, 315, 316 need not be resubmitted pursuant to the terms of this rule provision.

(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) Time brokerage agreements: Time brokerage agreements involving radio stations, where the licensee (including all parties under common control) is the brokering entity, there is a principal community contour (predicted or measured 5 mV/m groundwave for AM stations and predicted 3.16 mV/m for FM stations) overlap with the brokered station, and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee. Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(e) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC: contracts relating to the sale of television 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 and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; 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 when filing the station's license renewal application and every two years thereafter 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 every two years on the anniversary of their choice, provided that their Reports are not more than two years 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, race or ethnicity, and gender of such individual;

(2) In the case of a partnership, the name, race or ethnicity, and gender 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.

(ii) [Reserved]

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

(i)(A) The name, residence, citizenship, race or ethnicity, gender, and stockholding of every officer, director, trustee, executor, administrator, receiver and member of an association, and any stockholder which holds stock accounting for 5 percent or more of the votes of the corporation, except that an investment company, insurance company, or bank trust department need be reported only if it holds stock amounting to 10 percent 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 operation 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 paragraph (a)(3)(i)(B)(1) of this section plus the sum of the interests computed under paragraph (a)(3)(i)(B)(2) of this section is equal to or exceeds 10 percent.

(C) 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% of 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 interest 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 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 all contracts still in effect required to be filed with the FCC by §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 original 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 privy, gains or loses affirmative or negative (50%) control. See instructions on FCC Form 323 (Ownership Report). Each permittee or licensee of a commercial AM, FM or TV Broadcast station shall file an Ownership Report on FCC Form 323 within 30 days of consummating authorized assignments or transfers of permits and licenses. The Ownership Report of the permittee or licensee shall give the information required by the applicable portions of paragraph (a) of this section.

(d) Each licensee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323-E when filing the station's license renewal application and every two years thereafter

on the anniversary of the date that its renewal application is required to be filed. Licensees owning more than one noncommercial educational AM, FM or TV broadcast station with different anniversary dates need file only one Report every two years on the anniversary of their choice, provided that their Reports are not more than two years 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 give the following information as of a date not more than 60 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:

(1) Within 30 days of the date of grant by the FCC of an application for original 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 form. 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.

(f) Each permittee or licensee of a noncommercial educational AM, FM or TV Broadcast station shall file an Ownership Report on FCC Form 323-E within 30 days of consummating authorized assignments or transfers of permits and licenses. The Ownership Report of the noncommercial educational permittee or licensee shall give the information required by the applicable form.

(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) An applicant for construction permit, that has filed an application that is mutually exclusive with an application for renewal of a license of an AM, FM or television station (hereinafter "competing applicant") filed on or before May 1, 1995, 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 5 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.

#### §73.3584 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 deadline established in §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 denial 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 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 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.**

(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 5 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. Both radio and TV broadcasting stations will ordinarily be renewed for 8 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 8-year intervals for radio and TV 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 the 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, 1998.

(10) Minnesota, North Dakota, South Dakota, Montana and Colorado: (i) Radio stations, April 1, 1997; (ii) Television stations, April 1, 1998.

(11) Kansas, Oklahoma and Nebraska: (i) Radio stations, June 1, 1997; (ii) Television stations, June 1, 1998.

(12) Texas: (i) Radio stations, August 1, 1997; (ii) Television stations, August 1, 1998.

(13) Wyoming, Nevada, Arizona, Utah, New Mexico and Idaho: (i) Radio stations, October 1, 1997; (ii) Television stations, October 1, 1998.

(14) California: (i) Radio stations, December 1, 1997; (ii) Television stations, December 1, 1998.

(15) Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon and Washington: (i) Radio stations, February 1, 1998; (ii) Television stations, February 1, 1999.

(16) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont: (i) Radio stations, April 1, 1998; (ii) Television stations, April 1, 1999.

(17) New Jersey and New York: (i) Radio stations, June 1, 1998; (ii) Television stations, June 1, 1999.

(18) Delaware and Pennsylvania: (i) Radio stations, August 1, 1998; (ii) Television stations, August 1, 1999.

(b) For the cutoff date for the filing of applications mutually exclusive with renewal applications that are filed on or before May 1, 1995 and for the deadline for filing petitions to deny renewal applications, see §73.3516(e).

(c) The license of a broadcasting station that fails to transmit broadcast signals for any consecutive 12-month period expires as a matter of law at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.

**Modification of Unbuilt Facilities**

**§73.3535 [DELETED]**

**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 time 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 commu-

nities, but the community to which the station is licensed must be named first.

(c) Channel. (1) General. Except as otherwise provided in this paragraph, in making the identification announcement the call letters shall be given only on the channel identified thereby.

(2) Simultaneous AM (535-1605 kHz) and AM (1605-1705 kHz) broadcasts. If the same licensee operates an AM broadcast station in the 535-1605 kHz band and an AM broadcast station in the 1605-1705 kHz band with both stations licensed to the same community 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.

(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 consideration 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.

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

(ii) In the case of any television political advertisement concerning candidates for public office, the sponsor shall be identified with letters equal to or greater than four (4) percent of the vertical picture height that air for not less than four (4) seconds.

(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 5 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 ...*

### 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 State EAS plan are considered 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 telecommunications service on the vertical blanking interval or in the visual signal 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 non-broadcast stations other than those in the Amateur and Citizens Band (CP) Radio Services may be broadcast only upon receipt of prior permission from the non-broadcast 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.

(4) Emergency communications originated under a State EAS plan.

(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, WWV/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 1 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.** 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 employe 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

*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 and noncommercial educational television broadcast station licensee has an obligation to serve, over the term of its license, the educational and informational needs of children through both the licensee's overall programming and 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.

(c) For purposes of this section, educational and informational television programming is any television programming that furthers the educational and informational needs of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs. Programming specifically designed to serve the educational and informational needs of children ("Core Programming") is educational and informational programming that satisfies the following additional criteria:

(1) It has serving the educational and informational needs of children ages 16 and under as a significant purpose;

(2) It is aired between the hours of 7:00 a.m. and 10:00 p.m.;

(3) It is a regularly scheduled weekly program;

(4) It is at least 30 minutes in length;

(5) The educational and informational objective and the target child audience are specified in writing in the licensee's Children's Television Programming Report, as described in §73.3526(a)(8)(iii); and

(6) Instructions for listing the program as educational/informational, including an indication of the age group for which the program is intended, are provided by the licensee to publishers of program guides, as described in §73.673(b).

### §73.673 Public information initiatives regarding educational and informational programming for children.

(a) Each commercial television broadcast licensee shall identify programs specifically designed to educate and inform children at the beginning of the program, in a form that is in the discretion of the licensee.

(b) Each commercial television broadcast station licensee shall provide information identifying programming specifically designed to educate and inform children to publishers of program guides. Such information shall include an indication of the age group for which the program is intended.

### 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: (a) has publicly announced his or her intention to run for nomination or office, (b) is qualified under the applicable local, state or federal law to hold the office for which he or she is a candidate; and, (c) 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: (a) has qualified for a place on the ballot, or (b) 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 para-

graph (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, (a) 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 (b) 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.

## Broadcast Information on the Internet

**§73.3617 Broadcast information available on the Internet.** The Mass Media Bureau and each of its Divisions provide information on the Internet regarding broadcast rules and policies, pending and completed rulemakings, and pending applications. These sites also include copies of public notices and texts of recent decisions. The Mass Media Bureau Internet address is <http://www.fcc.gov/mmb/>; the Audio Services Division address is <http://www.fcc.gov/mmb/asd/>; the Video Services Division address is <http://www.fcc.gov/mmb/vsd/>; the Policy and Rules Division address is <http://www.fcc.gov/mmb/prd/>; and the Enforcement Division address is <http://www.fcc.gov/mmb/enf/>.

## Competitive Bidding Procedures

**§73.5000 Services subject to competitive bidding.**

(a) Mutually exclusive applications for new facilities and for major changes to existing facilities in the following broadcast services are subject to competitive bidding: AM; FM; FM translator; analog television, low power television, and television translator. Mutually exclusive applications for new facilities and for major changes to existing facilities in the Instructional Television Fixed

Service (ITFS) are also subject to competitive bidding. The general competitive bidding procedures found in 47 CFR Part 1, Subpart Q will apply unless otherwise provided in 47 CFR Part 73 and Part 74.

(b) Mutually exclusive applications for broadcast channels in the reserved portion of the FM band (Channels 200-220) and for television broadcast channels reserved for noncommercial educational use are not subject to competitive bidding procedures.

### §73.5001 Competitive bidding procedures.

(a) Specific competitive bidding procedures for broadcast service and ITFS auctions will be set forth by public notice prior to any auction. The Commission may also design and test alternative procedures, including combinatorial bidding and real time bidding. See 47 CFR §1.2103 and §1.2104.

(b) The Commission may utilize the following competitive bidding mechanisms in broadcast service and ITFS auctions:

(1) Sequencing. The Commission will establish and may vary the sequence in which broadcast service construction permits and ITFS licenses will be auctioned.

(2) Grouping. In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding in broadcast service or ITFS auctions, the Commission will determine which construction permits or licenses will be auctioned simultaneously or in combination.

(3) Reservation price. The Commission may establish a reservation price, either disclosed or undisclosed, below which a broadcast construction permit or ITFS license subject to auction will not be awarded.

(4) Minimum and maximum bid increments. The Commission may, by announcement before or during broadcast service or ITFS auctions, require minimum bid increments in dollar or percentage terms. The Commission may, by announcement before or during broadcast service or ITFS auctions, establish maximum bid increments in dollar or percentage terms.

(5) Minimum opening bids. The Commission may establish a minimum opening bid for each broadcast construction permit or ITFS license subject to auction.

(6) Stopping rules. The Commission will establish stopping rules before or during multiple round broadcast service or ITFS auctions in order to terminate the auction within a reasonable time.

(7) Activity rules. The Commission will establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder will be entitled to request and will be automatically granted a certain number of waivers of such rule during the auction.

**§73.5002 Bidding application and certification procedures; prohibition of collusion.**

(a) Prior to any broadcast service or ITFS auction, the Commission will issue a public notice announcing the upcoming auction and specifying the period during which all applicants seeking to participate in an auction must file their applications for new broadcast or ITFS facilities or for major changes to existing facilities. Broadcast service or ITFS applications for new facilities or for major modifications will be accepted only during these specified periods. This initial and other public notices will contain information about the completion and submission of applications to participate in the broadcast or ITFS auction, any materials that must accompany the applications, and any filing fee that must accompany the applications or any upfront payments that will need to be submitted. Such public notices will also, in the event mutually exclusive applications are filed for broadcast construction permits or ITFS licenses, contain information about the method of competitive bidding to be used and more detailed instructions on submitting bids and otherwise participating in the auction. In the event applications are submitted that are not mutually exclusive with any other application in the same service, such applications will be identified by public notice and will not be subjected to auction.

(b) To participate in broadcast service or ITFS auctions, all applicants must timely submit short-form applications (FCC Form 175), along with all required certifications, information and exhibits, pursuant to the provisions of 47 CFR §1.2105(a) and any Commission public notices. So determinations of mutual exclusivity for auction purposes can be made, applicants for non-table broadcast services or for ITFS must also submit the engineering data contained in the appropriate FCC form (FCC Form 301, FCC Form 346, FCC Form 349 or FCC Form 330). Beginning January 1, 1999, all short-form applications must be filed electronically.

(c) Applicants in all broadcast service or ITFS auctions will be subject to the provisions of §1.2105(b) of this

chapter regarding the modification and dismissal of their short-form applications. Notwithstanding the general applicability of §1.2105(b) of this chapter to broadcast and ITFS auctions, the following applicants will be permitted to resolve their mutual exclusivities by making amendments to their engineering submissions following the filing of their short-form applications:

(1) applicants for all broadcast services and ITFS who file major modification applications that are mutually exclusive with each other;

(2) applicants for all broadcast services and ITFS who file major modification and new station applications that are mutually exclusive with each other; or

(3) applicants for the secondary broadcast services and ITFS who file applications for new stations that are mutually exclusive with each other.

(d) The prohibition of collusion set forth in §1.2105(c) of this chapter, which becomes effective upon the filing of short-form applications, shall apply to all broadcast service or ITFS auctions. Notwithstanding the general applicability of §1.2105(c) of this chapter to broadcast and ITFS auctions, the following applicants will be permitted to resolve their mutual exclusivities by means of engineering solutions or settlements during a limited period after the filing of short-form applications, as further specified by Commission public notices:

(1) applicants for all broadcast services and ITFS who file major modification applications that are mutually exclusive with each other;

(2) applicants for all broadcast services and ITFS who file major modification and new station applications that are mutually exclusive with each other; or

(3) applicants for the secondary broadcast services and ITFS who file applications for new stations that are mutually exclusive with each other.

### §73.5003 Submission of upfront payments, down payments and full payments.

(a) To be eligible to bid, each bidder in every broadcast service or ITFS auction shall submit an upfront payment prior to the commencement of bidding, as set forth in any public notices and in accordance with 47 CFR §1.2106.

(b) Within ten (10) business days following the close of bidding and notification to the winning bidders, each winning bidder in every broadcast service or ITFS auction shall make a down payment in an amount sufficient to bring its total deposits up to twenty (20) percent of its high bid(s), as set forth in 47 CFR §1.2107(b).

(c) Each winning bidder in every broadcast service or ITFS auction shall pay the balance of its winning bid(s) in a lump sum within ten (10) business days after release of a public notice announcing that the Commission is prepared to award the construction permit(s) or license(s), as set forth in 47 CFR §1.2109(a). If a winning bidder fails to pay the balance of its winning bid in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five (5) percent of the amount due. Broadcast construction permits and ITFS licenses will be granted by the Commission following the receipt of full payment.

### §73.5004 Bid withdrawal, default and disqualification.

(a) The Commission shall impose the bid withdrawal, default and disqualification payments set forth in 47 CFR §1.2104(g) upon bidders who withdraw high bids during the course, or after the close, of any broadcast service or ITFS auction, who default on payments due after an auction closes, or who are disqualified. Bidders who are found to have violated the antitrust laws or the Commission's rules in connection with their participation in the competitive bidding process may also be subject to the remedies set forth in 47 CFR §1.2109(d).

(b) In the event of a default by or the disqualification of a winning bidder in any broadcast service or ITFS auction, the Commission will follow the procedures set forth in 47 CFR §1.2109(b)-(c) regarding the reauction of the construction permit(s) or license(s) at issue.

### §73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, each winning bidder must submit an appropriate long-form application (FCC Form 301, FCC Form 346, FCC Form 349 or FCC Form 330) for each construction permit or license for which it was the high bidder. Long-form applications filed by winning bidders shall include the exhibits required by 47 CFR §1.2107(d) (concerning any bidding consortia or joint bidding arrangements), §1.2110(i) (concerning designated entity status, if applicable); and §1.2112 (a) and (b) (concerning disclosure of ownership and real party in interest information, and, if applicable, disclosure of gross revenue information for small business applicants).



(b) The long-form application should be submitted pursuant to the rules governing the service in which the applicant is a high bidder and according to the procedures for filing such applications set out by public notice. When electronic procedures become available for the submission of long-form applications, the Commission may require all winning bidders to file their long-form applications electronically.

(c) An applicant that fails to submit the required long-form application under this section, and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and shall be subject to the payments set forth in 47 CFR §1.2104(g).

(d) An applicant whose short-form application, submitted pursuant to 47 CFR §73.5002(b), was not mutually exclusive with any other short-form application in the same service and was therefore not subject to auction, shall submit an appropriate long-form application within thirty (30) days following release of a public notice identifying any such non-mutually exclusive applicants. The long-form application should be submitted pursuant to the rules governing the relevant service and according to any procedures for filing such applications set out by public notice. The long-form application filed by a non-mutually exclusive applicant need not contain the additional exhibits, identified in §73.5005(a), required to be submitted with the long-form applications filed by winning bidders. When electronic procedures become available, the Commission may require any non-mutually exclusive applicants to file their long-form applications electronically.

**§73.5006 Filing of petitions to deny against long-form applications.**

(a) As set forth in 47 CFR §1.2108, petitions to deny may be filed against the long-form applications filed by winning bidders in broadcast service or ITFS auctions and against the long-form applications filed by applicants whose short-form applications to participate in a broadcast or ITFS auction were not mutually exclusive with any other applicant.

(b) Within ten (10) days following the issuance of a public notice announcing that a long-form application for an AM, FM or television construction permit has been accepted for filing, petitions to deny that application may be filed. Within fifteen (15) days following the issuance of a public notice announcing that a long-form application for a low power television, television translator or FM translator construction permit or ITFS license has been accepted for filing, petitions to deny that application may be filed. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. In the AM, FM and television broadcast services, the time for filing such oppositions shall be five (5) days from the filing date for petitions to deny, and the time for filing replies shall be five (5) days from the filing date for oppositions. In the low power television, television translator and FM translator broadcast services and in ITFS, the time for filing such oppositions shall be fifteen (15) days from the filing date for petitions to deny, and the time for filing replies shall be ten (10) days from the filing date for oppositions.

(d) If the Commission denies or dismisses all petitions to deny, if any are filed, and is otherwise satisfied that an applicant is qualified, a public notice will be issued announcing that the broadcast construction permit(s) or ITFS license(s) is ready to be granted, upon full payment of the balance of the winning bid(s). See 47 CFR §73.5003(c). Construction of broadcast stations or ITFS facilities shall not commence until the grant of such permit or license to the winning bidder.

**§73.5007 Designated entity provisions.**

(a) New entrant bidding credit. A winning bidder that qualifies as a new entrant may use a bidding credit to lower the cost of its winning bid on any broadcast construction permit. Any winning bidder claiming new entrant status must have de facto, as well as de jure, control of the entity utilizing the bidding credit. A thirty-five (35) percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have no attributable interest in any other media of mass communications, as defined in §73.5008. A twenty-five (25) percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have an attributable interest in no more than three mass media facilities. No bidding credit will be given if any of the commonly owned mass media facilities serve the same area as the proposed broadcast or secondary

broadcast station, or if the winning bidder, and/or any individual or entity with an attributable interest in the winning bidder, have attributable interests in more than three mass media facilities. Attributable interests held by a winning bidder in existing low power television, television translator or FM translator facilities will not be counted among the bidder's other mass media interests in determining eligibility for a bidding credit.

(b) The new entrant bidding credit is not available to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have an attributable interest in any existing media of mass communications in the same area as the proposed broadcast or secondary broadcast facility.

(1) Any existing media of mass communications will be considered in the same area as a proposed broadcast or secondary broadcast facility if the relevant defined service areas of the existing mass media facilities partially overlap, or are partially overlapped by, the proposed broadcast or secondary broadcast facility's relevant contour.

(2) For purposes of determining whether any existing media of mass communications is in the same area as a proposed broadcast or secondary broadcast facility, the relevant defined service areas of the existing mass media facilities shall be as follows:

- (i) AM broadcast station—principal community contour (see §73.3555(a)(4)(i));
- (ii) FM broadcast station—principal community contour (see §73.3555(a)(4)(i));
- (iii) Television broadcast station—television duopoly contour (see §73.3555(b));
- (iv) Cable television system—the franchised community of a cable system;
- (v) Daily newspaper—community of publication; and
- (vi) Multipoint Distribution Service station—protected service area (see §21.902(d) or 21.933 of this chapter).

(3) For purposes of determining whether a proposed broadcast or secondary broadcast facility is in the same area as an existing mass media facility, the relevant contours of the proposed broadcast or secondary broadcast facility shall be as follows:

- (i) AM broadcast station—principal community contour (see §73.3555(a)(4)(i));
- (ii) FM broadcast station—principal community contour (see §73.3555(a)(4)(i));
- (iii) FM translator station—predicted, protected contour (see §74.1204(a) of this chapter);
- (iv) Television broadcast station—television duopoly contour (see §73.3555(b)); and
- (v) Low power television or television translator station—predicted, protected contour (see §74.707(a) of this chapter).

(c) Unjust enrichment. If a licensee or permittee that utilizes a new entrant bidding credit under this subsection seeks to assign or transfer control of its license or construction permit to an entity not meeting the eligibility criteria for the bidding credit, the licensee or permittee must reimburse the U.S. Government for the amount of the bidding credit, plus interest based on the rate for ten-year U.S. Treasury obligations applicable on the date the construction permit was originally granted, as a condition of Commission approval of the assignment or transfer. If a licensee or permittee that utilizes a new entrant bidding credit seeks to assign or transfer control of a license or construction permit to an entity that is eligible for a lower bidding credit, the difference between the bidding credit obtained by the assigning party and the bidding credit for which the acquiring party would qualify, plus interest based on the rate for ten-year U.S. Treasury obligations applicable on the date the construction permit was originally granted, must be paid to the U.S. Government as a condition of Commission approval of the assignment or transfer. The amount of the reimbursement payments will be reduced over time. An assignment or transfer in the first two years after issuance of the construction permit to the winning bidder will result in a forfeiture of one hundred (100) percent of the value of the bidding credit; during year three, of seventy-five (75) percent of the value of the bidding credit; in year four, of fifty (50) percent; in year five, twenty-five (25) percent; and thereafter, no payment. If a licensee or permittee who utilized a new entrant bidding credit in obtaining a broadcast license or construction permit acquires within this five-year reimbursement period an additional broadcast facility or facilities, such that the licensee or permittee would not have been eligible for the new entrant credit, the licensee or permittee will generally not be required to reimburse the U.S. Government for the amount of the bidding credit.

**§73.5008 Definitions applicable for designated entity provisions.**

(a) Scope. The definitions in this section apply to 47 CFR §73.5007, unless otherwise specified in that section.

(b) A medium of mass communications means a daily newspaper; a cable television system; or a license or construction permit for a television broadcast station, an AM or FM broadcast station, a direct broadcast satellite transponder, or a Multipoint Distribution Service station.

(c) An attributable interest in a winning bidder or in a medium of mass communications shall be determined in accordance with §73.3555 and Note 2. In addition, the attributable mass media interests, if any, held by an individual or entity with an equity and/or debt interest(s) in a winning bidder shall be attributed to that winning bidder for purposes of determining its eligibility for the new entrant bidding credit, if the equity (including all stockholdings, whether voting or nonvoting, common or preferred) and debt interest or interests, in the aggregate, exceed thirty-three (33) percent of the total asset value (defined as the aggregate of all equity plus all debt) of the winning bidder.

**§73.5009 Assignment or transfer of control.** The reporting requirement contained in §1.2111 (a) of this chapter shall apply to an applicant seeking approval for a transfer of control or assignment of a broadcast construction permit or license within three years of receiving such permit or license by means of competitive bidding.

**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 transmitting apparatus and any new apparatus is to be installed, the answer shall state the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application.

(2) If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge (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 Com-

mission 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 therefor, 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 191(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 191(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 Wireless Telecommunications Bureau, with respect to amateur and commercial radio operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's li-

cence shall take effect until 15 days after 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 the 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, Wireless Telecommunications Bureau and said 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 Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, in Washington, DC, 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 the law enforcement agency will hinder its law enforcement activities, such records will not be removed pursuant to this section if the chief of the law enforcement agency promptly certifies in writing to the Federal Communications Commission that removal of the logs or records will hinder law enforcement activities of the agency, stating insofar as feasible the basis for his decision and the date when it can reasonably be expected that such records will be released to the Federal Communications Commission.

### 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 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 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.

(2) 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 or television 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 advertisement 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 under this title or imprisoned not more than one year, or both.

Each day's broadcasting shall constitute a separate offense.

## Hoaxes

**§73.1217 Broadcast hoaxes.** No licensee or permittee of any broadcast station shall broadcast false information concerning a crime or catastrophe if (a) the licensee knows this information is false, (b) it is foreseeable that broadcast of the information will cause substantial public harm, and (c) broadcast of the information does in fact directly cause substantial public harm. Any programming accompanied by a disclaimer will be presumed not to pose foreseeable harm if the disclaimer clearly characterizes the program as a fiction and is presented in a way that is reasonable under the circumstances.

**NOTE 1:** For purposes of this rule, "public harm" must begin immediately, and cause direct and actual damage to property or to the health or safety of the general public, or diversion of law enforcement or other public health and safety authorities from their duties. The public harm will be deemed foreseeable if the licensee could expect with a significant degree of certainty that public harm would occur. A "crime" is any act or omission that makes the offender subject to criminal punishment by law. A "catastrophe" is a disaster or imminent disaster involving violent or sudden events affecting the public.

## Tender Offers and Proxy Statements

**§73.4266 Tender offers and proxy statements.** See Policy Statement, MM Docket No. 85-218, FCC 86-67 [59 RR 2d 1536], adopted January 30, 1986. 51 FR 9794, March 21, 1986.

## Censorship

**326 (of Communications Act)** Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.

**§73.3999 Enforcement of 18 USC 1464 (Restrictions on the transmission of obscene and indecent material).**

(a) No licensee of a radio or television broadcast station shall broadcast any material which is obscene.

(b) No licensee of a radio or television broadcast station shall broadcast on any day between 6 a.m. and 10 p.m. any material which is indecent.

## Forfeitures

**503 (of Communications Act) Forfeitures in Cases of Rebates and Offsets**

(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 508(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 506 of this Act.

(2)(A) If the violator is (i) a broadcast station licensee or permittee, (ii) a cable television operator, or (iii) an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument or authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed \$25,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$250,000 for any single act or failure to act described in paragraph (1) of this subsection.

(B) If the violator is a common carrier subject to the provisions of this Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this subsection shall not exceed \$100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act described in paragraph (1) of this subsection.

(C) In any case not covered in subparagraph (A) or (B), the amount of any forfeiture penalty determined under this subsection shall not exceed \$10,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$75,000 for any single act or failure to act described in paragraph (1) of this subsection.

(D) 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 violation 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 (i) 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, is such person does not hold a license, permit, certificate, or other authorization issued by the Commission and if such person is not an applicant for 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, 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) or in the case of violations of section 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses that tower. 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—

(i) more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; or

(ii) prior to the date of commencement of the current term of such license, whichever is earlier; 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 1 year prior to the date of issuance of the required notice or notice of apparent liability.

For purposes of this paragraph, "date of commencement of the current term of such license" means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. A separate license term shall not be deemed to have commenced as a result of continuing a license in

effect under section 307(c) pending decision on an application for renewal of the license.

## Station Application Procedure

### General Information

Any qualified citizen, company, or group may apply to the Federal Communications Commission (FCC) for authority to construct a standard (AM), frequency modulation (FM), or television (TV) broadcast station. 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 and station operation 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 channels (frequency) assignments by states and communities. These rules are summarized in this publication. Copies of the complete rules may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402; (202) 512-1800.

Most applicants retain engineering and legal services in preparing their applications. The Commission does not perform 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.

The following is a summary of the consecutive steps to be followed in applying for the authorization to build and operate a broadcast station. The application procedure is substantially the same whether the facility sought is AM, FM, or TV.

### AM Stations

The Commission will periodically open windows for the filing of applications for new AM stations. See "How Can I Get an AM, FM or TV Broadcast Station?" At present, AM stations operate in the existing band from 540 kHz to 1600 kHz. The Commission is in the process of authorizing certain existing licensees to operate in the expanded band from 1610 kHz to 1700 kHz, however, this band is not presently available to applicants for new broadcast stations. In the United States and in Region 2, the channels are spaced at 10 kHz intervals. Stations are designated channel by channel to serve various size areas and operate on "clear," "regional" and "local" channels. Dominant clear channel stations (Class A) operate at a maximum power of 50,000 watts; secondary clear channel stations (Class B) operate at a power between 250 watts and 50,000 watts. Many stations (Class D) operate as daytime only stations. (Applications are no longer being accepted for daytime only stations). Class B stations operating on regional channels may now operate at power levels between 250 watts and 50,000 watts. Class C stations operate on local channels serving limited areas and operating with no more than 1,000 watts day and night.

For conflicting applications, the Commission employs competitive bidding (auction) procedures to select among the applicants. See Competitive Bidding Procedures.

*Special Note* (added Nov. 26, 1997)—Additional information about AM stations and the AM application process is available on the Internet at <http://www.fcc.gov/mmb/asdl>.

### FM Stations

The FM service includes the frequencies from 88.1 MHz through 107.9 MHz. These frequencies are also known as FM broadcast channels (See 47 C.F.R. Section 73.201). The FM channels run from Channel 201 (88.1 MHz) through Channel 300 (107.9 MHz).

**Channels 221 through 300 (92.1 MHz through 107.9 MHz)** are generally used for commercial FM stations. Any applicant wishing to apply for a commercial FM station (or a noncommercial educational station on Channels 221 to 300) must first determine if there are any unused frequencies ("allotments") assigned to the community to be served. The FCC maintains a Table of Allotments (47 C.F.R. Section 73.202) that is helpful in identifying any available channels. These tables are available from the FCC's Copy Contractor. Certain FM allotments are currently unused or vacant. The Commission will periodically open filing windows for applications

for new FM stations. See "How Can I Get an AM, FM or TV Broadcast Station?" If the current FM Table of Allotments indicates that there are no unused channels allotted to the community, the applicant may have a private consulting engineer, of their choice, perform an engineering study to identify a channel that may be allotted to the desired community. If the applicant identifies a channel that could be allotted to serve the community, the applicant may submit a petition for rulemaking to the FCC's Allocations Branch (Policy and Rules Division, Mass Media Bureau) requesting allotment of the channel to serve the desired community. If the FCC approves the petition, the channel will be added to the FM Table of Allotments. Applications for the new channel will then be accepted during a window filing opportunity specified by the Commission. If there are conflicting or "mutually exclusive" applications filed in the window period, the Commission will employ competitive bidding (auction) procedures to select among the applicants.

Applicants filing for a commercial FM station must include the application filing fee with the construction permit application.

**Channels 201-220 (88.1 MHz to 91.9 MHz)** are reserved for noncommercial educational operation. Applicants for noncommercial FM radio stations must first conduct an engineering study for a suitable channel within the reserved band to serve the desired community. Once the engineering study has been completed and a suitable channel within the reserved band is identified to serve the desired community, an application (FCC Form 340) may be filed for that channel. The application is then placed on an "A" cutoff list, which defines a date by which any competing applications or petition to deny must be filed. If no competing applications are filed, legal review and further technical review is performed on the application, with that application being granted if it is acceptable. If there are conflicting or "mutually exclusive" applications filed on or before the "A" cutoff date, the applications will be designated for a comparative hearing before an administrative law judge.

*Special Note* (added, 2000)—For conflicting noncommercial applications, the comparative hearing process is in the process of being replaced. Among the selection processes being considered by the Commission are a lottery or a point system. See MM Docket #95-31. Additional information about FM stations and the FM application process is available on the Internet at <http://www.fcc.gov/mmb/asdl>.

**Channels in the unreserved portion of the FM band (Channel 221 through Channel 300 or 92.1 MHz-107.9 MHz)** may be used for noncommercial programming. However, procedures governing commercial FM channels will apply (i.e., window filing periods, technical requirements). No application filing fee is required for applicants seeking authorization for a noncommercial educational station. The Commission authorizes seven classes of FM stations: A, B1, B, C3, C2, C1, and C. The maximum power for a Class A station is 6,000 watts; Class B1 is 25,000 watts; Class B 50,000 watts; Class C3 is 25,000 watts; Class C2 is 50,000 watts; Class C1 is 100,000 watts; and Class C is 100,000 watts but at a higher (300 to 600 meter) antenna height above average terrain (HAAT). The minimum power authorized for any FM station is 100 watts.

**FM Translator Stations** FM Translators comprise a low power service on the FM broadcast band (88 to 108 MHz) which complements the primary FM service. This service was first created in 1970 to allow FM stations to provide supplementary service to areas in which direct reception of radio service is unsatisfactory due to distance or intervening terrain barriers (e.g., a mountain). Translators may not originate programming, except for very limited fundraising efforts. Translator stations rebroadcasting commercial FM stations may be authorized on Channel 221 through 300 (92 MHz to 108 MHz), while translators rebroadcasting a noncommercial educational FM station may be authorized on any FM channel (201 to 300). The maximum effective radiated power permitted for any translator station is 250 watts. The maximum power permitted for a particular transmitter station may be further limited by the location of that station.

Applications for a construction permit for an FM translator station must be filed on FCC Form 349. Once construction is completed in accordance with the construction permit granted by the FCC, a license application on FCC Form 350 is then necessary. An application filing fee is required for FM translator stations which rebroadcast a commercial FM primary station.

*Special Note* (added Nov. 26, 1997)—For conflicting translator applications, the Commission employs competitive bidding (auction) procedures to select among the

applicants. Additional information about FM translator stations and the FM application process is available on the Internet at <http://www.fcc.gov/mmb/asdl>.

### TV Stations

The Commission generally no longer accepts applications for new analog (NTSC) television stations. Only applications for new digital (DTV) stations are accepted. As is the case in applying for a commercial FM station, an applicant for a DTV station must request an unused channel listed in the Commission's DTV Table of Allotments. Television channels are designated commercial or noncommercial. If there are no channels assigned to the city where an applicant proposes to construct the new DTV station, the applicant may have a private engineer do a channel search. Once a channel is identified, a petition for rulemaking to add the channel to the DTV Table of Allotments may be filed with the Allocations Branch. See How to Participate in the Rule Making Process. If the FCC approves the petition, the channel will be added to the DTV Table of Allotments and will become available for application. The Commission will periodically open windows for the filing of applications for new DTV stations. If mutually exclusive applications are filed, the Commission employs competitive bidding (auction) procedures to select among the applicants. See Competitive Bidding Procedures.

### TV Translators / Low Power TV (LPTV) Stations

There are two secondary television stations called television translators and Low Power Television (LPTV) stations. A TV translator is a station that rebroadcasts signals from full service television stations. LPTV stations may rebroadcast a full service station television signal and may also originate their own programming. LPTV stations may also operate as a subscription service. These two secondary television services may operate on any available VHF or UHF channel, provided they do not cause objectionable interference to full service stations or other authorized translator or LPTV stations.

For conflicting applications, the Commission employs competitive bidding (auction) procedures to select among the applicants. See Competitive Bidding Procedures.

In 1999, Congress passed legislation providing for the establishment of a "Class A" license for qualifying low power television stations. Generally, service areas of Class A low power television stations are to be preserved against electromagnetic interference. The Commission is in the process of determining which low power television stations qualify for Class A status.

*Special Note* (added, 2000)—For conflicting noncommercial television applications, the comparative hearing process is in the process of being replaced. Among the selection processes being considered by the Commission are a lottery or a point system. See MM Docket #95-31. Additional information about television stations and television application processing is available on the Internet at <http://www.fcc.gov/mmb/vsdl>.

### How Can I Get an AM, FM or TV Broadcast Station?

To apply for a new AM station, or a commercial FM station or a commercial DTV broadcast station for which a vacant allotment is available, the applicant must submit wait until the Commission issues a public notice establishing a filing window. At that time, interested parties may submit a short form (FCC Form 175) application expressing an interest in the new station. Applicants for AM stations must also submit certain engineering information on FCC Form 301. The short form is submitted electronically and there is no filing fee. If more than one short form is received, then the Commission employs competitive bidding (auction) procedures to select among the applicants. The ultimate winning bidder must then submit a long form (FCC Form 301 for AM, FM and DTV stations, Form 340 for noncommercial broadcast stations, and Form 346 for low power and TV translator stations) for their station. Commercial radio and television applicants filing a long form application must include the application filing fee.

Another way to obtain a broadcast station is to purchase an existing station that the owner is willing to sell. The FCC does not maintain a list of stations for sale and does not participate in the negotiations of the sales contract. Station brokers and communications attorneys can assist you in identifying stations that are for sale. You may also contact individual station owners directly to see if they are interested in selling their station. After you have

found a station for sale, and have signed a contract to purchase the station, FCC Form 314 (Application for Consent to Assignment of Broadcast Construction Permit or License) must be submitted within 30 days accompanied by appropriate filing fees. Applicants who apply to purchase a station may not take over operation until the FCC approves the application to purchase the station. Once the application is approved, the buyer must submit a letter of consummation within 90 days of the grant. FCC Form 323 (Ownership Report for commercial stations) or FCC Form 323-E (Ownership Report for Noncommercial Educational stations) must also be submitted within 90 days of the grant. FCC Form 315 (Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License) must be submitted when a controlling block of shares of a broadcasting company is transferred to a new entity or an individual. There is also a FCC Form 316 (Application for Consent to Assignment or Transfer of Control) which is used when a station is involuntarily transferred, such as to a trustee in bankruptcy. FCC Form 316 is also used for Pro Forma (changes in form, not substance) assignments and transfers, such as a sale from a person to a corporation controlled by that person. Broadcast applications must be submitted in triplicate, with the appropriate application filing fee attached. Applications for noncommercial educational stations do not require a filing fee.

### *Applicants Must Give Local Notice*

All applicants must give local notice in a newspaper of general circulation in the community in which the station is licensed or proposed to be licensed. They must also afford an opportunity for the public to file comments on these applications with the Commission. Copies of the application must be maintained in the station's public files or at a location accessible to the public in the community where the station is proposed, i.e. public library, post office. Licensees who submit a license renewal application must give local public notice of the filing by broadcasting announcements over their stations. Any application that is designated for hearing must again give local public notice indicating such action by the Commission. (See 47 CFR Section 73.3580.)

### *Competitive Bidding Procedures*

If mutually exclusive short form (FCC Form 175) applications are received during a specified window filing period, then the Commission employs competitive bidding (auction) procedures to select among the applicants. The Commission first issues a public notice announcing an auction date and seeking a comment on proposed auc-

tion procedures. The Commission may also seek comment on proposed minimum opening bids or reserved prices for each facility. Following a period for public comment, the Commission will issue a public notice with the final auction procedures and minimum opening bids/reserve prices. The Commission will then set a deadline whereby applicants interested in bidding for a facility must pay an "upfront payment" equal to a percentage of the calculated value of the subject spectrum. Only those applicants that submit the upfront payment are allowed to bid in the auction. The auction is then conducted and, upon its close, the Commission will issue a public notice announcing the winning bidders. Winning bidders then have ten business days to make a payment to bring their funds on deposit with the Commission to a level equal to 20% of their winning bids. Winning bidders also must submit a long form application (FCC Form 301, 346 or 349) for each of their facilities. Following the submission of long form applications, the Commission will issue a public notice accepting for filing the long form applications of winning bidders that paid the requisite downpayment and submitted acceptable applications. Interested parties may then file petitions to deny these applications within ten business days for full power stations and fifteen business days for low power stations. Applications that ultimately are found to be grantable will be listed on a public notice announcing their status. Applicants will then have ten business days to make full payment of their winning bids at which time a construction permit will be issued for each facility.

### *Hearing Procedure*

In instances where it appears that an application does not conform to Commission Rules and Regulations, and petitions to deny or competing applications are filed, the Commission may designate the application for hearing. The Commission will issue a public notice listing the applications that are designated for hearing. The hearing fee must be paid within 60 days of the release of that Public Notice. The hearing notice generally allows the applicant 20 days to file a "Notice of Appearance". The Administrative Law Judge (ALJ) hearing the case is also assigned at this time. Amendments to the application may be filed as a matter of right within 30 days, with a showing of good cause, if the amendment relates to issues first raised in the Hearing Designation Order. Amendments that improve an applicant's comparative position will not be accepted in hearing.

After the hearing procedure and review of evidence and statements, the ALJ issues an Initial Decision. Initial Decisions may be contested within specified time limits. In all cases heard by an ALJ, the Commission or its Review

Board may hear oral arguments and may adopt, modify or reverse the ALJ's initial Decision. Any action taken by the Commission may be appealed to the District of Columbia Appellate Courts.

### *Construction Permits*

When an application is granted, either by Bureau staff or as a result of a comparative hearing an auction, there is a specified period of time given the grantee for completing the construction of the station. Construction permits for radio and television stations are issued for a 36 month period. Grantees must request call sign assignment when the construction permit has been granted.

Unless tolled for causes not under the control of a grantee, construction of the station must be completed within the 36-month period. Any construction permit, for which construction has not been completed and for which an application for license has not been filed, shall be automatically forfeited upon expiration without any further affirmative cancellation by the Commission.

### *Licenses*

All radio stations are licensed for 8 years, and television stations are also licensed for 8 years.

### *Rules & Regulations*

FCC Rules may be obtained by writing or calling the Government Printing Office, Washington, DC 20402; (202) 512-1800. The Rules on FCC Practice and Procedures are contained in the Code of Federal Regulations (CFR), Title 47, Parts 0-19. Broadcast rules are found in Title 47 of the CFR Parts 70-79.

### *Application Forms*

Application forms may be obtained by calling the automated forms request line at 1-800-418-3676 or 1-202-418-3676 (recording machine available 24 hours a day, seven days a week) or by writing to the Federal Communications Commission, Forms Distribution Center, 9300 East Hampton Drive, Capital Heights, MD 20743. Questions concerning filing procedures should be directed to the FCC's Consumer Information Bureau, 445 12th St., S.W., Washington, DC 20554; (202) 418-0200. Alternatively, questions may be referred to the Audio Services Division for the radio services [(202)-418-2720 for technical questions, (202)-418-2710 for legal questions] or the Video Services Division at (202)-418-1600.